



An
Bord
Pleanála

Inspector's Report

ABP-303343-19

Development	Construction of industrial warehouse, access roadway, loading bay and dock levellers, canopy structures, fencing, concrete and asphalt surfacing, and all associated site works.
Location	Tullowbeg, Tullow, Co. Carlow
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	1895
Applicant(s)	Carlow Warehousing Ltd
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	First & Third Party
Appellant(s)	Carlow Warehousing Ltd Michael Kehoe
Observer(s)	None
Date of Site Inspection	30 th April & 5 th November 2019
Inspector	Mary Crowley

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	11
3.1. Decision	11
3.2. Planning Authority Reports.....	12
3.3. Prescribed Bodies	18
3.4. Third Party Observations	20
4.0 Planning History.....	20
5.0 Policy Context.....	21
5.1. Development Plan.....	21
5.2. Natural Heritage Designations	25
5.3. EIA Screening	25
6.0 The Appeal	26
6.1. Grounds of Appeal	26
6.2. Applicant Response	28
6.3. Planning Authority Response	30
6.4. Observations	34
6.5. Further Responses (Additional Comments)	34
7.0 Assessment	35
8.0 Principle.....	35
9.0 Scale & Design	37
10.0 Traffic Impact	38
11.0 Water & Waste Water Infrastructure	39

12.0	Surface Water	41
13.0	Appropriate Assessment	42
14.0	Development Contributions	48
15.0	Recommendation	51
16.0	Reasons and Considerations	51
17.0	Conditions	51

1.0 Site Location and Description

- 1.1. The site comprising an existing warehouse site on a site with a stated area of 2.09 hectares that is extended into adjoining lands of 6.52 hectares is located on the western periphery of Tullow and is accessed from an existing unfinished industrial estate road to the north which serves a number of business premises. To the south, on the opposite side of the Rathoe Road is Tullow Business Park. To the north of the site are lands zoned for industry.
- 1.2. To the north east of the site there are several established residential estates; Gortnahown, Graigowen and Barnfield Court. In addition there is a *New Residential Phase 1* zoned lands with proposed access point to these lands as detailed on the Land Use Zoning Matrix from the existing access roadway to the existing units at / to the north of the site. Amenity and Open Space lands are located to the north east of the site.
- 1.3. To the south east of and adjoining the site there is an existing residential development; Cuanahowan with some of the dwellings facing onto the appeal site. To the south / south east of the site there is further residential development; The Links with dwellings backing onto and gabled onto the site.
- 1.4. To the west of and adjoining the site along the sites western boundary is the line of the Tullow Relief Road which is an objective of the Tullow Local Area Plan 2017-2023 and the Carlow County Development Plan 2015 - 2021 (Objective 5.2.8 – provision of relief roads around the principal towns including Tullow). It is stated that this land is in the ownership of Carlow County Council and is preserved for the future development of the Relief Road.
- 1.5. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. The application submitted to Carlow County Council on the 23rd March 2018 sought permission for the construction of a metal clad industrial warehouse unit with a ground floor area of 32,954m² and a 135m² single storey plant room annex. It was proposed

that the development will be accessed through the existing entrance and estate roadway extending from the public roadway R725 to the north and also via a proposed new emergency exit onto the L1024 public roadway to Rathoe to the south. The development will be connected to the existing public watermain within the applicant's existing site. The development will include access roadway around the proposed warehouse, loading bay and dock levellers, canopy structures over loading areas, palisade fencing and landscaped soil berms along the site perimeter, concrete and asphalt surfacing, and all associated site works.

2.2. The application was accompanied by the following:

- 1) Planning Report that addressed Access & Traffic, Building Layout & Operation, Staff Facilities, Water Supply, Surface Water Disposal, Wastewater Disposal, Wastewater Disposal, Waste Management, Visual Impact & Landscaping Proposals and Noise Impact.
- 2) Surface Water Mitigation Report
- 3) Landscaping Proposal

2.3. **Further Information** was received on 7th September 2018 and may be summarised as follows:

2.3.1. **Transportation**

- Emergency entrance from the Rathoe Road has been removed and details of legal right of way to use access from the R725.
- Stated that applicant willing to facilitate completion of the access road and that hours of operation are from 08.00 to 18.00 Monday to Friday.

2.3.2. **Water Services**

- Applicant proposes to construct the necessary boreholes to provide an independent water supply to the project, which would cater for all potable and fire-fighting water supplies.
- Tier 2 Assessment confirms the suitability of the site and subsoil characteristics to receive the discharge of roof and surface water from the development
- The 600mm and 300mm surface water pipelines do not extend beyond the boundary of the Cuanahowan residential development.
- No surface or roof water will be discharged from the site,

2.3.3. Residential Amenity

- Loading bays have been reduced from 8 to 6 and are located c70m from dwellings
- Shadow Projection Impact Study confirms that there will be no shadow impact on adjacent residential properties
- The height of building façade has been decreased, the height of raised berms and planting and also further increased the width of planting by c4m all along the south eastern section.
- The emergency exit onto the Rathoe Road has been removed and replaced by further planted areas giving a total of c1.76ha of planted and landscaped areas within the overall 8.6ha site.

2.3.4. Noise Impacts

- Detailed Noise Survey and Assessment of Noise Levels submitted.
- Stated that there will be no negative impact arising from the operation of this warehouse.

2.3.5. Visual Impact Assessment

- Submitted that the proposed landscaped and planted perimeter berms mitigate and ameliorate the visual impact.

2.3.6. Ecology / Biodiversity

- Stated that the extensive landscaping proposals will create positive rather than negative impacts in relation to wildlife habitat and biodiversity.

2.3.7. Land Use Zoning

- The applicant proposes a sustainable design, with high quality insulated roofing and cladding materials.
- Submitted that the building is designed in a manner that adds significantly to the existing natural landscape and wildlife habitat.

2.3.8. Welfare Facilities / Existing Facilities / Storage Facilities

- Due to the nature of the business, which essentially stores packaged dry goods for distribution to the relevant sales outlets, minimal waste is generated and contains no organic matter.

- Waste generated will be minimal, compacted and baled within the warehouse and will be stored temporarily in the warehouse, adjacent to the loading areas for collection by licensed contractor.

2.3.9. Construction Management Plan

- The plan will employ best practise to include management of traffic, parking, warning signage and a sensitive and managed approach to noise and environmental issues.

2.3.10. Environmental impact Assessment

- There will be no significant impacts on the environment associated with this development.

2.3.11. Response to Third Party Submissions

- The emergency exit onto Rathoe Road has been removed
- A full noise assessment has been carried out
- Increased planting is proposed
- A reduction in loading bays
- Proposed construction work hours 08.00 – 18.00 Mon to Fri
- Proposed lighting scheme
- Removal of 1.7m high parapet
- Increased planting width by 4m and
- Designed surface water system

2.3.12. Development Contributions

- Stated that there are no outstanding development contributions

2.3.13. The submission was accompanied by the following:

- 1) Construction Management Plan
- 2) Correspondence from John M Foley & Company Solicitors
- 3) Traffic Impact Assessment prepared by Roadplan Consulting
- 4) Road Safety Audit Stage 1/2 prepared by Roadplan Consulting
- 5) Summary Environmental Report prepared by Verde Environmental Consultants Ltd which includes summaries of the key findings of each of the individual site

surveys completed and makes conclusions regarding overall environmental impact considerations for the proposed development in respect of the following:

- Hydrological Assessment
- Noise Impact's for Construction Phase and Operational Phase
- Ecology / Biodiversity – proposal to minimise adverse impacts on existing Habitats and Biodiversity
- Appropriate Assessment Screening Report
- Environmental Impact Assessment Screening

6) Architectural Design and Urban Assessment

7) Landscaping Proposals

8) Overshadowing Study

9) Surface Water Mitigation Report

10) Revised Public Notices indicating that significant further information / revised plans had been furnished to the Planning Authority

2.4. **Clarification of Further Information** was received on 8th November 2018 and may be summarised as follows:

2.4.1. **Transportation**

- Full and detailed assessment of existing and proposed traffic volumes confirms adequate capacity in the existing road network R418, R725, existing junctions and existing access road from the R725 to the site to facilitate the proposed development, the existing industrial estate and also confirms the adequate capacity of the public road network in Tullow.
- Submitted that the Road Safety Audit and Traffic Impact Assessment reports submitted on 6th September 2018 addressed all matters relating to traffic and access and confirm the adequacy of the access road to cater for all existing and future developments.
- The applicant confirms his willingness to comply with Carlow County Council wishes to provide an access from the proposed Tullow Relief Road when constructed along the Western boundary of his site. The applicant understands that this may be subject to future detailed road design and assessment and will also subject to planning application for same.

2.4.2. **Water Services**

- The applicant has completed and submitted a Pre-Connection Enquiry Form to Irish Water. This correspondence confirms that the existing connections are adequate to cater for the applicants requirements that the applicants water and wastewater overall demands represent a reduction of previous permitted use and that the applicant will provide water for sprinkler and firefighting from roof water and proposed borehole / well supply on site.

2.4.3. **Surface Water**

- The report of Verde Environmental Consultants confirms the gravel nature of the site, adequate infiltration capacity in all weather conditions and that there is no risk of pluvial flooding.
- As set out in all drawings and designs to date and as confirmed by Verde Environmental Consultants the applicant will be discharging all surface and roof water via infiltration totally within the curtilage of the site.
- The reason for the discharge of surface water into the foul water system is the non-completion of the surface water system in the residential development to the east of the site, comprising the 600mm pipeline which terminates at the un-drained and un-maintained pond/lagoon. This is adjacent to the wastewater pumping station.
- The applicant who does not have right of access to these lands has provided an alternative route for the pipeline through his site and has indicated a proposed route on Drawing No 1481-005-607C and this to be confirmed and agreed with Carlow County Council.

2.4.4. **Residential Amenity**

- This project is dependent on achieving the specified building volume for storage in order to achieve commercial viability and also to maintain long-standing client business.
- The applicant proposes to comply with all of the recommendations contained in the assessment report in relation to the reduction in height, building finishes and cladding.

