



An  
Bord  
Pleanála

## Inspector's Report ABP-301445-18

### Development

A petrol filling station consisting of the (i) construction of a two-storey amenity building comprising retail area, 2 no. hot food deli offers, internal seating area, ancillary food preparation area, customer WC area, storage staff and plant areas, (ii) Forecourt canopy, 4 no. fuel dispensing islands, 4 no. underground fuel storage tanks and associated pipework and overground fill points, (iii) 15 no. on-site car parking spaces, 3 no. bicycle parking spaces and services area, (iv) 1 no. main identification totem sign, (v) Company signage to building facades, canopy and site, (vi) vehicular entrance, exit and associated internal and external traffic calming measures, (vii) Boundary treatment, (viii) all associated site, drainage, boundary, landscaping and development works.

### Location

Holywell, Distributor Road, Mountgorry, Swords, Co. Dublin

### Planning Authority

Fingal County Council

<b>Planning Authority Reg. Ref.</b>	F17A/0708
<b>Applicant(s)</b>	Christy Dowler
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Applegreen PLC
<b>Observer(s)</b>	1. Orlaith and Daniel Hickey 2. Helen and Francis Langton 3. Clare Daly TD 4. Cllr Eoghan O'Brien 5. Martin & Hazel Grogan
<b>Date of Site Inspection</b>	23 <sup>rd</sup> October 2018
<b>Inspector</b>	Niall Haverty

## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.168 ha, is located in the townland of Mountgorry, Swords, Co. Dublin. The site, which is triangular in shape, is located on the northern side of the Holywell Distributor Road, a local road which links the R125 at Airside to the R106 Malahide Road in Swords. A roundabout immediately to the east of the appeal site connects the Distributor Road with Feltrim Road via an overpass over the M1 Motorway, while an entrance on the southern side of the Distributor Road, opposite the appeal site, serves a residential estate known as Melrose Park.
- 1.2. The appeal site is currently undeveloped and comprises a grassed area, with a significant downward slope from south east to north west. A grass verge with street trees, crash barrier and footpath is located between the appeal site and the Distributor Road to the south.
- 1.3. Feltrim Business Park is located to the north of the appeal site and a large pharmaceutical plant is located to the west. Melrose Park and another large residential development known as Holywell are located to the south of the appeal site. An Applegreen petrol filling station, which includes a number of food offerings, is located c. 700m to the north of the appeal site.

## 2.0 Proposed Development

- 2.1. The proposed development, as amended on foot of a request for further information, consists of the construction of a petrol filling station comprising:
  - (i) A two-storey amenity building (452 sq m) comprising retail area (100 sq m), 2 No. hot food deli offers, internal seating area, ancillary food preparation area, customer WC area, storage staff and plant areas;
  - (ii) Forecourt canopy, 4 No. fuel dispensing islands, 4 No. underground fuel storage tanks and associated pipework and overground fill points;
  - (iii) 15 No. on-site car parking spaces, 3 No. bicycle parking spaces and services area;
  - (iv) 1 No. main identification totem sign;

- (v) Company signage to building facades, canopy and site;
- (vi) vehicular entrance, exit and associated internal and external traffic calming measures;
- (vii) Boundary treatment;
- (viii) all associated site, drainage, boundary, landscaping and development works.

2.2. The application was accompanied by a Planning Report and Engineering Report.

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. Fingal County Council decided to grant planning permission and the following summarised conditions are noted:

- **C2:** The proposed use is for a filling station with ancillary retail and 2 no. hot food delicatessens for the preparation and consumption of food on the premises. Any take-away sales of food shall be ancillary to the main use.
- **C3:** Hours of operation.
- **C4:** Restriction of retail area to 100 sq m and controls on signage.
- **C5:** Lighting details, including light spill to be submitted.
- **C9:** Change to landscape plan.
- **C11:** Revised surface water layout design.

#### 3.2. Planning Officer's Reports

3.2.1. The Planning Officer's reports can be summarised as follows:

- The applicant has excluded the area behind the checkout from the net area, resulting in an additional 10.25 sq m of floor area. FCC Policy and Retail Planning Guidelines require 100 sq m maximum, and the applicant should be required to relocate the counter and wall to achieve 100 sq m. The remaining area can be used for additional seating.

