



An
Bord
Pleanála

Inspector's Report ABP-304043-19

Development	Change of plans from retail units and apartment units, to a fuel filling station with underground fuel storage tanks.
Location	Treanrevagh, Mountbellew, Co Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	181210
Applicant(s)	Cahermorris Developments Ltd.,
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Cahermorris Developments Ltd.,
Observer(s)	Carmel & Thomas Quinn Peter Kitt Deirdre Naughton & Sean Farrell
Date of Site Inspection	05/06/2019
Inspector	Gillian Kane

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1.0 Site Location and Description

- 1.1. The subject site is a large irregularly shaped site to the north of College Road in Mountbellew, in East Galway. The site adjoins a former secondary school site which is currently under construction.
- 1.2. College Road runs east from the centre of Mountbellew and accommodates a series of one-off houses, a fire station, and a school.
- 1.3. The subject site has a bungalow with hard standing at the roadside. Further north the rest of the site is undeveloped.

2.0 Proposed Development

- 2.1. On the 24th August 2018, planning permission was sought for a partial change of a previous planning permission (original application ref PL07.221318) from the permitted Block A which comprised 6 no. retail units and 6 no. apartments, to a fuel filling station with underground fuel storage tanks and associated pipes, overground filling points, associated changes to elevations and internal layout to adjoining retail units / offices and signage(Block B).
- 2.2. The application was accompanied by a Road Safety Audit and Traffic & Transport Assessment.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 26th of February, the Planning Authority issued notification of their intention to REFUSE permission for the following reasons:
 - 1 Having regard to a) the sites location on a heavily trafficked route in Mountbellew town where there is a mixture of vulnerable road users, b) the lack of information in the RSA in relation to the application of recommendations, c) the layout of the proposed junction onto the R358 which would create a traffic hazard and d) the conflicting information in the further information received on the 22nd January 2019 in relation to a right-hand-turn lane, It is considered that the development as proposed would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise and therefore would be contrary to the proper planning and sustainable development of the area.

- 2 The NIS submitted has identified a hydrological link between the site and the River Suck Callows SPA and therefore a potential for adverse impacts. However, the NIS has not assessed the potential of sewerage from the adversely affect the qualifying criteria of Suck Callows SPA. Having regard to this lacuna in the NIS, Galway County Council cannot rule out the potential of the proposed development to pose an unacceptable risk to receiving water, adversely affecting the integrity and conservation objectives of the protected European Sites for flora and fauna and would materially contravene Objective NHB1 of the Galway County Development Plan 2015-2021 and [be] contrary to the proper planning and sustainable development of the area.
- 3 Having regard to the following a) the waste water infrastructure in Mountbellew is currently at capacity, b) the proposed development involves a change of use and c) the fact that the applicant did not consult with Irish Water as requested in the further information request, it is considered that to grant the proposed development in the absence of sufficient information regarding capacity in the public sewer infrastructure would be prejudicial to public health and would be contrary to the principles of proper planning and sustainable development.

3.2. Planning Authority Reports

- 3.2.1. **Roads Authority:** Additional information required regarding compliance with DM standard 11: Petrol Filling Stations, sightlines, pedestrian linkage and footpath specification drawings.
- 3.2.2. **Planning Report:** proposed amendments to permitted Block B not clear. Proposed replacement of permitted Block A (6 no. retail units and 6 no. apartments on first floor) with 6 no. petrol pumps and overhead canopy, 11sq.m. signage. Further information regarding traffic assessment, impact on Bellew House, Irish Water and other required.

3.3. Request for Further Information

- 3.3.1. On the 18th October 2018, the applicant was requested to address the following:
 - Compliance with condition no. 2 of Planning Authority reg. reg. 06/3886
 - Clear outline of amendments to permitted supermarket
 - Statement of acceptance from Irish Water

- Archaeological assessment
- AA Screening
- Elevation of proposed lighting columns
- Compliance with DM Standard 11, 20, 21 of the development plan
- Pedestrian linkage details and footpath specification, proposed finishes.