- The applicant proposes a development design which is designed to comply with plot ratio and site coverage standards, as set out in the current Development Plan.
- Reference is made to landscaping drawings Dwg No's 1807 003, 004 and 005 clarifying widths of berms and planting details. The applicant confirms that berms will be planted in accordance with the proposals.

2.4.5. **Noise Impact Assessment**

- There will be no negative noise impacts to the Gortnahown residential estate associated with traffic along the existing industrial estate access roadway

2.4.6. **Visual Impact Assessment**

- Extensive landscaping and raised continuous soil berms to the site perimeter with native species semi mature tree planting and the positive impact visually is confirmed by the photomontage and the attached Landscape and Visual Assessment Report.

2.4.7. **Ecological Impact Assessment**

- The ecological benefits of the extensive planting have also been confirmed by Verde Environmental consultants.
- Applicant confirms that he will carry out all proposed mitigation measures as recommended in the report from Verde Environmental Consultants.

2.4.8. **Appropriate Assessment Screening Report**

- The proposed development will not have the potential to adversely affect the conservation objectives of the Slaney River Valley SAC.

2.4.9. **Welfare Facilities**

- All welfare facilities are provided and maintained in accordance with HSE Guidance

2.5. The submission was accompanied by the following:

- 1) Correspondence from John M Foley & Company Solicitors confirming *that a registered right of way exists for the benefits of the applicant along the access road that serves the development and links it to the R275*. It is further stated that *the applicant has a right to upgrade the access way to meet his requirements and there is long established case law to support this*.

- 2) Overshadowing Study
- 3) Landscape & Visual Impact Assessment
- 4) Irish Water Pre-Connection Enquiry Form & Correspondence to Irish Water & Irish Water Webmap dated 1st September 2018
- 5) Swept Path Assessment
- 6) Report from Verde Environmental Consultants Ltd addressing matters relating to Flooding, Noise, Habitats and Appropriate Assessment Screening.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Carlow County Council issued a notification of decision to grant permission on the 5th December 2018 subject to 30 no generally standard conditions. Conditions relevant to this appeal are set out as follows:

- **Condition No 28** – *A development contribution in the sum of €496,335.00 set out hereunder to be paid prior to commencement of the development. An interest charge will apply from the date permission was granted to the actual payment date, at the rate of 5% per annum (0.0137% per day) rounded to the nearest Euro. The first 90 days interest or part thereof will be discounted.*

Description	Number of Units	M2 per Unit	Rate of Charge per M2	Total
Storage & Warehousing (Not for Retailing)	1	33,089	€15	€496,335.00
Total				€496,335.00

Reason: *In order to contribute to the cost of Local Authority Services which facilitate the development.*

- **Condition No 29** – *The developer shall pay to the Planning Authority a financial contribution as a special contribution under Section 48(2) of the Planning Authority Act 2000, as amended in respect of Junction control measures at the junction of the R418 and the R725 for the provision of a traffic light system to regulate traffic flows.*

The amount of contribution to be paid is €35,000. The contribution shall be paid prior to the commencement of development. An interest charge will apply from the date permission was granted to the actual payment date, at the rate of 5% per annum (0.0137% per day) rounded to the nearest Euro. The first 90 days interest or part thereof will be discounted.

Reason: *In order to contribute to specific exceptional costs which will be incurred by the Planning Authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.*

- **Condition No 30** – *The developer shall pay to the Planning Authority a financial contribution as a special contribution under Section 48(2) of the Planning and Development Act 200, as amended in respect of apportioned cost towards the provision of the section of the Tullow Relief Road extending from the Carlow Road to the Castledermot. The amount of contribution to be paid is €160,726.50. The contribution shall be paid prior to the commencement of development. An interest charge will apply from the date permission was granted to the actual payment date, at the rate of 5% per annum (0.0137% per day) rounded to the nearest Euro. The first 90 days interest or part thereof will be discounted.*

Reason: *In order to contribute to specific exceptional costs which will be incurred by the Planning Authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.2. **Case Planner First Report (16th May 2018)** – Further information sought in relation to transportation and impact on the entire transport network including the route to and from the M9, water services, surface water, residential amenity, noise, visual impact, ecology / biodiversity (Appropriate Assessment Screening required), compliance with land use zoning objectives, welfare facilities / existing facilities / storage facilities, construction management plan and response to third party submissions. Further information request issued on 17th May 2018.
- 3.2.3. **Case Planner Second Report (3rd October 2018)** – Clarification of Further Information sought in relation to swept path assessment, road safety audit, future delivery of the proposed relief road at Tullow, provision of future access point onto the Tullow Relief Road, proposals to upgrade access road, details of pre connection agreement for water and waste water services, surface water, revised proposals for a reduction in floor area and height and an increase in separation distances to residential properties, relocation of loading bays along the southern boundary, revised landscaping plan, shadow study, noise impact assessment, visual impact assessment, ecological impact assessment, appropriate assessment screening report and welfare facilities. Clarification of Further Information request issued on 3rd October 2018.
- 3.2.4. **Case Planner Third Report (3rd December 2018)** – Having considered the Clarification of Further Information the Case Planner stated that *given the non-availability of any further time period to address the outstanding matters it is recommended that permission be refused for the following reasons:*
- 1) *Notwithstanding the location of the proposed development site in an area zoned as “Enterprise and Employment” in the Tullow Local area Plan 2017-2023, it is considered that the proposed development, by reason of its design, siting, height, bulk, scale, mass and location adjoining amenities would result in a visually obtrusive and overbearing form of development and would constitute an unacceptable and abrupt transition in scale and use at the boundary of adjoining land use zones. The proposed development would therefore be contrary to the provision of Section 12.2 of the Tullow Local Area Plan 2017-2023 regarding developments within transitional areas between land use zones, would give rise to potential impacts arising from traffic generation and general disturbance and would be detrimental to the residential and visual amenities of the area. The proposed development*

would depreciate the value of property in the vicinity represent an undesirable precedent for further such development and would be contrary to the proper planning and sustainable development of the area.

- 2) *Given the existing identified constraints in water and wastewater infrastructure in Tullow, it is considered that the proposed development would be premature at this time by reference to existing deficiencies in the provision of water supplies and sewerage facilities which are required to facilitate the proposed development.*
- 3) *The proposed development as designed fails to provide adequate proposals for surface water disposal, measures to protect important habitat and species identified in the Ecological Impact Assessment or adequate welfare facilities for future employees. Accordingly, it is considered that the proposed development would constitute a substandard form of development which would be contrary to the proposed planning and sustainable development of the area.*

3.2.5. **Director of Services Report** - In a further report prepared by the Director of Services, Planning dated 4th December 2018 the foregoing 3 no reasons for refusal were addressed (i.e. Residential & Visual Amenity; Water & Wastewater Infrastructure and Surface Water & Ecological Impact). The report concluded as follows:

- All concerns have been adequately addressed by the agent on behalf of the applicant in responses to both the FI and CFI.
- The proposed development complies with the proper planning and sustainable development of the area and the Policies outlined for Enterprise in the Tullow Local Area Plan 2017-2023.
- Recommended a grant of permission subject to the relevant planning conditions to be applied by the Senior Planner and all other conditions as recommend in the reports submitted by the A/Senior Engineer, Transportation; A/Senior Engineer, Water Services; A/Senior Engineer, Environemnt; Senior Executive Engineer, Environment; Chief Fire Officer and the Department of Culture, Heritage and the Gaeltacht.
- Special contribution of €160,726.50 in respect of a contribution towards the cost of provision of a section of the proposed Tullow Relief Road

- 3.2.6. The report and recommendation of the Director of Services was endorsed by the **Chief Executive** on the 4th December 2018 where it was stated that *having considered all reports and documentation submitted, it is my intention to grant permission*. In further email correspondence between the Director of Services, the Senior Planner and the Senior Engineer amongst others matters relating to conditions and calculations for special development contributions were discussed and agreed. Notification of decision to grant permissions issued on 5th December 2018.
- 3.2.7. **Other Technical Reports**
- 3.2.8. **Transportation Department** (25th April 2018) – Confirmation is required that that the proposed development will not impact on property in the ownership of Carlow County Council reserved for the relief road along its boundary, a Traffic and Transport Assessment to be undertaken for the proposed development and further details are required for surface water disposal.
- 3.2.9. **Area Engineer** (26th April 2018) – No objection. Access to be only from Rathoe Road. Refer proposal for road contribution to DOS/SE.
- 3.2.10. **Carlow Fire Authority** (25th April 2018) – No objections subject to conditions.
- 3.2.11. **Water Services** (1st May 2018) – Report as per Irish Water report dated 1st May 2018. Further Information requested.
- 3.2.12. **Environment Section** (9th May 2018) – Further information requested in relation to storm water, revised drawings, surface water, noise model for construction phase, Traffic Impact Assessment, extend of operational hours and noise model for operational hours.
- 3.2.13. **Finance Section** – It is noted that a letter issued from Carlow County Council (19th April 2018) requesting details as to how it was proposed to discharge the unpaid Development Contributions in respect of previously granted planning permission (07/596, 07/930 and 08/320) at the applicants warehousing facility Fourteen Acres Kilcarrig Bagnelstown.
- 3.2.14. The following report is referenced in the Planners Report and the appeal however it has not been made available with the appeal file.

- **Director of Services** (Transportation) (16th May 2018) – The access road is unsuitable for the type of traffic the proposed development would generate and have to share with pedestrians from the residential development.

3.2.15. Following the submission of **Further Information** the following reports were received:

3.2.16. **Head of Finance & ICT** (12th September 2018) – The financial accounts of Carlow County Council show that Development Contributions in the sum of €234,334.70 as detailed remain unpaid in respect of previously granted planning permissions at the site. Stated that applicant's response fails to address the further information request.

3.2.17. **Carlow Fire Authority** (20th September 2018) – No objections subject to conditions as set out in their report.

3.2.18. **Water Services** (20th & 21st September 2018) – Same as report from Irish Water dated 24th September 2018. See Section 3.3.