- The scale of the servery areas and seating area is an acceptable amount of food offering to generally serve the local working catchment in the GE zoned lands to the north and east.
- A filling station is an appropriate use for the zoning and the proposed building is an acceptable design response. Design approach is the most appropriate response to the triangular site.
- Blank rear elevation would be visible on approach from the north, but would be screened by an existing light industrial building.
- There is a minimum 40m separation from residential dwellings. Distance is sufficient to mitigate impacts from odour, fumes and noise. Lighting can be controlled by condition and restriction on operating hours.
- No details of signage have been provided. The totem sign could be permitted as internally illuminated signage, however all other signage should be uplit.
- The level of outdoor storage is considered appropriate. A condition should be attached.
- The site is not subject to flooding.
- It is unlikely that the proposed development would result in any significant increase in discharge of polluted or sediment bearing waters to the Gaybrook Stream which meets Malahide Estuary SAC and SPA c. 2.8km to the north east and a Stage 2 Appropriate Assessment is not required.
- Issues with regard to surface water design can be dealt with by condition.
- Landscape proposal is acceptable, subject to the amendments requested by the Parks Section.
- 24 hour operation has potential for negative noise and light impacts. A reasonable balance would be achieved through restriction of hours of operation for any part of the petrol station from 7:00am to 11:00pm.
- Revised access and egress width is acceptable. Maintenance of footpath priority can be dealt with by condition.
- Provision of e-car charging point is acceptable.

- With regard to the Irish Water report, it is noted that a number of foul sewer connection options are available to the north. A person shall not be entitled solely by reason of a permission to carry out any development.

### 3.3. **Other Technical Reports**

- 3.3.1. **Water Services:** Clarification of additional information requested.
- 3.3.2. **Parks Planning Section:** No objection, subject to conditions.
- 3.3.3. **Transportation Planning Section:** No objection, subject to conditions.
- 3.3.4. **Environmental Health Officer:** No objection, subject to conditions.

### 3.4. **Prescribed Bodies**

- 3.4.1. Irish Water: Further information required.

### 3.5. **Third Party Observations**

- 3.5.1. One third party observation was received from Applegreen Service Areas Ltd. on behalf of Applegreen PLC, requesting that they be kept informed of the Planning Authority's decision.

## 4.0 **Planning History**

### 4.1. **Appeal Site**

- 4.1.1. **Reg. Ref. F96A/0704:** Permission granted for construction of 6 No. light industrial/warehouse units with ancillary offices.
- 4.2. **Reg. Ref. F97A/1042:** Permission granted for subdivision of previously approved warehouse unit to 3 No. warehouse units.

### 4.3. **Surrounding Area**

- 4.3.1. **PL06F.249301 (Reg. Ref. F17A/0393):** Permission refused for petrol filling station to south of R125, c. 0.7km south west of appeal site.

## 5.0 Policy Context

### 5.1. Retail Planning Guidelines for Planning Authorities 2012

- 5.1.1. Section 2.4.3 of the Guidelines states that there is a floorspace cap for petrol filling station shops of 100 sq m net, irrespective of location.
- 5.1.2. Annex 1 sets out a glossary of terms, and defines 'net retail floorspace' as "the area 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".

### 5.2. Fingal Development Plan 2017-2023

- 5.2.1. The appeal site and the adjacent areas to the north and west are zoned 'GE', General Employment. This zoning objective seeks to provide opportunities for general enterprise and employment. The lands on the southern side of the Holywell Distributor Road are generally zoned a mix of Residential ('RS') and Open Space ('OS').
- 5.2.2. 'Petrol station' is permitted in principle under the GE zoning objective. 'Restaurant/Café' and 'Retail – Local < 150 sqm nfa' are also permitted in principle, with a footnote stating that these are to serve the local working population only.
- 5.2.3. The Development Plan states that "petrol stations, while necessary, have the potential to cause disturbance, nuisance and detract from the amenities of an area and as such, proposals for new or extended outlets will be carefully considered. Motor fuel stations will not generally be encouraged within the core retail area of urban centres or in rural areas". This is supported by the following Objective:
- **DMS109:** Development proposals for petrol stations shall address the following:
    - Development proposals will be required to demonstrate that noise, traffic, visual obtrusion, fumes and smells will not detract unduly from the

amenities of the area and in particular from sensitive land uses such as residential development.