3.4. **Response to Further Information**

3.4.1. On the 21st January 2019, the applicant responded to the request for further information, with the following:

- No change proposed to Bellew House, no change to that permitted under previous permission. The proposed development replaces a structure already permitted on the subject site.
- Revised drawings submitted showing amendments.
- Proposed development will not require a new water connection.
- Archaeological Assessment submitted.
- NIS submitted.
- Elevations of Lighting Columns submitted.
- Proposed development complies with DM standard 11 of the development plan
- Drawings showing sight lines submitted. Revised layout showing compliance with sightlines and removal of visual obstruction
- Detailed specification of footpaths, finishes submitted.

3.4.2. The response to the request was deemed significant and new public notices were published.

3.5. **Prescribed Bodies**

3.5.1. **TII:** Planning Authority must abide by national policy in relation to development on / affecting national roads DoECLG Spatial Planning and National Roads Guidelines for Planning Authority (2012), subject to the following: The proposed development shall be undertaken in accordance with the recommendations of the Transport (Traffic) Assessment and Road Safety Audit submitted. Any recommendations arising should be incorporated as conditions in the permission, if granted. The developer should be advised that any additional works required as a result of the Transport Assessment and Road Safety Audits should be funded by the developer.

3.5.2. **TII response to FI:** No objection.

3.6. **Third Party Observations**

3.6.1. **Holy Rosary College:** Proposed development may raise additional hazards for pedestrians and school children from the adjacent school. School traffic in the am and pm is heavy and congested. The proposed development is more suited to an outer edge of town location.

3.6.2. **Carmel & Tommy Quinn:** Concerns over traffic hazards and parking issues.

3.6.3. **Deirdre Naughton & Sean Farrell:** Concerns over traffic, architectural heritage, inappropriate location for a petrol station and failure to comply with planning history. Applicant is not a legal company, conflicting information regarding the number of pumps, proposed development is 3m from their dwelling, hours of operation not stated, town well served with retail, proposed garage shop too large, drawings are not clear, proposed hedging is not suitable as it is not native, phasing of permitted and proposed development is problematic, RSA is flawed, concerns about proximity of underground fuel tanks to house, works have commenced in Bellewsgrove Dower House.

3.6.4. **Tony McCormack:** development description is inadequate, traffic impact assessment is inadequate, site is unsuitable, layout is unsuitable, development plan not complied with and inadequate waste water treatment.

3.6.5. **Tomas Cunningham:** traffic concerns, vacancy in town centre

3.6.6. **Barry McCormack:** dates on site notice incorrect, FI fails to respond to query regarding supermarket amendments, the traffic assessment is from 2006, the supermarket is connected to the petrol station as it provides the means for paying – this is not addressed in the RSA.

3.6.7. **John Cunningham:** traffic concerns, storage and handling of hazardous materials so close to a school and houses, environmental hazards to water and ecology, architectural heritage and impact on residential amenity.

3.7. **Planning Authority Reports following FI**

3.7.1. **Roads, Transportation and Operations:** Refusal recommended for three reasons: junction onto the R358 will cause a traffic hazard, lack of information regarding recommendations of the RSA and conflicting information in relation to proposed

access from the R358 (RSA recommends no right and turn, TTA recommends right hand turn but no final design proposal).

- 3.7.2. **Planning Report:** NIS identified a hydrological link between the site and the River Suck Callows SPA with potential for adverse impacts. NIS has not addressed the potential for water deterioration from sewerage. Therefore, adverse impacts cannot be ruled out. Waste water infrastructure in Mountbellew is at capacity, applicant must consult with Irish Water. Proposed design changes to permitted retail are welcomed. Archaeological assessment acceptable. Concerns of Roads and Transportation unit noted. Recommendation to refuse permission.