3.2.19. **Tullow Civic Office** (20th September 2018) – Proposal has little or no impact on local traffic and as such there is no objection.

3.2.20. **Transportation Department** (26th September 2018)

- In respect of the recommended works proposed to the Access Road, clarification is required confirming that the applicant has permission from the land owner(s) to undertake the works as outlined in the Safety Audit.
- The proximity of the structure to the indicative line of the Relief Road is in compliance with the County Development Plan requirements and the cut required to construct the proposal should not compromise the eventual provision of the Relief Road.
- Clarification is required as to the size / capacity of the pipe serving the infiltration overflow at the proposed connection.
- Consideration should be given to the surface water overflow from the pond to connect to the existing system on the Cuanahowan development.

3.2.21. **Environment Section** (25th September 2018) – Clarification of Further Information sought in relation to likely groundwater conditions during non-drought conditions, the risk of pluvial flooding identified by the OPW, agreements to install the proposed overflow on third party lands and agreement between the Carlow County Council and

the applicant on the proposed pipeline between the adjacent pond / lagoon and the appropriateness of a 600mm pipeline flowing to a 450mm pipeline.

- 3.2.22. Following the submission of **Clarification of Further Information** the following reports were received:
- 3.2.23. **Water Services** (16th November 2018) – Same as report from Irish Water dated 20th November 2018. See Section 3.311 below.
- 3.2.24. **Tullow Civic Office** (20th November 2018) – No objection.
- 3.2.25. **Carlow Fire Authority** (26th November 2018) – No objections subject to conditions as set out in their report.
- 3.2.26. **Brian O'Donovan A/Senior Engineer** (26th November 2018) – Recommended a grant of permission subject to conditions relating to noise limits, compliance with environmental measures outlined in Section 5 of the Ecological Impact Assessment, lighting, stormwater management infrastructure and a construction environment management plan to be agreed.
- 3.2.27. **Environment Section** (26th November 2018) – Recommended a grant of permission subject to conditions relating to noise limits, compliance with environmental measures outlined in Section 5 of the Ecological Impact Assessment, lighting and stormwater management infrastructure.
- 3.2.28. **Transportation Department x2** (30th November 2018) – Stated that there is no roads related reason to refuse this planning application. Recommended that the following conditions be attached:
- Special Development Contribution in the amount of €35,000 towards future road infrastructural improvements.
 - A specific contribution of €574,719.77 is required towards the cost of provision of the future Tullow Relief Road
 - Until such time as the detailed desing of the intended Tullow Relief Road is complete, any proposed access is premature.
 - Detailed calculations provided.

3.3. Prescribed Bodies

- 3.3.1. **Transport Infrastructure Ireland (TII)** – TII rely on the Planning Authority to abide by official policy in relation to development on / affecting national roads.
- 3.3.2. **Irish Water** (1st May 2018) – Further Information required in relation to a pre-connection agreement, surface water and upgrade to Tullow Waste Water Treatment Plant.
- 3.3.3. **Department of Culture, Heritage and the Gaeltacht** (14th May 2018) – The proposed development lies in close proximity to the Slaney River Valley SAC (Site Code 000781), which is designated for a range of riverine species and habitats for which suitable water quality is required. The development has the potential to have a significant effect, either individually or in combination with other plans and projects, on this and other European sites of conservation importance. Appropriate Assessment Screening is therefore required.
- 3.3.4. Following the submission of **Further Information** the following reports were received:
- 3.3.5. **Irish Water** (13th September 2018) - Stated that there is no record of the applicant engaging with Irish Water regarding a Pre-Connection Enquiry and Confirmation of Feasibility.
- 3.3.6. **Transport Infrastructure Ireland (TII)** (18th September 2018) – With regard to the further information submitted TII advise that the Authority’s position remains as set out in their letter of 24th April 2018.
- 3.3.7. **Irish Water** (24th September 2018) (as summarised)
- Applicant has not submitted details of any pre-connection agreement for water and waste water with Irish Water despite the FI request to do so.
 - The demand for water and waste water services that will be generated by a development of this scale is such that it will impact on Irish Water Infrastructure.
 - **Water Main on the Carlow Road** - Connection to the new building will have to be from Rathoe Road and not from the Carlow Road despite their contention that demand will be reduced.
 - **Waste Water Pump Station** - The adequacy of the pump station to cater for the demand from this site will have to be assessed. The station is in need of

upgrade and IW will most likely seek a contribution by way of an infrastructure charge for the upgrade in a connection agreement.

- **Surface Water** - Discharge of surface water to the foul water system cannot be permitted. The existing surface water lagoon adjacent to the site does not function in a manner that allows for adequate infiltration to ground water. Surface water will have to be via an outfall, to the industrial estate after attenuation and oil interceptor.
- Applicant to be conditioned to enter into a connection agreement with IW in respect of a water connection prior to commencement.

3.3.8. **Department of Culture, Heritage and the Gaeltacht** (24th September 2018) – Given the scale of the proposed development recommended conditions set out in the report in relation to archaeological monitoring.

3.3.9. Following the submission of **Clarification of Further Information** the following reports were received:

3.3.10. **Transport Infrastructure Ireland** (TII) (13th November 2018) – With regard to the further information submitted TII advise that the Authority's position remains as set out in their letter of 24th April 2018.

3.3.11. **Irish Water** (20th November 2018)

- Applicant must enter into connection agreement with IW prior to commencement of development in respect of water supply and waste water services to the proposed development
- Scale of development is such that the Planning Authority should have confirmation from IW that the proposed development can be serviced for both water and sewer.
- Surface Water disposal to ground water should not be permitted due to the rise of flooding to the existing foul water pump station and surface water should be attenuated and piped to an outfall on the industrial estate between the Bunclody Road and Rathoe Road

3.3.12. **Irish Water** (28th November 2018) - Stated that the applicant has engaged with IW in regard to a pre-connection enquiry.

3.4. Third Party Observations

- 3.4.1. There are 3 no observations recorded on the planning file from (1) Magdalena & Kryspin Klejnowski, (2) The Links Residents Association, (3) Michael Kehoe. The issues raised relate to noise pollution (inter alia air conditioning and heat exchangers and loading bays), environmental pollution, safety, road traffic hazard, light pollution, loss of privacy, loss of existing views, overbearing and out of scale, all traffic connected to the development must use the Carlow Exit, construction work times, visually obtrusive, drainage
- 3.4.2. Following the submission of **Further Information** the following observations were received:
- There is 1 no observation recorded on the planning file from Des Redmond Draughting and Design on behalf of Michael Kehoe dated 17th September 2018. The issues raised relate to proximity to existing and proposed residential areas and the avoidance of abrupt transitions in scale and use at the boundary of adjoining land zones.
- 3.4.3. Following the submission of **Clarification of Further Information** the following observations were received:
- There is 1 no observation recorded on the planning file from Des Redmond Draughting and Design on behalf of Michael Kehoe. The issues raised relate to proximity to existing and proposed residential areas and the avoidance of abrupt transitions in scale and use at the boundary of adjoining land zones.

4.0 Planning History

- 4.1. No planning history has been made available with the planning file. There is no evidence of any previous appeal on this site. The following history summary has been provided by Carlow County Council in correspondence dated 16th January 2018:
- **PL04/491** – Permission for development of a single storey 2,343 sqm storage facility with adjoining 284sqm of offices over two floors together with all associated site and landscaping works at Tullowbeg, Tullow, Co. Carlow. Permission granted on the 11th December 2004 subject to 26 no conditions

- **PL06/194** – Retention permission for revision to previously granted permission Reg Ref 04/491. The revisions consist of an additional 184.5sqm to office area over two floors, new canopy to south and north elevations, revisions to internal office layout and revision to all elevations at Tullowbeg, Tullow, Co. Carlow. Permission granted on the 6th February 2006 subject to 24 no conditions.
- **PL05/363** – Permission for development of 1,523 sqm light industrial area together with 224sqm of ancillary / office area in 1 single storey block together with all associated site and landscaping works at Tullowbeg, Tullow, Co. Carlow. Permission granted on the 6th February subject to 24 no conditions.
- **PL03/778** – Permission for a single storey 3,869 sqm manufacturing facility with 473 sqm of offices over two floors, together with all associated site works and landscaping works at Tullowbeg, Tullow, Co. Carlow. Permission granted on the 19th March 2004 subject to 29 no conditions.
- **PL05/946** – Permission for the construction of an extension of 4394 sqm to existing factory at Tullowbeg, Tullow, Co. Carlow. Permission granted on the 10th March 2006 subject to 19 no conditions.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative plan for the County is the **Carlow County Development Plan 2015-2021**. Chapter 3 addresses Employment with Development Management Standards for Industrial and Business Park Development contained in Section 11.14. **Section 5.2.8 Objectives During the Lifetime of Plan** states that *Carlow County Council is developing relief roads around the principal towns*. These proposed projects include:

- Tullow Relief Road. (East Coast to Midlands and Tullow to N80)

5.1.2. Section 5.5 Carlow Logistics Park states *that recognising the strategic location of Junction 5 on the M9 (the interchange of the M9 Dublin to Waterford and N80 Rosslare to the Midlands), as a suitable location, Carlow County Council will support the provision of a Regional Logistics Park in County Carlow*. It is further state that *the actual location of this logistics park will be determined during the lifetime of the plan. A Masterplan will be required for the chosen site which will include for the provisions*

of an Appropriate Assessment, a Strategic Environmental Assessment and a Strategic Flood Risk Assessment.