- Motor fuel stations should be of high quality design and integrate with the surrounding built environment. In urban centres, where the development would be likely to have a significant impact on the historic or architectural character of the area, the use of standard corporate designs and signage may not be acceptable.
- Forecourt lighting, including canopy lighting, should be contained within the site and should not interfere with the amenities of the area.
- The forecourt shop should be designed so as to be accessible by foot and bicycle, with proper access for delivery vehicles. The safety aspects of circulation and parking within the station forecourt should be fully considered. Retailing activities should be confined to the shop floor area, except in the case of sales of domestic fuel, where some external storage may be permissible.
- The sale of retail goods from petrol stations should be restricted to convenience goods and only permitted as an ancillary small-scale facility. The net floorspace of a fuel station shop shall not exceed 100 sqm. Where permission is sought for a retail floorspace in excess of 100 sqm, the sequential approach to retail development shall apply.
- Workshops for minor servicing (e.g. tyre changing, puncture repairs, oil changing) may be permitted in circumstances where they would not adversely impact the operation of the primary petrol station use and local amenities, particularly with regard to proximity to dwellings or adjoining residential areas.
- Motor fuel stations and service areas in proximity to the National Road network will be assessed with regard to the Spatial Planning and National Roads Guidelines for Planning Authorities DoECLG, 2012.



### 5.3. Natural Heritage Designations

- 5.3.1. The appeal site is not located within or immediately adjacent to any site with a natural heritage designation. The closest such sites are the Malahide Estuary SAC and SPA (Site Codes 000205 and 004025, respectively), which are c. 1.8km to the north east. Malahide Estuary is also a pNHA.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. A third party appeal was submitted on behalf of Applegreen PLC by David Mulcahy Planning Consultants Ltd. The issues raised can be summarised as follows:
- Applegreen own the filling station c. 700m north of the appeal site, which includes food offers.
  - Restaurant/café uses are only allowable on GE zoned lands where they serve the local working population only. The Planner did not undertake any assessment of existing food offers in the area.
  - The area is already well served in terms of food offers, with numerous shops, an existing filling station and a public house. There is no requirement for additional food offers to serve the local working population.
  - Appellant agrees with Planner that this is a busy road. This is the reason there is two crash barriers to the front of the appeal site. The site is also directly opposite a housing estate entrance.
  - Proposed development will attract a significant amount of vehicular traffic and it is imperative that the site, which is notably small for a modern filling station, has the capacity to cope with these traffic volumes.
  - Absence of a right turning lane and presence of estate entrance opposite will result in an excessive amount of traffic movements in such a restricted area and will give rise to a traffic hazard.

- The Board is referred to case PL11.241616, where permission was refused for a filling station in Portlaoise for reasons including the creation of a traffic hazard due to traffic turning movements.
- Short distance from the entrance to the pumps will result in cars queuing back onto the distributor road.
- Lack of information on fill required, including source, quantum, HGV movements, mitigation measures to be employed etc. No mention in notices of fill material.
- Visual impact arising from the raising of ground levels. Raised building will be very prominent. Building to rear is at a lower level and blank façade of proposed development will dominate the visual amenity of the area.

## 6.2. Applicant Response

6.2.1. A response to the appeal was submitted on behalf of the applicant by McArdle Doyle and can be summarised as follows:

- Principle of proposed development was established during pre-application consultation with Planning Authority.
- The appellant's claim that the area is already well-served by food offers is not supported. No estimate of the size of the working population, the quantum or type of food available was provided.
- The applicant's research has identified a local need for restaurant/café type facilities given that 500 new jobs are to be provided at nearby sites, in addition to those already provided by large companies in the area.
- The proposed development will provide walk-in dining facilities to the working population and will contribute to the diversity of the food offer.
- The Development Plan states that it is appropriate for small scale support facilities to be located within employment areas. It states that uses such as restaurants and cafes are considered to be suitable and is supported by Objective ED115.