4.0 Planning History

- 4.1.1. **PL07.221318** (Planning Authority reg. ref. 06/3886): Planning permission was granted for (a) the demolition of existing two storey convent/school building, detached house and out buildings (b) the construction of a mixed use development consisting of 1 cafe/restaurant, 15 no. retail units, 8 no. office medical, creche, 9 no. apartments, in 5 no. two storey blocks and 37 no. houses comprising 11 no. three bedroom, 24 no. 4 bedroom and 2 no. six bedroom houses (c) all associated external and site development works including the installation of a temporary on-site proprietary effluent treatment system, bin stores, car parking and ESB substation.
- 4.1.2. Condition no. 3 of the decision states: 3(a) No construction shall begin until the planning authority confirms in writing the commencement of works to upgrade the wastewater treatment plant. (b) No house or building shall be occupied until the planning authority confirms in writing that the wastewater treatment plant has been commissioned. Reason: In the interest of public health
- 4.1.3. This permission was extended in 2012 (reg. ref. **12/1428** refers) and again in 2017 (reg. ref. **17/1699** refers).

5.0 Policy and Context

- 5.1. **Galway County Development Plan 2015 – 2021**
- 5.1.1. Mountbellew is designated as an “Other Village” in the Galway County settlement hierarchy. Section 2.6.6 of the development plan states that these villages have strong settlement structures and have the potential to support additional growth, offering an alternative living option for those people who do not wish to reside in the larger key towns and do not meet the housing need requirements for the rural area.

The wastewater treatment facilities in some of these towns/villages require investment and therefore it is considered that their inclusion at this level in the hierarchy will provide a plan-led approach to securing this investment in the future.

- 5.1.2. **Objective SS 6**, Development of Other Villages seeks to protect and strengthen the economic diversity of the smaller towns, villages and small settlements throughout the County, enabling them to perform important retail, service, amenity, residential and community functions for the local population and rural hinterlands.
- 5.1.3. Section 4.21 of the development plan refers to Petrol Filling Stations, although largely refers to the accompanying retail element. As the proposed development is for a fuel filling station only (no retail), the section does not apply.
- 5.1.4. **DM Standard 11: Petrol Filling Stations:** Petrol filling stations will be subject to the following requirements: a) Location The preferred location for petrol filling stations is within the 50-60kph speed limit of all settlements. b) Road Frontage & Access, in general a minimum road/street frontage of 30 meters shall be required. This may be reduced where the development can demonstrate compliance with the required sight distances for various road categories at the entrances/exits of the proposed development. • A low wall of an approximate height of 0.6 metres shall be constructed along the frontage with allowance for two access points each 8 metres wide; • The pump island shall generally be not less than 7 metres from the footpath/road boundary. c) Lighting and Signage • All external lighting should be directed away from the public road and a proliferation of large illuminated signs will not be permitted; • No signage cluster shall be permitted. d) Car Wash • Any car wash proposals will require a discharge licence. e) Permissions, • All petrol filling station applications including improvement or extension will require Autotrack Analysis, TTA and Safety Audit & compliance with DM Standard 21: Building Lines.

5.2. **Natural Heritage Designations**

- 5.2.1. The subject site is located 2km south of the Carrownagappul Bog SAC (001242) and 11.6km from the River Callows Suck SPA (004097).

5.3. **EIA Screening**

- 5.3.1. Having regard to nature and scale of the development and the built-up location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can,

therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An agent for the applicant has submitted a first party appeal against the decision of the Planning Authority to refuse permission. The grounds of the appeal can be summarised as follows:

- The wider area of the subject site comprises shops, residential and educational facilities, in keeping with the low-profile commercial core of the town centre. The overall site is undeveloped. The subject site has a bungalow which has no importance.
- Planning permission was granted by the Board (PL07.221318) for a mixed-use development, with the commercial elements fronting College Road and the residential elements to the north. Block A has retail units 1-6 on the ground floor and two-bed apartments 1-6 on the first floor. The inspector noted that the permitted development was phase 1, with a temporary WWTS in phase 2. When the public treatment facility in Mountbellew is upgraded, the temporary plant will be removed with direct discharge to the public main. This was re-stated in Condition no. 3 of the Boards decision. No works have been undertaken to date and the permission has been extended twice as the developer had encountered legal, technical or financial difficulties (section 42 of the Planning and Development Act 2000, as amended).
- Under ABP-301973-18 the Board approved a CPO that would provide for a new Wastewater Treatment Plant for Mountbellew. The Mountbellew Water Supply Scheme and the Mountbellew Sewerage Scheme are listed in the Water Service Investment Programme, (section 6.3) and Proposed Capital Investment Plan 2014-2016 (section 6.4) of the development plan. The proposed development would not require an independent connection and will be served by the proposed infrastructure for the wider permitted development.
- The proposed development is supported by the County Development Plan settlement strategy which seeks to consolidate urban cores, reduce travel demand and better integrate land use and transportation.

- DM Standard 11 of the development plan refers to Petrol Filling Stations.
- The proposed fuel filling station would completely replace Block A of the permitted development. The omission of Block A will increase visibility of Block B. This will make an improved contribution to the streetscape.
- The subject site is located within the development envelope of Mountbellew.
- It is impossible to support the Planning Authority's view that the new entrance would prejudice safety, given that it will replace an access which has been approved by the Planning Authority and the Board. The TTA erroneously stated that the proposed entrance was off the N63, it is actually off the R358. It is clear that the first audit misunderstood the classification of the road and applied inappropriate design standards when completing their road safety analysis. The design team took account of the subsequent TTRSA.
- The proposed entrance would be in lieu of the Board permitted entrance. Wicklow County Council v Fortune acknowledges the need for a reasonably scientific approach to road safety issues.
- The Planning Authority's statement of heavy traffic volumes is at odds with the rural location of this small town. The report of the Roads, Transportation and Operations section of the Council states that the traffic volumes are significant. There is no evidence to support the Planning Authority statement of a hyper-sensitive local population which is especially vulnerable to accidents. There is no change in the town since the Board granted permission under PL07.221318.
- The Applicant refutes the Planning Authority's view of inadequate visibility at the proposed entrance. The RSA Feedback form is submitted with the appeal. All 18 no. measures have been endorsed by the design team. The Roads department internal report does not identify a sightline shortfall or any deficit relative to established standards. The proposed visibility of Y distance of 90m and an X distance of 2.4m exceeds that envisaged in DMURS.
- The existing trees at the entrance do not need to be removed to increase visibility.
- The Council's reason for refusal refers to HGV's. It is submitted that there is no need for HGV's to access Mountbellew as there are no large industrial uses.

- The ‘right-hand turn lane’ referred to by the Planning Authority has been omitted, as shown in the further information documentation. The turning lane is not needed in the interests of safety or the free flow of traffic on this regional road. Section 3.3.4 of the TTRSA provides for a stop-controlled access junction, which has been agreed with the design team. However, should the Board disagree, the entrance permitted under PL07.221318 can be implemented.
- Applications to extend the life of a permission cannot be granted where an AA was needed. The Planning Authority’s assessment of the two extensions of permission did not carry out AA.
- The submitted NIS finds that the link between the appeal site and the SPA would be ‘robustly blocked’ and “there will be no potential for adverse effect on watercourses”. This is wholly inconsistent with the Planning Authority report which states that “the NIS has not... cannot rule out adverse impacts on European Sites”. It is submitted that the applicant’s study cannot be more certain on this point.
- It is submitted that the Planning Authority accepts that the proposed development is not inherently objectionable given the very specific reason for refusal. The identified SPA is 17km from the development site. The test of the Habitats Directive is not whether impacts can be ruled out but whether the proposed development would ‘adversely affect the integrity of the site.’
- Mountbellew has experienced a sewage constraint for some time. Given that permission for development of this site exists, there is no reason why a condition cannot be attached to link the timing of construction and occupation of the proposed facility.
- As the proposed development represents a replacement rather than an additional development, the Planning Authority should have used their previous grants as a starting point. The same wastewater constraint that existed when it made those decisions exists today.
- The Planning Authority’s request for the applicant -rather than the Planning Authority themselves- to consult with Irish Water may be contrary to the finding of *Illium Properties v Dublin City Council*. The Board is requested to grant permission subject to a condition that provides that no development shall occur until Irish

Water confirms that works have begun on the upgrade to the Wastewater treatment plant.