- 5.1.3. The operative Plan for the town is the **Tullow Local Area Plan 2017-2023**. The appeal site is zoned “Enterprise & Employment” (E1 Phase 1) where the zoning objective seeks *to facilitate an appropriate mix of employment uses within a high-quality landscaped development including office-based industry, enterprise and incubator units, business, science and technology*. The following definition of uses is provided in the zoning objective for the site:
- Office Based Industry
 - Enterprise and Incubator Units
 - Business, Science & Technology
 - Support Facilities
- 5.1.4. Other uses, ancillary or similar to enterprise and employment will be considered on the merits of each planning application and may be acceptable. According to Table 13: Land Use Zoning Matrix (to be read in conjunction with Map 15) repository, store, depot is open for consideration.
- 5.1.5. All development on these lands must incorporate the following:
- Sustainable design through use of innovative smart green technologies.
 - Sustainable transportation with pedestrian and cycle linkages to the town centre.
 - Not detract from the existing natural landscape.
- 5.1.6. It is further stated that Enterprise and Employment lands will be encouraged to develop in a phased manner, with those lands closer to the town centre being developed first.
- 5.1.7. Lands to the north of the site is zoned Industry, with lands to the east zoned New Residential Phase 1, New Residential Phase 2 and Existing Residential / Infill. The site is bounded to the west by the Indicative Relief Road with Enterprise & Employment (E2 Phase 2) on the other side further east.
- 5.1.8. Section 4.4 sets out the Policies and Objectives for Enterprise and Industry. **Section 4.4.2 Employment Lands** in Tullow states that the LAP seeks to identify a range of optimum locations which can present opportunities for the location of industry and

warehousing, specific / specialised enterprise and employment uses and tourism uses throughout the s area. In particular the plan provides:

- 13.35 hectares of land zoned for industry on the south western side of the town, which can facilitate further manufacturing, engineering and other appropriate uses.
- C.70 hectares is zoned for Enterprise and Employment to the west and south western side of town, much of which is undeveloped. This will suit a variety of appropriate uses.
- For the re-use and redevelopment of brownfield lands i.e. those lands formerly used for other uses and underutilised lands.

5.1.9. The following **policies** are relevant:

- **Policy EC 14** : To operate an order of priority for release of land identified Enterprise and Employment in compliance with the following requirements:
 - 1) *The lands identified with an E1 and E2 Enterprise and Employment land use zoning objective are available for development within the lifetime of this Local Area Plan.*
 - 2) *The lands identified E2* Enterprise and Employment land use zoning objective but qualified as 'Phase 2' will be available for development when Phase 1 lands have been substantially developed or committed for development within the lifetime of this Local Area Plan.*
 - 3) *Should a significant development be proposed which could not be accommodated only within the lands identified as Phase 1, lands within Phase 2 maybe considered in this regard.*
 - 4) *Development proposals for employment lands will be subject to consultation with the planning authority prior to the submission of any planning application on the said lands.*

5.1.10. The following **objectives** are relevant:

- **ECO 1:** *To promote and facilitate the development of light industry, manufacturing, warehousing and logistics on lands zoned industry and warehousing. Developments must achieve a high standard of layout and*

design including landscaping and screening and the delivery of a high quality working environment which is attractive to both customers and employees.

- **ECO 2:** *To facilitate and promote the growth of the Industrial Estate on the south western side of the town, with a mix of employment uses within a high-quality landscaped development including office-based industry, enterprise and incubator units, business, science and technology.*
- **ECO 3:** *To provide access to lands located within the 50-60kph speed limit and zoned enterprise and employment to the south west of the town and adjoining the N81 shall be provided at the two existing authorised access points unless it can be clearly demonstrated that the relocation or provision of an alternative proposed access point is in accordance with national policy and has been subject to a road safety audit in accordance with the requirements of Transport Infrastructure Ireland. The proliferation of further access points with access to the N81 shall generally be avoided in the interests of road safety and compliance with national policy.*

5.1.11. One of the key objectives of this LAP is to investigate the feasibility of providing the Tullow Relief Road (or parts thereof) to facilitate by-passable traffic using the N81, R725, R726 or R418. This is necessary to relieve HGV congestion on the main thoroughfare providing for a significantly improved quality environment. Promoting more sustainable modes of transport such as public transport, walking and cycling are also key objectives. The LAP seeks to facilitate sustainable accessibility and legibility within the town core area in favour of the needs of pedestrians, the mobility impaired and cyclists. The creation of a network of strategic green routes within the town extending into the wider hinterland will cater for the recreational needs of the population and contribute to an improved quality of life as part of a compact town.

5.1.12. Section 7.5 deals with Transport Infrastructure and set out the following relevant objectives:

- **TO 3:** *To investigate the feasibility of providing the Tullow Relief Road to facilitate by passable traffic using the N81 or the R725, R726 or R418.*

5.1.13. The Tullow Outer Relief Road is a Strategic objective of the Carlow County Development Plan 2015 – 2021 (Chapter 5 Transportation and Movement – Section

5.2.8 page 116/117) and the Tullow Local Area Plan 2017 – 2023 (SO 2.2 page 17 and Map 15).

5.1.14. Section 12.2.2 sets out the following relevant Definition of Terms:

- **Transitional Areas** - *While the zoning objectives indicate the different uses permitted in each zone it is important to avoid abrupt transitions in scale and use at the boundary of adjoining land use zones. In these areas it is necessary to avoid developments that would be detrimental to amenity. In zones abutting residential areas, particular attention will be paid to the uses, scale, density and appearance of development proposals and to landscaping, creation of a buffer zone and screening proposals in order to protect the amenities of residential properties. Development abutting amenity*

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site. The following Natura 2000 sites are located in the vicinity of the proposed development site:

- The Slaney River Valley Special Area of Conservation (Site Code 000781) is c450m at the nearest point to the east of the site
- The River Barrow & River Nore Special Area of Conservation (Site Code 002162) is within 15km of the appeal site albeit c13km at the nearest point.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development comprising the construction of an industrial warehouse (ground floor area of 32,954m² and a 135m² single storey plant room annex) in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. There are two appeals on file from (1) Carlow Warehousing Ltd (applicant) and (2) Michael Kehoe (third party) that may be summarised as follows:

6.1.2. Carlow Warehousing Ltd (First Party Appeal) Vs Conditions only

- **Condition No 29** (Section 48(2) Special Development Contribution) seeks €35,000 in respect of junction control measure at the junction of the R418 and R725. Traffic Assessments submitted with the application did not identify any requirement or benefit of traffic lights on the roundabout operation. Traffic lights if they are provided, will be for the benefit of the Tullow public road network. The applicant requests that this condition be removed or modified to require a special financial contribution proportionate to the 1.6% traffic impact arising from the proposed development.
- **Condition No 30** (Section 48(2) Special Development Contribution) seeks €160,726.50 in respect of apportioned cost towards the provision of the section of the Tullow Relief Road extending from the Carlow Road to the Castledermot Road. Condition No 28 seeks payment of €496,335 in accordance with Section 48 of the Planning and Development Act. Carlow County Council Development Contribution Scheme 2017-2021 (as amended) adopted 13th February 2017 provides a list of indicative capital and other projects in County Carlow to be funded from the scheme. Appendix 1 lists Tullow Relief Road / River Crossing Design under the Transportation heading. Therefore it is not open to the Planning Authority to require payment when the applicant is already making a contribution under Section 48 of the Planning and Development Act. The applicant believes that the Planning Authority has applied this condition in error.

6.1.3. Michael Kehoe (Third Party Appeal) Vs Decision to grant permission

6.1.4. Appellant is the owner of the field immediately to the east of that part of the application to be built upon.

- 6.1.5. **Planning Officers Recommendation** - The initial reasons recommended for refusing the application were fully justified.
- 6.1.6. **Zoning** – The part of the site to be developed is zoned Phase 1 “Enterprise and Employment” in the current LAP (Zone Q). Warehousing is not listed as a use “permitted in principle”, either within the LAP policy definition or the zoning matrix. A “repository, store, depot” use is open to consideration. Warehousing is “permitted in principle” only on “industry and warehouse” zoned lands (Zone H). That part of the site is already developed as warehousing. The proposed development represents a Material Contravention of the Tullow Local Area Plan 2017-2023.
- 6.1.7. **Alternative Sites / Strategic Policy** – There was no consideration of alternative sites for the proposed development. The proposed development would be more suited to the planned location for a strategic logistics park at Junction 5 of the M9 Motorway. There is a Carlow County Development Plan Objective for a South East Regional Logistics Park at Junction 5 on the M9 Motorway. Junction 5 is 9km from the proposed site. Locating the proposed warehouse at Junction 5 would eliminate all traffic generated by the proposal from the R725 between Tullow and the M9.
- 6.1.8. **Scale & Design** – The sheer scale, height, bulk and mass of the structure and its bland and featureless design would have an unacceptable overbearing and negative visual impact on existing and proposed housing in the immediate vicinity of the application site. Justification of same is based on separation distances between existing and proposed housing is unacceptable. The proposal cannot be integrated alongside housing regardless of landscaping. The 6m embankment will do nothing to screen the oversized building or reduce its visual impact.
- 6.1.9. **Access Road** – The access road serving the existing warehousing and the adjoining business units is incomplete. The proposals for a shared access road between the proposed warehouse and proposed housing (Phase 1) represents a major traffic hazard for residents which will have no alternative other than to use this road.
- 6.1.10. **Water & Waste Water** – The existing water and waste infrastructure serving Tullow requires upgrading before it can cater for any additional development. The Council doesn't expect this upgrading before 2022. The recommendation to refuse permission on grounds of prematurity pending the upgrading having taken place was correct.

6.1.11. **Surface Water** – Proposals for the disposal of surface water are vague and have not been designed. Disposing of all surface water to ground is clearly unacceptable to the Planning Authority and Irish Water and the public sewer infrastructure is presently unsuitable and incapable of dealing with additional surface water.

6.1.12. **Appropriate Assessment** - The need for a Stage 2 Appropriate Assessment cannot be ruled out. In the absence of details for the storage and disposal of surface water from the proposed development, the Planning Authority could not carry out the required Appropriate Assessment.

6.1.13. **Conclusion** - The Board is requested to refuse this application.

6.2. Applicant Response

6.2.1. Carlow Warehousing Ltd (29th January 2019)

6.2.2. Background

- The applicant and his family live in Tullow and has operated a warehousing business since 1994 and employs 60 people at Bagnelstown and 25 no in Tullow. A further 75 no will be employed in the proposed development.
- The existing well established warehouse and the existing office facility are critical commercially.
- The applicant does not own any units to the north of the appeal site. They own and operate the existing warehouse as set out in the site plans submitted.