- The proposed layout, including the location of the exit and entrance points, was prepared in consultation with Fingal County Council's Transportation Planning Section. They have no objection to the proposed development.
- Queuing is unlikely as petrol filling station trips tend to be trip neutral, i.e. linked with other trips. The layout allows cars to pass through if no pumps are available.
- The Portlaoise development referred to by the appellant proposed an access and exit directly onto a new 4-arm roundabout. The proposed development has wholly different access and egress arrangements.
- Information regarding the fill material will be contained within the Construction Management Plan should the Board grant permission.
- The submitted drawings show the raising of site levels, as acknowledged by the appellant. These drawings were assessed by the Planning Authority.
- The building will be prominent but will make a positive visual contribution to an area dominated by low quality industrial units.
- The development represents an efficient use of vacant GE zoned lands and will improve the visual approach to the Holywell/Drynam area and may encourage further regeneration of the adjoining lands.
- The Board is asked to use its powers under s138 to dismiss the appeal. The applicant is of the opinion that the appeal is vexatious and was made with the sole intention of delaying the development.
- The appellant is a competitor, did not raise any of the issues highlighted in their appeal in their earlier submission to the Planning Authority, and research has found that numerous forecourt operators are using planning appeals to delay rival developments.

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

6.3.1. The Planning Authority's response can be summarised as follows:

- Issues raised in the appeal were fully assessed in the Chief Executive's Order.

- Transportation Section did not raise concerns regarding traffic hazard.
- Conditions attached to grant will protect residential amenity.

#### 6.4. Observations

6.4.1. Five third party observations were submitted. The issues raised can be summarised as follows:

- Insufficient need, due to existing food offering in the area. No justification for development on GE zoned lands.
- There is no access from the GE zoned lands to the proposed service station.
- Impact on residential amenity. Objective Z04 has not been correctly applied. Precedent for refusal of permission for a service station 700m away on the same Distributor Road (Reg. Ref. F17A/0393).
- Traffic congestion and traffic hazard.
- Noise and light impacts on residents of Melrose Park.
- There are six filling stations within a 5km radius, and six fast food outlets and local shops within a 700m radius.
- Elevated site will invade privacy and dominate the local area.
- Existing elevated Distributor Road has proven to be both dangerous and difficult to use. Yellow box is required at entrance to Melrose Park.

6.4.2. The observation received from Orlaith and Daniel Hickey included a report from TPS regarding traffic issues. This report can be summarised as follows:

- Application should have been accompanied by a Traffic Impact Assessment.
- TRICS database indicates that proposed development would generate close to 370 inbound and 370 outbound daily traffic movements. No assessment of this traffic, including the impact of U-turning traffic on the roundabout junction was submitted.
- Proposed site ingress is less than 30m from the roundabout. This, together with the limited off-road queueing area and design of accesses as crossovers of the public footpath results in potential for rear end shunts.

- Proposed introduction of an extended splitter island is based on no recognised road design standard and should be regarded as a further potential traffic hazard.

## 6.5. Further Responses

6.5.1. None.

## 7.0 Assessment

7.1. I consider that the key planning issues arising in this appeal are as follows:

- Principle of proposed development.
- Residential amenity.
- Roads and traffic.
- Design and layout.
- Other issues.
- Appropriate Assessment.
- Environmental Impact Assessment.

### 7.2. Principle of proposed development.

7.2.1. As noted above, the appeal site is zoned 'GE', General Employment, with the objective of the zoning being to provide opportunities for general enterprise and employment. The Vision for the 'GE' zoning objective is to facilitate opportunities for compatible industry and general employment uses, logistics and warehousing activity in a good quality physical environment. It also states that these areas should be highly accessible, well designed, permeable and legible.

7.2.2. Petrol stations are permitted in principle under the 'GE' zoning. Retail (local < 150 sq m nfa) and restaurant/café are also permitted in principle uses, although these uses are required to 'serve the local working population only'.

7.2.3. The proposed development comprises a petrol filling station, with a retail area (c. 100 sq m), 2 No. food serveries, and a c. 35 sq m seating area with 28 seats

indicated. No outdoor seating area is proposed. It is clear from this that the scale of the proposed development is limited, and it is not comparable to a Motorway-style service station, which would typically have a substantially larger floor area and range of food offerings and other facilities such as drive-through restaurants. The proposed development would also appear to be significantly smaller than the appellant's petrol filling station, c. 700m to the north.