6.2. **Planning Authority Response**

6.2.1. None on file.

6.3. **Observations**

6.3.1. **Carmel & Thomas Quinn:** Reside at College Road, have grave concerns over possible traffic hazards at the entry and exit points, parking issues in the vicinity of College Road, the effects of the proposed development on residential amenity, the lack of information on hours of operation and that the proximity of the subject site to dwellings and a school is a health & safety hazard.

6.3.2. **Peter Kitt:** Wishes to object on the basis of traffic hazard on an already congested road which at certain times (school hours) blocks their drive way. The existing road cannot cope with any further traffic.

6.3.3. **Deirdre Naughton & Sean Farrell:** There were little or no objections to the originally permitted development. However, the proposed fuel station has raised many valid objections. The traffic assessment has not addressed the fact that the town has grown considerably since 2006. The proposed fuel station with a combined entry / exit point does not comply with DM standards. That the proposed petrol station will be built before the permitted development is concerning.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Traffic
- Waste Water
- Appropriate Assessment

7.2. Principle of the Proposed Development

7.2.1. Permission has previously been granted by the Board on the subject site for a mixed-use development. As a starting point, I note the repeated reference of the Appellant to the extant permission and that its existence should convey an implicit acceptance of the proposed development. The Board will note the significant length of time since the granting of the permission (2007) and the extent of policy changes in that time. That the proposed development should be assessed afresh is entirely appropriate.

7.2.2. The proposed development involves the omission of the permitted Block A and its replacement with a petrol filling area comprising 4 no. pumps, bicycle parking and car parking. The crux of the subject appeal is whether the proposed replacement of a mixed use (retail and residential) two storey building with a fuel pumping area is appropriate and reasonable. The northern area of the subject site will be developed as per the permitted development PL07.221318 (see drawing no. 528206 submitted for informational purposes with the subject application), with residential on the northern end of the site, a supermarket in the centre (Block B) and blocks E and F to the west of the distributor road.

7.2.3. I note the lack of a fuel filling station in the village of Mountbellew and I note the mixed-use nature of this area of the village. Having a fuel filling station on the approach road to a town or village is not unusual, indeed it can be used to draw business into the village from passing motorists. I note that the inspector of the first application PL07.221318 considered that the retail draw of the permitted

development would be that previously lost from the village rather than from competing areas.

- 7.2.4. It is considered that, in principle and subject to other planning considerations, the proposed development is acceptable.

7.3. Traffic

- 7.3.1. The Planning Authority's second reason for refusal referred to the traffic impact of the proposed development.
- 7.3.2. DM Standard 11 of the development plan states that applications for petrol filling stations. The proposed development complies with the criteria: it is within the 50-60kph zone, can provide minimum street frontage of 30m, can provide a low wall along the frontage, has proposed the pumps greater than 7m from the footpath, has proposed the external lighting and signage away from the public road and submitted autotrack analysis, a TTA and a Safety Audit with the application.
- 7.3.3. The roads and transportation internal report (email dated 25/02/2019) on which the second reason for refusal was based refers to three areas of concern. The first area of concern is "the layout of the proposed junction onto the R358 and the filling station junction is likely to create a traffic hazard where there is a mixture of vulnerable road users and HGV's". It can be assumed that the reference to "vulnerable road users" refers to the mix of people using this immediate stretch of road – school children, pedestrians, the fire station and vehicles accessing the many dwellings on both sides of the road.
- 7.3.4. I note that the Road Safety Audit and the Traffic Impact Assessment submitted with the application date from 2006 and refer to the originally proposed development. The traffic impact of a fuel filling area is entirely different from a two-storey retail and residential block.
- 7.3.5. In response to the Planning Authority's request for further information, the applicant submitted a stage 1 / 2 Road Safety Audit, Final Report. Section 3 of the report details the RSA findings and the proposed recommendation. Appendix B of the report provides the feedback form, with the applicant indicating that all proposed recommendations are accepted.
- 7.3.6. In relation to the concern of the Roads department that the proposed junction would create a traffic hazard, I note problem 3.1.7 which highlights the potential for