6.2.3. **Design** - In all pre-planning meetings and submissions the applicant emphasised his intent to maximise screening and landscaping in order to minimise the impact on the existing residential development. The applicant proposes a high quality development sympathetic to an well received by the adjacent local residents and consistent with the lands zoning.

6.2.4. **Zoning & Infrastructure** – The zoning of the site is outside the applicant’s control. The planning application submission, further information and clarification of further information and relevant documents and reports clarified the appropriate zoning, the adequacy of the existing connections to water and wastewater connections on the site and the applicant’s willingness and site suitability to provide a private independent water supply.

- 6.2.5. **Ecology** - Ecological assessment of the site confirms that the provision of extensive landscaped and planted area will provide positive rather than negative impacts on ecology and wildlife.
- 6.2.6. **Access Road & Traffic** - In relation to traffic and the access roadway the applicant confirms that the existing road network provides for existing and future road requirements. The applicant identified upgrade works to the existing access roadway from the R725 and has confirmed his willingness to complete works specified.
- 6.2.7. **Water & Waste Water** - The applicant has confirmed that his existing warehouse development on the site previously employed 250 persons and that the existing connections are adequate. The proposed development represents a significant 150 pe reduction in the previous permitted demand for water and wastewater. The applicant has also confirmed he will provide a private water supply.
- 6.2.8. **Surface Water** - The site investigation carried out and reported by the applicant confirms the gravelly nature of the site and the adequacy of the infiltration system proposed, which includes full attenuation capacity to cater for the occurrence of a 100 year storm event on the site. There will be no discharge from the site of surface water.
- 6.2.9. **Adjoining Residents** - The applicant consulted with the adjacent residents and took full account of the appellants concerns which were also set out in this submission to the Planning Authority. Their concerns associated with traffic and access onto the Rathoe Road, lighting, loading bay noise landscaping and tree planting were readily addressed by the applicant as set out in the extensive further information submissions.
- 6.2.10. **Zoned Residential Lands** – No commercial development has taken place on this site since 2003 and no dwellings have been constructed since the Cuanahowan development in 2008. The appellant acquired the field immediately to the east of the appeal site on the 26th October 2016 at a time when the planning permission had expired and clearly could not be completed. Reg Ref PL11/94 refers. No permission has been sought or granted on this land which is currently zoned Residential Phase 1. The appellant would have been fully aware when purchasing his land of the zoning status of his land and also the zoning of the applicant's lands.

6.3. Planning Authority Response

6.3.1. Carlow County Council (28th January 2019) response to Third Party Appeal (Michael Kehoe)

6.3.2. Zoning

- The development described as an “industrial warehouse unit” is an expansion on development lands zoned “Enterprise and Employment” to the south of an existing established enterprise in the ownership of the applicant.
- Within the Tullow Local Area Plan there is reference to “Industry; Industry (light) and Repository, Store Depot” all of which are Open for Consideration under “Enterprise and Employment” (Q) (page 110).
- The Planning Authority is satisfied the proposed development use is acceptable, would not conflict with the general objectives for the zone and does not constitute a Material Contravention of the Local Area Plan.

6.3.3. Scale & Design

- The applicant has proposed development of high quality. The Architects response to the further information request, clearly outlines that the building has been greatly reduced by the proposed extensive planning, a reduction of the parapet by 1.7m providing greatest benefit on the east elevation.
- It is submitted that due to the orientation of the dwellings they will have no view of the structure with the exception of 5 no dwellings. Minimum separation distances are indicated as 77m and the applicant proposes extensive screen planting

6.3.4. Alternative Sites

- The Planning and Roads Authorities assessed the application based on the development site, the subject of the said application.
- The site is zoned for “Enterprise and Employment” and is adjacent to an established business owned and operated by the applicant.

6.3.5. Access Road

- Access to the appellant’s lands, for possible future housing development, may still be considered from the Cuanahowan Housing Estate, which is currently being considered for Taking in Charge by Carlow County Council.

- Condition No 17 states that all access road upgrades as identified in Drg No 181-005-617A shall be carried out at the applicants expense and completed to the written satisfaction of the Municipal District Engineer and the Transportation Section prior to commencement of development.
- The proposed relief road when constructed should reduce the flow of traffic travelling through Tullow, which would ultimately reduce the flow of traffic through both the R725 / Industrial Access / residential access crossroads Junction and the R725 / R418 / Thomas Traynor Street Roundabout.
- Also proposed that a potential future access point onto the Tullow Relief Road from the proposed development will be provided subject to future planning permission.

6.3.6. **Traffic**

- The concerns outlined relating to traffic generation are adequately addressed in the Traffic Impact Assessment and reports of Transportation
- The development will give rise to potential impacts arising from traffic generation and general disturbance – as traffic generated in warehousing and distribution is mainly early morning, with any potential impacts curtailed to a minimum

6.3.7. **Water & Waste Water Infrastructure**

- The applicant completed and submitted a pre-connection inquiry form to Irish Water. This correspondence submits that the existing connections are adequate to cater for the applicant's requirements that the applicants water and wastewater overall demands represent a reduction of previous permitted use, and that the applicant will provide water for sprinkler and firefighting from roof water and proposed borehole / well supply on site.
- The applicant is willing to consider in discussion with Irish Water and Carlow County Council the extension to the existing main on site and connection of same to the public main on the Rathoe Road as set out on Dwg No 181-005-611B submitted on the 6th September 2018.

6.3.8. **Surface Water Disposal**

- The applicant has indicated his willingness to work together with Carlow County Council to install an appropriate surface water pipe through the grounds of the proposed development to a discharge point downstream of the proposed site.

- The applicant does not propose any overflow into third party lands.
- Condition No 14 sets out the condition as recommended by the A/Senior Engineer, Transportation in their report dated 30th November 2018.

6.3.9. **Appropriate Assessment Screening**

- The “Screening for AA – Conclusion Statement” prepared by the Senior Executive Engineer concludes *“in light of the conclusions of the assessment of the implications for the site, in view of the conservation objectives of the site and in view of best scientific knowledge, the planning authority has ascertained that the project alone or in combination with other projects will not have likely significant effects”*.

6.3.10. **Carlow County Council (31st January 2019) response to First Party Appeal (Carlow Warehousing Ltd)**

6.3.11. **Condition No 29** (Special Development Contribution in the amount of €35,000.00 in respect of junction control measures at the R418 and the R725)

- Additional HGV traffic will have minimal impact on the capacity and safety of the junction.
- Notwithstanding same, it is advised that the position would be monitored for a period of time, after the opening of the proposed warehouse, to ascertain if additional junction control measures might be required.
- In this context it was recommended that a Special Development Contribution be paid towards future junction control measures at the junction of the R418 and the R725, for the provision of a traffic light system to regulate traffic flows.
- The amount would be payable, if justified, following a monitoring period of one full year from the date of commencement of operations of the proposed development.

6.3.12. **Condition No 30** (Special Development Contribution in the amount of €160,726.50 in respect of apportioned costs towards the Tulllow Relief Road)

- The Tullow Relief Road is a Strategic Objective of the Carlow County Development Plan 2015 - 2021 (Section 5.2.8 refers) and the Tullow Local Area Plan 2017 – 2023 (Strategic Objective 2.2 refers).
- To quantify the specific contribution amount, the estimated cost of constructing the Tullow Relief Road to National Road Standard was calculated as follows:

- a) Assuming the national average cost of constructing a single carriageway road to National Road Standard, in semi urban setting in the amount of €2,000,000 per km
 - b) Using this average cost, the estimated cost of constructing the section of the Tullow Relief Road from the Rathoe Road to the Carlow Road for a distance of 850m is estimated to be in the amount of €1,700,000
 - c) Using this average cost the estimated cost of constructing the section of the Tullow Relief Road from the Carlow road to the Castledermot Road for a distance of 330m is estimated to be in the amount of €660,000
- Therefore the total amount calculated to construct the Tullow Relief Road single carriageway, to National Road Standard in semi urban setting from the Rathoe Road to the Castledermot Road for a distance of 1,180m is estimated at €2,360,000.
 - The area of potential development lands (zoned at the time of calculation) bounding this section of the Tullow Relief Road is 25.87ha.
 - Therefore by dividing the estimated cost of this section of the Tullow Relief Road by the area of potential development lands bounding this section of road, this converts to an estimated cost of €91,225.36 per ha.
 - The contribution relating to this development with an area of 6.3ha is therefore calculated to be €574,719.00.
 - Applying this figure proportionately to the sections of Tullow Relief Road above, the contribution amounts are as follows:
 - a) Rathoe Road to Carlow Road (850m) is in the amount of €413,992.50
 - b) Carlow Road to Castledermot Road (350m) is in the amount of €160,726.50
 - Therefore the specific Special Contribution in respect of this planning application should only apply to the Carlow Road to Castledermot Road Section in the amount of €160,726.50 as outlined above.
 - The funds raised from the Development Contribution Scheme would not be sufficient to fund a major capital project such as the Tullow inner Relief Road

6.3.13. **Condition No 28** (Development Contribution in the amount of €496,335.00) - This development contribution is applied in accordance with Section 48 of the Planning and

Development Act which provides for the development contribution scheme to enable the Planning Authority to fund infrastructure and facilities.

6.3.14. The submission was accompanied by the Carlow County council Development Contribution Scheme 2017-2021 (Adopted on 13th February 2017; Revised on 1st January 2019).

6.4. **Observations**

6.4.1. There are no observations recorded on the appeal file.

6.5. **Further Responses (Additional Comments)**

6.5.1. **Michael Kehoe** (12th January 2019) (Appellant)

- If the Planning Authority considers the relief road necessary to serve development on the application site, the proposals should be refused as there are no programmed plans and timeframes for providing the relief road.