- 7.2.4. As noted above, the 'GE' zoning of the site limits restaurant/café and retail uses to those serving a 'local working population'. The term 'local working population' is not defined in the Plan but, in my opinion, it would be reasonable to consider that this would relate to the needs of the population working in the 'GE' zoned lands in the vicinity of the appeal site who would be within accessible walking/cycling distance of the proposed development. The lands to the west, north and east (i.e. on the opposite side of the M1 Motorway) of the appeal site are zoned 'GE' and include a range of uses, including a large pharmaceutical plant to the west. There is, therefore, clearly a significant local working population in the area. However, the appeal site is not directly accessible from these adjacent 'GE' lands, with access only possible from the Holywell Distributor Road which serves both the local working and residential populations (which may of course overlap to some degree).
- 7.2.5. The observers draw the Board's attention to case PL06F.249301 (Reg. Ref. F17A/0393), where permission was refused for a filling station c. 0.7km south west of the appeal site. The reasons for refusal in that case included that the provision of a drive-through restaurant, extensive food offerings and communal dining would be the primary use, with the petrol filling station representing a subsidiary use, and that this would provide a restaurant/café which would extend substantially beyond the local working population. The Board therefore considered that the proposed development, would, therefore, contravene materially the 'GE' land use zoning objective for the site.
- 7.2.6. I consider that the proposed development in this instance is significantly more modest in scale and extent, particularly with regard to the food offer, extent of seating, and lack of a play area. I also note that it is adjacent to a large and established general employment area and I do not consider that it is directly comparable to case PL06F.249301 in this regard.

7.2.7. As a result of its location and access arrangements, it is likely that the proposed development will be utilised by more than just the local working population. However, given the limited scale of the proposed development, with a combined floor area for the two serveries and the seating area of c. 85 sq m, compared with c. 100 sq m for the retail area, and noting that 28 seating spaces and 15 car parking spaces are provided, I do not consider that the proposed development would be likely to become a destination in its own right. Unlike case PL06F.249301, I do not consider that the café/restaurant element would become the primary use, and I consider it reasonable to conclude that the proposed development is of a scale that is compatible with the 'GE' zoning objective and the restrictions thereof, which seek to limit retail and café/restaurant uses to a scale appropriate for the local working population. I also consider that the limited scale of the proposed development is such that it will not materially impact on the role and function of nearby Local Centres or Swords Town Centre.

7.2.8. In conclusion therefore, I do not consider that the proposed development would contravene materially the 'GE' zoning objective that applies to the site.

### 7.3. Residential amenity.

7.3.1. A number of third party observations raise issues regarding the impact of the proposed development on residential amenity, particularly with regard to Melrose Park, a residential estate of two storey semi-detached and terraced houses located to the south of the Holywell Distributor Road.

7.3.2. Melrose Park is zoned 'RS' to provide for residential development and protect and improve residential amenity. The 'RS' zoned area is separated from the 'GE' zoned appeal site by a strip of 'OS' zoned lands and the Distributor Road. Notwithstanding this, I consider that regard should be had to Objective Z04, i.e. to have regard to development in adjoining zones, in particular more environmentally sensitive zones, in assessing development proposals for lands near zoning boundaries.

7.3.3. The proposed development of this currently vacant 'GE' zoned site will introduce built structures, noise and lighting as well as additional traffic movements in the vicinity of the entrance to the Melrose Park estate. It is also proposed to raise ground levels within the appeal site, which allied with the lengthy hours of operation

proposed for the development, will result in the proposed development having the potential to alter the local character of the area and impact on residential amenities.

- 7.3.4. Notwithstanding this, the appeal site is located alongside the busy Holywell Distributor Road, with a large-scale pharmaceutical plant to the west, and a range of smaller industrial-type units to the north. The appeal site is separated from the nearest residential areas by the Holywell Distributor Road with a minimum separation distance of c. 48m between the southern boundary of the appeal site and the rear elevations of the houses within Melrose Park. Given this separation distance, the existing background noise arising from traffic on the elevated Holywell Distributor Road and nearby M1, the built-up character of the environment, and the limited scale of the proposed development, I do not consider that the proposed development would have an unacceptable impact on residential amenity or that it would materially contravene Objective Z04 of the Development Plan. I do, however, consider that a number of mitigation measures would be appropriate given the presence of the residential area to the south. This should include the implementation of the landscaping plan, controls on the hours of operation, and controls relating to signage and lighting. I consider that these issues can be adequately addressed by way of condition.