6.5.2. **Carlow Warehousing Ltd** (25th February 2019) (Applicant)

- **Condition No 29** – The applicant is willing to contribute proportionately to the provision of traffic lights in the event that they are required.
- **Condition No 30** – At the request of the Planning Authority the applicant has indicated as possible future entrance from the proposed Tullow Relief Road. This will have no benefit to the proposed development. The Planning Authority has used a calculation method for arriving at this special development contribution which is based on the relevant area of development land or potential development land bounding the Tullow Relief Road. This applicant is of the view that this approach is inequitable, has not been imposed on other developments, does not take into account that the main benefit is to all road users in the greater Tullow area.

6.5.3. **Michael Kehoe** (26th February 2019) (Appellant)

- Existing road network is unsuitable for the nature and scale of the proposed development.
- The response of Carlow County Council to the appeal against Condition No 29 confirms it does not actually know the impact of the traffic on the road network.

- It is unclear what can be done if permission is granted and the impact of traffic is, indeed, unacceptable and hazardous.
- The argument put forward by the Council in support of Condition No 29 indicates the contribution will only be required if justified. The actual condition states otherwise.
- In terms of Condition No 30, the Council's response appears to suggest the proposal is premature pending the section of relief road, off which the subject site should be accessed / serviced.
- The proposed development should be refused for the reasons outlined in the original 3rd party appeal.

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Scale & Design
- Traffic Impact
- Water & Waste Water Infrastructure
- Surface Water
- Appropriate Assessment
- Development Contributions

8.0 Principle

8.1. Permission is sought for the construction of a metal clad industrial warehouse unit with a ground floor area of 32,954m² and a 135m² single storey plant room annex and all associated site works. The scheme described as an "industrial warehouse" is a proposed expansion to the south of an existing established enterprise in the ownership of the applicant. It is stated that the company has expanded its warehouse storage

considerably over the past 20 years with modern facilities and technology. Carlow County Council issued a notification of decision to grant permission subject to 30 generally standard conditions. The appellant raises concern that warehousing is not listed as a use “permitted in principle”, either within the LAP policy definition or the zoning matrix on lands zoned Phase 1 “Enterprise and Employment”.

8.2. The operative Plan for the town is the Tullow Local Area Plan 2017-2023. The appeal site is zoned “Enterprise & Employment” (E1 Phase 1) where the zoning objective seeks to facilitate an appropriate mix of employment uses within a high-quality landscaped development including office-based industry, enterprise and incubator units, business, science and technology. The following definition of uses is provided in the zoning objective for the site:

- Office Based Industry
- Enterprise and Incubator Units
- Business, Science & Technology
- Support Facilities

8.3. Within the Tullow Local Area Plan policy definition for “Enterprise and Employment” and the zoning matrix (Table 13) there is no reference in the “land use” column to warehousing, other than “Retail Warehouse”. However there is reference to “Industry; Industry (light) and Repository, Store Depot” all of which are Open for Consideration under “Enterprise and Employment”.

8.4. Having regard to the nature of the use proposed adjoining the existing established warehouse development to the north I am satisfied that the proposal accords with the policies for the area as set out in the Local Area Plan. I agree with the Planning Authority that the proposed development use would not conflict with the general objectives for the area and would not constitute a Material Contravention of the Local Area Plan. However it is recommended that should the Board be minded to grant permission that a condition be attached restricting the use of the proposed warehouse to that of storage / warehousing and distribution.

8.5. I also note the concern raised by the appellant that there was no consideration of alternative sites. Particular reference is made to the South East Regional Logistics Park located to the south east of Carlow Town at Junction 5 on the M9 Motorway. The objectives pertaining to the development of this Park are set out in current Carlow

County Development Plan. As set out above the proposed scheme seeks permission for a warehouse on zoned serviced within the Tullow LAP boundary. In my view, having regard to the policies and objectives of both the County Development Plan and the Local Area Plan the consideration of an alternative site in this instance is not merited.

9.0 Scale & Design

- 9.1. I note the concerns raised by the appellant that the scale, height, bulk and mass of the structure and it's bland and featureless design would have an unacceptable overbearing and negative visual impact on existing and proposed housing in the immediate vicinity of the application site. Submitted that such a large building cannot be integrated alongside housing regardless of landscaping. The proposed works consist of a building with a large footprint that is proximate to residential housing to the south east.
- 9.2. The proposed building (as amended) is clearly industrial in its design, scale and elevation treatment and will read as an extension to the existing industrial units to the north of the site. In terms of visual impact I refer to the Landscape and Visual Impact Assessment submitted where it was concluded that (a) the site does not fall within any statutory designations, (b) is not within any designated areas for conservation and (c) the landscape character has been assessed having a low sensitivity to the form of development proposed.
- 9.3. Having regard to the information available on file I am satisfied that a combination of proposed boundary treatment, extensive landscaping and planted perimeter berms will mitigate and ameliorate the visual impact between existing housing and the proposed development. Further, as set out previously, the scheme is proposed on lands zoned for "Enterprise and Employment" and where such zoning has been through the rigours of the plan making process. Given the zoning of the site one would logically expect development of this nature to occur and therefore is not considered to be a bad neighbour. Overall I consider the scale and design of the building (as amended) to be acceptable at this location and that it will not result any significant loss of amenity to adjoining properties. However it is recommended that should the Board be minded to grant permission that a condition be attached restricting hours of

operation to between 0800 and 1800 Mondays to Fridays inclusive (excluding public holidays) in the interest of residential amenity.

10.0 Traffic Impact

- 10.1. I note the concerns raised by the appellant that the access road serving the existing warehouse and the adjoining business units is incomplete. It is considered that the proposals for a shared access road between the proposed warehouse and proposed housing (Phase 1) on adjoining lands, and as set out in the Local Area Plan (Map 4.4 refers) represents a major traffic hazard, in particular for residents walking or cycling which will have no alternative other than to use this road.
- 10.2. In relation to traffic and the access roadway the applicant confirms that the existing road network provides for existing and future road requirements. The applicant identified upgrade works to the existing access roadway from the R725 and has confirmed his willingness to complete the upgrade works specified. The Planning Authority state that access to the appellant's lands to the east, for possible future housing development, may still be considered from the Cuanahowan Housing Estate, which is currently being considered for Taking in Charge by Carlow County Council. This is a matter for Carlow County Council and out with the scope of this appeal.
- 10.3. However notwithstanding, Condition No 17 of the notification of decision issued by Carlow County Council required that all access road upgrades as identified in Drg No 181-005-617A (Access Road Upgrade Layout) shall be carried out at the applicants expense and completed to the written satisfaction of the Municipal District Engineer and the Transportation Section prior to commencement of development. It is recommended that should the Board be minded to grant permission that a similar condition be attached.
- 10.4. As documented previously the Tullow Outer Relief Road is a Strategic objective of the Carlow County Development Plan 2015 – 2021 and the Tullow Local Area Plan 2017 – 2023 and adjoins the appeal site to the west. It is stated that lands required form the Tullowbeg / Castledermot Road Section of the route have been acquired and are in the ownership of Carlow County Council. It is submitted that the proposed relief road when constructed should reduce the flow of traffic travelling through Tullow, which would ultimately reduce the flow of traffic through both the R725 / Industrial

Access / residential access crossroads Junction and the R725 / R418 / Thomas Traynor Street Roundabout. In this regard it is noted that a potential future access point onto the Tullow Relief Road from the proposed development will be provided subject to future planning permission. I refer to the report of Carlow County Council Transportation Department where it is stated that there is no roads related reason to refuse this planning application. A number of conditions are recommended to be attached including a requirement that until such time as the detailed design of the intended Tullow Relief Road is complete, any proposed access is premature and that any such access will require a separate planning permission. I agree with this position.

- 10.5. Given the location of the appeal site together with the amended layout of the scheme and proposed upgrades to the access road I am satisfied that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area. While there will be a significant interruption during the construction phase I am satisfied that this will be short term. Overall I consider the proposal to be acceptable and I am satisfied that the proposed development will not result in the creation of a traffic hazard.

11.0 Water & Waste Water Infrastructure

- 11.1. The appellant raises concerns that the existing water and waste infrastructure serving Tullow requires upgrading before it can cater for any additional development and that the Council doesn't expect this upgrading before 2022. It is considered that the initial recommendation by the Case Planner to refuse permission on the grounds of prematurity pending the upgrading having taken place to be correct.
- 11.2. Reference to advice that the Director of Services, Water Services had given to the Members of the Council in relation to prematurity is noted. In this regard the Planning Authority states that the Director of Services had given such advice and had done so on other occasions in the context of the need to progress the upgrading of Tullow Water Waste Treatment Plan to facilitate the general development of the town. It is further stated that such advice does not and was not intended to make any assessment of the impact that any wastewater discharge from the proposed development, or any other development might have. This position is accepted. The

impact of the scheme on water and waste water infrastructure is considered from first principles.

11.3. The applicant has confirmed that the existing development is connected to the existing wastewater and water public supplies. It is stated that potable water and wastewater outflows and demands from the existing and new development are 40% of the established previous permitted use. The existing warehouse formerly Goodwins Timber Engineering Ltd manufacturing timber framed buildings and associated products previously accommodated 220 – 250 no employees. The proposed development represents a significant 150 person equivalent reduction in the previous permitted demand for water and wastewater. The applicant reviewed the water and wastewater demands from the existing and proposed warehouse development in accordance with Table 3 of the EPA Wastewater Manual – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels for such a facility and set out the following:

- The wastewater demand by the Goodwins Timber Engineering Ltd factory was $250PE \times 30L/day = 7,500L$ per day.
- The maximum total predicted usage of water in the new development is $100PE \times 30L/day = 3000L$ per day.
- This 3000L hydraulic load and 20kg of BOD (20g / pe /day) organic load represents a 60% reduction in the already permitted and established usage for the site.
- It is stated that there is a similar reduction associated with water usage.

11.4. Notwithstanding the foregoing Irish Water (IW) were clear in their submissions to the Planning Authority that the applicant must enter into Connection Agreements with IW prior to the commencement of development in respect of water supply and wastewater services to the proposed development. Carlow County Council Water Services provided the same recommendation as IW stating that the Planning Authority should have confirmation from IW that the proposed development can be serviced for both water and sewer.

11.5. The applicant completed and submitted a Pre-Connection Enquiry Form to IW confirming inter alia that the existing connections are adequate to cater for the applicants requirements; that the applicants water and wastewater overall demands

represent a reduction of previous permitted use and that the applicant will provide water for sprinkler and firefighting from roof water and proposed borehole / well supply on site. Furthermore, in the interest of improving the existing watermain network and flow characteristics, the applicant stated that they were willing to consider in discussion with IW and Carlow County Council the extension of the existing main on site and connect same to the public main on the Rathoe Road as set out on Dwg No 181-005-611B (Watermain Layout). Additionally the applicant confirmed that he is prepared if required to construct the necessary boreholes to provide an independent water supply to the project, which would cater for all potable and firefighting water supplies.

- 11.6. Irish Water has confirmed the applicant has engaged with them in regard to Pre-Connection Agreement in respect of both water supply and waste water services to the proposed development. There is no stated objection to the scheme or that the proposed development cannot be serviced by both water and sewer or that it is premature.
- 11.7. Having regard to the information available on the appeal file I am satisfied that the existing public water and wastewater infrastructure is capable of accommodating the existing and future requirements at this site. It is recommended that should the Board be minded to grant permission that condition requiring the applicant or developer shall enter into water and / or waste water connection agreements(s) with Irish Water prior to commencement of development be attached.

12.0 **Surface Water**

- 12.1. I note the concerns raised by the appellant that proposals for the disposal of surface water are vague and have not been designed, that disposing of all surface water to ground is unacceptable and that the public sewer infrastructure is incapable of dealing with additional surface water.
- 12.2. As documented by the Planning Authority a major issue in relation to the disposal of surface water from the appeal site was that it would not compromise the operation of the adjacent wastewater pumping station. It is stated by both Carlow County Council Water Services and Irish Water that discharge of surface water to the foul water system cannot be permitted as the existing surface water lagoon adjacent to the site does not function in a manner that allows for adequate infiltration to ground water with

the result that during prolonged wet periods the area is drained by infiltration to the foul water system. For this reason the applicant has indicated his willingness to work together with Carlow County Council to install an appropriate surface water pipe through the grounds of the proposed development to a discharge point downstream of the proposed site. This surface water pipe would act to deal with existing surface water discharge deficiencies as well as any overflow from the surface water system proposed by the applicant.

- 12.3. The non-completion of critical surface water drains in the residential development to the east of the site, comprising the 600mm pipeline which terminates at the un-drained and un-maintained pond / lagoon is the major cause of difficulties at the adjacent wastewater pumping station. By way of Clarification of Further Information, the applicant confirmed that the un-maintained pond / lagoon forms no part of the intended design as confirmed by the Irish Water Webmap. The applicant who does not have right of access to these adjoining residential lands also provided an alternative route for the pipeline through the appeal site and has indicated a proposed route on Drawing No 1481-005-607C (Surface Water Layout). The applicant does not propose any overflow into third party lands. Additionally as set out in drawing and subject to full road design the applicant has indicated a proposed pipeline route which will accommodate a future connection of the roadway drainage system.
- 12.4. The Transportation Section in their report of 30th November 2018 agrees with the applicants amended proposal by way of clarification. Detailed conditions were recommended in their further report of 5th December 2018. Condition No 14 of the notification sets out the condition as recommended by the A/Senior Engineer, Transportation in their report. It is recommended that should permission be granted that the Boards standard drainage condition be applied with the details to be agreed with the Planning Authority.

13.0 Appropriate Assessment

- 13.1. The application is accompanied by a Screening Statement for Appropriate Assessment (August 2018) and clarification of further information in relation to Table 7.1 (Assessment of Likely Significant Effects) of the Screening Statement (November 2018). I also refer to all other particulars and details (as amended) submitted with the

application including, but not confined to, the Summary Environmental Report. It is stated that no watercourses or surface water drainage ditches occur within the project site. The site is currently classified as a greenfield site and is surrounded by roads and other artificial land uses including commercial and residential development together with agricultural lands.

13.2. Project Description and Site Characteristics

13.3. The site location and proposed development are as described in Sections 1 and 2 above. I note the concerns raised by the appellant with regard to the absence of details for the storage and disposal of surface water from the proposed development. In this regard I refer to Section 14 Surface Water above and Drawing No 1481-005-607C submitted by way of Clarification of Further Information that provides for a surface water pipe through the grounds of the appeal site to a discharge point downstream of the proposed site. The main phases of the project include:

- Site clearance and preparation.
- A construction phase using standard building materials.
- Construction will include a new surface water drainage infrastructure and connection to electricity and wastewater networks.
- An operational phase whereby the building will be occupied
- A landscaping phase

13.4. Natura 2000 Sites, Qualifying Interests and Conservation Objectives

13.5. As stated above the site is not located within any Natura 2000 site. The Slaney River Valley Special Area of Conservation (Site Code 000781) is c450m at the nearest point to the east of the project site. The River Barrow & River Nore Special Area of Conservation (Site Code 002162) is c13km at the nearest point to the west of the project site. Detailed conservation objectives for these sites are available on the NPWS website and may be summarised as follows:

Site Name and Site Code	Conservation Objectives and Qualifying Interests (Habitats and Species)	Location / distance to European site and Potential Pathways
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<p>Slaney River Valley Special Area of Conservation (Site Code 000781)</p>	<p>Conservation Objectives</p> <p>The overall aim of the Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. The NPWS has set out specific conservation objectives for the qualifying interests which comprise habitats and species for which the SAC has been designated.</p> <p>The species that are qualifying interests are</p> <ul style="list-style-type: none"> ▪ Freshwater Pearl Mussel ▪ Sea Lamprey ▪ Brook Lamprey ▪ River Lamprey ▪ Twaité Shad ▪ Atlantic Salmon ▪ Otter ▪ Harbour Seal <p>The habitats that are qualifying interest are;</p> <ul style="list-style-type: none"> ▪ estuaries, ▪ mudflats and sandflats not covered by seawater at low tide, ▪ water courses of plain to montane levels, old sessile oak woods ▪ and alluvial forests 	<p>c450m to the east and south of the project site.</p> <p>Hydrological pathway as a result of the proposed overflow discharge to the Slaney River Valley during the operation phase</p>
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<p>River Barrow & River Nore Special Area of Conservation (Site Code 002162)</p>	<p>Conservation Objectives</p> <p>The overall aim of the Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. The NPWS has set out specific conservation objectives for the qualifying interests which comprise habitats and species for which the SAC has been designated.</p> <p>The species that are qualifying interests are</p> <p>The species that are qualifying interests are</p> <ul style="list-style-type: none"> ▪ Desmoulin's whorl snail ▪ Freshwater pearl mussel ▪ White-clawed crayfish ▪ Sea lamprey ▪ Brook lamprey ▪ River lamprey ▪ Twaite shad ▪ Atlantic salmon ▪ Otter ▪ Nore freshwater pearl mussel <p>The habitats that are qualifying interest are;</p> <ul style="list-style-type: none"> ▪ Estuaries, mudflats and sandflats not covered by seawater at low tide, Atlantic salt meadows, Mediterranean salt meadows, 	<p>c13km to the west of the project site.</p> <p>No hydrological pathway connects this SAC and the project site. This SAC is located within a separate surface water catchment to the project site.</p>
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	Killarney fern, Water courses and vegetation, European dry heaths, hydrophilous tall herb fringe communities, colonizing mud and sand, petrifying springs, old sessile oak woods and alluvial forests	
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13.6. Having regard to the foregoing the River Barrow & River Nore SAC can be screened out at this stage due to the absence of pathway linking this SAC to the project site.

13.7. Assessment of Likely Effects

13.8. As the site is not within a designated site no direct impacts will arise. Potential pathways are restricted to hydrological pathways. All other potential emission pathways such as noise, aerial and visual are not relevant due to the nature of the project and the distance separating the project from Slaney River Valley SAC.

13.9. The construction stage of the project will involve excavation of the site, the storage of stockpiled material, which has the potential to release sediment, contaminated material/water, hydrocarbons and other polluting material to the drainage system creating the potential for indirect impacts on the Natura 2000 sites associated with same. It is submitted that the project will not have the potential to result in the release of surface waters with elevated suspended solids and silts from the project to the river. This is due to the construction phase approach as detailed in Section 2 of the Screening Statement for Appropriate Assessment. This approach will treat surface water on site during the construction phase and eliminate any potential for a hydrological pathway between the project site and the Slaney River during construction. Accordingly, I would therefore concur with the conclusions of the screening report submitted that the construction stage will not give rise to impacts on the Slaney River Valley SAC.

13.10. In terms of the operational stage the site is fully serviced. I refer to Section 13 Water & Waste Water Infrastructure above. It is stated that all foul discharge is to be conveyed to the local wastewater treatment plant for final treatment prior to discharge. As wastewater emissions for the project site will not increase the loading permitted

under the existing planning permission it is taken that the municipal wastewater treatment plant has adequate capacity to effectively treat all wastewater generated at the site. Therefore, there is no additional loading to the wastewater system and no impacts to the Slaney River Valley SAC.

13.11. The operational phase design of the project will ensure that the vast majority of all surface water will be discharged to ground via the proposed storm water drainage infrastructure. Overflow storm water discharged from the site will be infrequent, occurring only during periods of high rainfall and will consist of runoff from roofs and paved. This storm water will be treated within the existing main drains hydrocarbon interceptors and silt traps prior to final discharge to the Slaney River. The unpolluted nature of the storm water overflow generated on site and entering the main drains along with the oil and silt treatment that it will undergo prior to discharge to the Slaney River will ensure that the overflow does not represent a risk to water quality within the Slaney River. There are no other discharges from this operation.