#### **7.4. Roads and traffic.**

- 7.4.1. Both the appellant and the observers raise issues with regard to traffic congestion and traffic hazard, particularly with regard to the proximity to the roundabout to the east and the entrance to the Melrose Park residential estate to the south.
- 7.4.2. No traffic impact assessment, junction analysis or other traffic-related reports were submitted with the application or in response to the appeal. However, having regard to the scale of the development, and in particular the limited seating and car parking provision and the lack of a drive-through restaurant, I do not consider that the proposed development will operate as a significant traffic attractor, and I consider that it is of an appropriate scale for a 'GE' zoned site. Having regard to the thresholds for Traffic and Transport Assessments set out in the TII Traffic and Transport Assessment Guidelines 2014, I do not consider that the scale of the proposed development warrants a TTA.



- 7.4.3. The proposed site layout is based on a one-way system through the development, with separate entrance and exit points onto the Distributor Road. The proposed entrance is to the west of the Melrose Park entrance and the proposed exit is to the east of the Melrose Park entrance. An extended central island is proposed on the Distributor Road to prevent exiting vehicles from turning right (i.e. a left-in, left-out arrangement will pertain).
- 7.4.4. I consider that this arrangement will be effective in reducing the potential for conflicts between the proposed development, the Melrose Park entrance and the roundabout to the east.
- 7.4.5. I note the issues raised in the TPS report submitted with one of the observations regarding what is contended to be non-compliance with TII publications. However, I would note that due to the location of the appeal site, the provisions of the Design Manual for Urban Roads and Streets are applicable rather than the more onerous Design Manual for Roads and Bridges. The TPS report does not identify any issues with regard to compliance with DMURS, and I note that the Transportation Planning Section of the Planning Authority had no objection to the proposed development.
- 7.4.6. With regard to the proposal to provide an extended central island on the Distributor Road and the exact geometry and construction methodology for this, I consider that it would be appropriate, should the Board be minded to grant permission, to include a condition to ensure that the works to the public road and the internal road network comply with the detailed standards of the Planning Authority.
- 7.4.7. With regard to the Portlaoise case referred to by the appellant (PL11.241616), I would concur with the applicant that it is not directly comparable, since it entailed an access and exit directly onto a new 4-arm roundabout. While the proposed development is in relatively close proximity to the roundabout, the proposed access and exit points are onto the Distributor Road, c. 85m and c. 44m from the roundabout, respectively. In my opinion the proposed development does not, therefore, give rise to the same potential for traffic conflicts as the Portlaoise proposal.
- 7.4.8. The Transportation Planning Section's first report considered that the location of the services area and the associated car parking space No. 15 was substandard due to the potential for a conflict at the exit as a result of the requirement to reverse with

limited visibility. This issue was not addressed in the request for further information, and I consider the Transportation Planning Section's concern to be reasonable.

Therefore, if the Board is minded to grant permission, I recommend that a condition be included requiring the relocation of the services area to the north of the site and the omission of car parking space No. 15.

- 7.4.9. Finally, with regard to the existing footpath and cyclepath that runs along the Holywell Distributor Road, it is proposed on foot of the request for further information to retain these across the entrance and exit points. However, a note on the revised Site Layout Plan states 'location for future footpath and cycle track'. In the interests of clarity, I recommend that the continuation of the existing footpath and cycle path across the entrance/exit to the proposed development be required by way of condition, should the Board be minded to grant permission.
- 7.4.10. Subject to the conditions outlined above, I do not consider that the proposed development would be likely to result in the creation of a traffic hazard, or that it would result in any material increase in traffic congestion in the area.