13.12. In terms of cumulative impacts, I have had regard to the location of the site on serviced and zoned lands. I refer to Table 7.1 Assessment of Likely Significant Effects as set out in the Screening Statement for Appropriate Assessment (August 2018) and as amended (November 2018). It is stated that *the project will not have the potential to combine with other plans, projects or existing pressures to water quality in the Slaney River to result in a perturbation of water quality that could undermine the targets for this attribute*. It is further stated that *there can be no negative impact to the surface water quality leaving the site due to the attenuation measures which are planned*. Therefore there are no projects which can act in combination with this development which can give rise to significant effects to Natural 2000 areas within the zone of influence.

13.13. **Screening Statement and Conclusions**

13.14. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European Site and in particular Slaney River Valley Special Area of Conservation (Site Code 000781) or any other European site, in view of the

sites' conservation objectives and a Stage 2 Appropriate Assessment (and submission of a NIS) is not required.

14.0 Development Contributions

14.1. The first party appeal is against Condition No 29 (Section 48(2) Special Development Contribution) and Condition No 30 (Section 48(2) Special Development Contribution). The full wording of both conditions is set out in Section 3.1 above. Condition No 30 is also relevant to the assessment of the foregoing conditions. The Development Contribution Conditions may be summarised as follows:

- Condition No 28 seeks a standard Section 48 Development Contribution in the amount of €496,335.00 towards local authority services which facilitate the development
- Condition No 29 seeks a Section 48(2) Special Development Contribution in the amount of €35,000.00 in respect of specific exceptional costs incurred by the Planning Authority in respect of junction control measures at the junction of the R418 and the R725 for the provision of a traffic light system to regulate traffic flows.
- Condition No 30 seeks a Section 48(2) Special Development Contribution in the amount of €160,726.50 in respect of apportioned costs towards the provision of the section of the Tulllow Relief Road extending from the Carlow Road to the Castledermot Road.

14.2. **Condition No 28** - The notification of decision to grant permission issued by Carlow County Council required the payment of a Section 48 Development Contribution in respect of *local authority services which facilitate the development* in the amount of €496,335.00 (Storage & Warehousing (Not for Retailing) 33,089 sqm x €15). The matter of this Section 48 Development Contribution was not raised in any submissions to the Board. Carlow County Council has adopted a Development Contribution scheme; *Carlow County Council Development Contribution Scheme 2017-2021 (Adopted 13th February 2017)* under Section 48 of the Planning and Development Act 2000 (as amended) (copy provided). The proposed development does not fall under the exemptions listed in the Scheme. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition, similar to

Condition No 30 requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000 (as amended) be attached.

- 14.3. **Condition No 29** – As set out above this condition requires the payment of a Section 48(2) Special Development Contribution in respect of junction control measures at the junction of the R418 and the R725 for the provision of a traffic light system to regulate traffic flows in the amount of €35,000.00.
- 14.4. The first party in their appeal against this condition state that Traffic Assessments submitted with the application did not identify any requirement or benefit for these traffic lights and that if provided will be for the benefit of the Tullow public road network. The applicant requests that this condition be removed or modified to require a special financial contribution proportionate to the 1.6% traffic impact arising from the proposed development.
- 14.5. Carlow County Council submit that the amount to be paid is based on current installation costs for projects undertaken in 2018 by Carlow County Council for the installation of traffic light systems. It is the view of the Carlow County Council Transportation Department that the additional HGV traffic will have minimal impact on the capacity and safety of the junction. However, notwithstanding same, it was advised that the position would be monitored for a period of time, after the opening of the proposed warehouse, to ascertain if additional junction control measures might be required. In this context the Transportation Department recommended that a Special Development Contribution be paid to Carlow County Council in the amount of €35,000.00 towards future road improvements i.e. junction control measures at the junction of the R418 and the R725, for the provision of a traffic light system to regulate traffic flows. While not stated in the wording of the condition it is noted from the response of Carlow County Council to the appeal that this contribution would be paid *towards future road improvements* and that the *amount would be payable, if justified, following a monitoring period of one full year from the date of commencement of operations of the proposed development.*
- 14.6. The Board will be aware that a special development contribution may be imposed under section 48(2)(c) where specific exceptional costs, which are not covered by the general contribution scheme, are incurred by a local authority in the provision of public infrastructure or facilities which benefit very specific requirements for the proposed

development, such as a new road junction or the relocation of piped services. The particular works should be specified in the condition. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution.

- 14.7. While the proposed scheme will lead to some increase in traffic volume I do not consider the provision of junction control measures at the junction of the R418 and the R725 for the provision of a traffic light system to regulate traffic flows to be a specific exceptional costs not covered by the general contribution scheme. In my view such works are for the benefit of the wider area and are in line with the development plan proposals for further growth and expansion of the lands zoned for development within the Local Area Plan (LAP) boundary. Further a requirement that the amount would be payable, if justified, following a monitoring period of one full year is unreasonable particularly in an urban area where the primary objective of the Local Area Plan is to focus sustainable growth and where one would therefore expect traffic volume to increase. It is also noted that it is the view of the Carlow County Council Transportation Department that the additional HGV traffic will have minimal impact on the capacity and safety of the junction.
- 14.8. Overall I consider that these generalised public infrastructure works are covered in the Development Contribution Scheme. I do not consider that the works are necessary for the development of the scheme or that the development will be the primary beneficiary of the provision of junction control measures at the junction of the R418 and the R725 for the provision of a traffic light system to regulate traffic flows to be a specific exceptional. Accordingly, it is recommended that should the Board be minded to grant permission that this condition is omitted.
- 14.9. **Condition No 30** – As set out above this condition requires the payment of a Section 48(2) Special Development Contribution in respect of apportioned costs towards the provision of the section of the Tulllow Relief Road extending from the Carlow Road to the Castledermot Road in the amount of €160,726.50.
- 14.10. The first party in their appeal against this condition refer to the Carlow County Council Development Contribution Scheme 2017-2021 (as amended) adopted 13th February 2017 and the list of indicative capital and other projects in County Carlow to be funded

from the scheme. Appendix 1 lists Tullow Relief Road / River Crossing Design under the Transportation heading.

14.11. While I note the Planning Authority's position that the development as proposed will benefit in the short term from the construction of the section of the Tullow Relief Road extending from the Carlow Road to Castledermot Road section until the possible future access to the Rathoe Road to Carlow Road Section is provided it remains that it is not open to the Planning Authority to require special payment when the said capital project is already provided for in the Section 48 Development Contribution Scheme. Accordingly, it is recommended that should the Board be minded to grant permission that this condition is omitted.

15.0 Recommendation

15.1. Having regard to the documentation on file, the grounds of appeal, the responses thereto, a site inspection and my assessment above I recommend that permission for the above described development be **granted** for the following reasons and considerations subject to conditions.

16.0 Reasons and Considerations

16.1. Having regard to the zoning objectives for the site in the Tullow Local Area Plan 2017-2023 it is considered that subject to compliance with the conditions set out below, the proposed development would constitute an appropriate form of development, would not be contrary to the policies as set out in the Local Area Plan, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

17.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 23 rd March 2018 and as amended by the further plans and particulars submitted on the 7 th September 2018 and 8 th November 2018 and by the further plans and
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	<p>particulars received by An Bord Pleanála 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The use of the proposed development shall be confined to the use specified in the details, plans and particulars submitted i.e. storage / warehousing and distribution. Any change to the use shall be subject to a separate grant of planning permission.</p> <p>Reason: In the interest of the amenities of the area and the proper planning and sustainable development of the area.</p>
3.	<p>All access road upgrades as identified on drawing No 181-005-617A shall be carried out at the applicants expense and completed to the written satisfaction of the Municipal District Engineer and the Transportation section prior to the commencement of development on site. Details shall be agreed with the Planning Authority prior to commencement of work on site.</p> <p>Reason: In the interest of traffic safety</p>
4.	<p>a) The berms shall be constructed prior to the commencement of development and shall be planted within the first planting season following commencement of development for the full extent of all boundaries fully in accordance with plans and details submitted on 8th November 2018.</p> <p>b) Planting along the proposed Tullow Relief Road shall be a minimum depth of 5m</p> <p>c) A detailed maintenance and aftercare programme shall be submitted for the future maintenance of all landscaped areas.</p> <p>d) Palisade boundary fencing shall not be erected on site and shall be replaced with paladin fencing 2.4m in height and green in colour.</p>

	<p>Reason: In the interest of visual amenity and the proper planning and sustainable development of the area.</p>
5.	<p>All of the environmental, construction and ecological mitigation measures set out in the Environmental Report and other particulars submitted with the application (as amended) shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.</p> <p>Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.</p>
6.	<p>Details of the materials, colours and textures of all the external finishes and boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
7.	<p>The applicant or developer shall enter into water and / or waste water connection agreements(s) with Irish Water prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
8.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health</p>
9.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>

10.	<p>The storage / warehousing and distribution unit shall only be used between 0800 and 1800 Mondays to Fridays inclusive (excluding public holidays)</p> <p>Reason: In the interest of residential amenity.</p>
11.	<p>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 hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity</p>
12.	<p>Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs, advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the building or within the curtilage of the site, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the visual amenities of the area</p>
13.	<p>a) During the operational phase of the proposed development, the noise level arising from the development, as measured [at the nearest dwelling] [at the nearest noise sensitive location] or [at any point along the boundary of the site] shall not exceed:-</p> <ul style="list-style-type: none"> 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. <p>At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.</p> <p>b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.</p>

	Reason: To protect the amenities of property in the vicinity of the site
14.	<p>All road surfaces, culverts, watercourses, verges and public lands shall be protected during construction and, in the case of any damage occurring, shall be reinstated to the satisfaction of the planning authority. Prior to commencement of development, a road condition survey shall be taken to provide a basis for reinstatement works. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In order to ensure a satisfactory standard of development.</p>
15.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site on cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure satisfactory reinstatement of the site</p>
16.	<p>The developer shall pay to the planning authority a financial contribution of €496,335.00 (four hundred and ninety six thousand, three hundred and thirty five euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.</p>

	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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Mary Crowley

Senior Planning Inspector

21st November 2019