## **7.5. Design and layout.**

- 7.5.1. The appeal site is currently undeveloped and the area in the vicinity of the Holywell Distributor Road exhibits a poorly defined urban form, with numerous industrial style buildings at a significant set back from the road. This poor definition is exacerbated by the elevated nature of the roundabout and Distributor Road, with the appeal site sloping down towards the existing Feltrim Business Park.
- 7.5.2. The proposed development includes the building up of ground levels to approximately the level of the Distributor Road, with a retaining wall to the north and west. It is proposed to construct a two storey building at this raised ground level with a maximum height of 8.7m. At ground floor the building includes a retail area, tills, two serveries, a seating area, circulation areas and accessible toilet/changing facilities. At first floor the building includes stores, offices and toilet/circulation areas with a void over the ground floor seating area.
- 7.5.3. The proposed building has extensive glazing to the east (side) and south (front) elevations at ground floor level, although I note that no glazing is proposed at first floor level. The north (rear) and west (side) elevations are relatively blank. The

proposed finishes primarily comprise plaster bands and coloured metal panels, with illuminated signage to the east, west and south elevations. The proposed forecourt canopy is 6.4m high with illuminated signage to three sides. A standalone totem-type illuminated sign is also proposed, with a height of 6m.

- 7.5.4. I consider the design and layout of the proposed development to be broadly acceptable. It assists in creating a more defined built environment and stronger urban form in this 'GE' zoned area, and it is appropriately positioned within the triangular site, with the majority of car parking to the rear of the forecourt canopy. The building is contemporary in design with extensive glazing at ground floor which will assist in creating a more active built environment. With regard to the blank rear (north) elevation, which the appellant contends detracts from the visual amenities of the area, I consider that it is consistent with the design of the adjacent units within Feltrim Business Park to the north. While it is elevated relative to these units, I do not consider that it is out of character with the pattern of development in the area or that it has a material adverse impact on the visual amenities of this 'GE' zoned area.
- 7.5.5. As noted by the Planning Authority, the definition of 'net retail floorspace' in the Retail Planning Guidelines includes the area behind the checkout used by serving staff, and therefore the 10.26 sq m in this area should be included in the net retail floorspace. I consider the Planning Authority's condition requiring the wall behind the tills to be repositioned to maintain a maximum 100 sq m net retail floorspace to be reasonable.
- 7.5.6. With regard to the 3 No. offices and boardroom at first floor level, which equate to a total of c. 50 sq m, should the Board be minded to grant permission, I recommend that a condition be included to ensure that the use of these is ancillary to the petrol filling station use, and that they are not separately sold or leased. As noted above there are no windows proposed to the offices and boardroom. In the interests of proper planning and sustainable development I recommend that a condition be included requiring the provision of windows at first floor level to serve these rooms. Noting that the separation distances between the building and the nearest dwellings are in excess of 70m, I do not consider that any overlooking, overbearing or other residential amenity issues would arise from the provision of these windows.

- 7.5.7. Finally, with regard to signage, I note that eight illuminated signs are proposed, including the totem sign. I consider this level of illuminated signage to be excessive for a relatively small site and in the interests of visual amenity I recommend that the sign on the west of the building and one of the signs on the south of the building be omitted and that all signs, with the exception of the totem sign, should be up-lit or down-lit rather than internally illuminated.
- 7.5.8. Subject to these conditions I consider the design and layout of the proposed development to be generally acceptable and I do not consider that it would adversely affect the visual amenities of the area.

## 7.6. **Other Issues**

### 7.6.1. Services

- 7.6.2. I note that the Irish Water submission and the report of the Water Services Department sought clarification of the additional information with respect to issues relating to surface and foul water management. The Planning Officer considered that these issues could be addressed by way of condition (Conditions 10 and 11 refer).
- 7.6.3. The developer will be required to enter into an agreement with Irish Water regarding any proposed connection to their network. This requirement exists outside of the planning process, and Condition 10 would therefore not generally be required given that section 34(13) of the Planning and Development Act 2000, as amended, states that a person shall not be entitled solely by reason of a permission to carry out any development. However, given that there appears to be some uncertainty with regard to the location of the connection to the public system, I consider it appropriate to include the Planning Authority's Condition 10, in order to ensure that this matter is clarified prior to the commencement of development.
- 7.6.4. With regard to surface water management, I consider that the Water Services Department's outstanding issues are reasonable, and further consider that a standard condition requiring compliance with the requirements of the Planning Authority would be an appropriate means of addressing these issues.
- 7.6.5. Nature of Appeal

7.6.6. The applicant contends that the appeal is vexatious on the basis that it was lodged by a local competitor and contends that it is solely intended to delay the proposed development. The applicant asks that the Board dismiss the appeal.

7.6.7. Having reviewed the documentation associated with the planning application and appeal, I consider that the appeal raises valid planning issues relating to, *inter alia*, zoning, traffic hazard and visual impact, and I do not recommend that the Board dismiss the appeal.

#### **7.7. Appropriate Assessment.**

7.7.1. Having regard to the nature and scale of the development for which permission is sought, which comprises a relatively minor development on a suitably zoned and serviced site in a built-up area which is not within or immediately adjacent to any Natura 2000 sites, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### **7.8. Environmental Impact Assessment.**

7.8.1. Having regard to the nature and scale of the development for which permission is sought, 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 that planning permission should be granted, subject to conditions as set out below.

### **9.0 Reasons and Considerations**

9.1. Having regard to the nature and scale of the proposed development, the provisions of the current Fingal Development Plan 2017-2023 including the 'GE' land use

zoning objective pertaining to the site, the pattern of existing development in the vicinity and the information submitted with the planning application and appeal, the Board is satisfied that the proposed development generally accords with the policy requirements of the Development Plan. It is further considered that the design, scale and finish of the proposed development, subject to conditions, would not seriously injure the visual or residential amenities of the area, would not represent a traffic hazard and 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, as amended by the further plans and particulars submitted on the 22<sup>nd</sup> day of February 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. The proposed development shall be amended as follows:
  - (a) The total net retail floorspace, as defined in Annex 1 of the Retail Planning Guidelines for Planning Authorities issued by the then Department of the Environment, Community and Local Government in April 2012, shall not exceed 100 square metres.
  - (b) The sign on the west elevation and the westernmost sign on the south elevation of the proposed filling station building shall be omitted.
  - (c) With the exception of the totem-style sign, no signage shall be internally illuminated. All signage lighting shall be turned off when the filling station is not open.
  - (d) Windows shall be incorporated at first floor level on the south elevation to serve the 3 No. offices and on the north elevation to serve the boardroom.

(e) The proposed services area shall be relocated to the northern part of the site and the associated car parking space identified as space No. 15 on drawing P1647.03 shall be omitted and the resultant area incorporated within the paved pedestrian area.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of clarity, visual and residential amenity and traffic safety.

3. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority.

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

4. The filling station, including the retail and food offering, shall not operate outside of the period between 0700 hours and 2300 hours on a daily basis. No deliveries shall take place outside these hours.

**Reason:** To safeguard the amenities of the area.

5. 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.

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

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

7. The existing public footpath and cyclepath shall be continued across the proposed entrance and exit to the proposed development and shall be laid in

concrete and tarmacadam, as appropriate, as per the requirements of the Design Manual for Urban Roads and Streets and the National Cycle Manual.

**Reason:** In the interest of clarity and maintaining pedestrian and cyclist priority along the public path network.

8. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

9. All lighting used within the site curtilage shall be directed and cowled so as not to interfere with passing traffic or the nearby residential properties.

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

10. All service cables associated with the proposed development shall be run underground within the site.

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

11. The site shall only be used as a petrol filling station and no part shall be used for the sale, display or repair of motor vehicles. The offices at first floor level shall be used for purposes ancillary to the petrol filling station use and shall not be separately sold or leased.

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

12. The landscaping scheme shown on drawing number 300, as submitted to the planning authority on the 22<sup>nd</sup> day of February, 2018, shall be carried out within the first planting season following substantial completion of external construction works.

In addition to the proposals in the submitted scheme, the following shall be carried out:

- (a) Replacement street trees shall be Lime (*Tilia*) as per the existing street trees.



(b) Natural stone shall replace forticrete along the front boundary wall.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

13. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:-

- (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
- (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

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

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

14. 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.

15. Prior to the commencement of development, the developer shall enter into a pre-connection agreement with Irish Water to provide for service connections to the public water supply and wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water and wastewater facilities.

16. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

17. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including measures to prevent spillage on the public road network, details of the fill material, construction traffic management, noise management measures and off-site disposal of construction/demolition waste.

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

18. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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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Niall Haverty  
Planning Inspector

20<sup>th</sup> December 2018