excessive vehicle speeds on the access road and the lack of inter-visibility for pedestrians crossing southbound across the junction and problem 3.3.2 which highlights restricted visibility splays at the junction. The RSA recommends that traffic calming measures be implemented and that “clear visibility splays” are maintained. As noted by the Roads department however, no detail on how that visibility will be achieved is presented. The appellant states that the “do not believe that these would need to be removed to accommodate the proposed access” and submits that lower-level foliage could be pruned.

- 7.3.7. It is considered, that the visibility splays required for the proposed development can be achieved by way of site-specific design. The RSA provides some solutions for the existing obstruction and at no point indicates that the required visibility could not be achieved. This can be addressed by condition attached to a permission should the Board decide to grant permission.
- 7.3.8. The Planning Authority’s reason for refusal also refers to uncertainty regarding a right-hand turn lane which had been indicated in the permitted development but is not shown in the proposed development. The Appellant states that such a traffic measure is not required for the proposed development. I am satisfied that the uncertainty has been addressed.
- 7.3.9. It is considered that the concerns raised by the Roads department are site specific rather than a substantive reason to refuse permission. That the RSA has identified solutions to the identified risks, provides a starting point for liaison between the site developer and the relevant departments of the Planning Authority. It is considered that the proposed development would not create a traffic hazard, would not put vulnerable road users at risk and would not endanger public safety. If the Board decides to grant permission, it is recommended that a condition be attached requiring the developer to address these issues with the Planning Authority prior to the commencement of development.

7.4. Waste Water

- 7.4.1. The Planning Authority's third reason for refusal refers to three elements. The third listed issue is that the Applicant did not consult with Irish Water as requested. It is considered that such a requirement can be achieved by way of condition attached to a permission, should the principle of the proposed development be acceptable. As noted by the appellant the Board recently approved a CPO which would facilitate the upgrade of the Mountbellew WWTS. Should the Board be minded to grant permission, it is considered reasonable to attach a condition that occupation of the proposed development be provisional on the execution of the upgrade.
- 7.4.2. The second element of the reason – that the proposed development involves a change of use, presumably refers to the change of impact on the existing struggling WWTS in Mountbellew. This would be satisfactorily addressed by the above-mentioned condition of permission, wherein all permitted development would be considered in designing the WWTS.
- 7.4.3. The first and arguably the most pressing issue referred to by the Planning Authority is that the existing waste water infrastructure in Mountbellew is currently at capacity. The Board will note the decision made under ABP-301973-18 wherein they approved a CPO sought by Irish Water to facilitate the implementation of a project that would entail the provision of a new Wastewater Treatment Plant (WwTP) at a greenfield site adjacent to Mountbellew Co-op Livestock Mart. According to the Inspector of that CPO, the project would also entail the construction of a pumping station and storm water tank at the existing Mountbellew WwTP, currently located adjacent to the Castlegar River. The existing WwTP will be decommissioned and demolished. The primary objective of the approved project would be to provide appropriate treatment and adequate capacity in compliance with the Urban Waste Water Treatment Regulations 2001.
- 7.4.4. It is considered that the upgrade of the Mountbellew WWTP, while not necessarily imminent, is considerably more likely than in 2007 when the Board considered the parent permission on the subject site. Given that the Board considered it reasonable then to attach a provisional condition, I am satisfied that such an approach would be reasonable in the subject case.

7.5. Appropriate Assessment

- 7.5.1. The second reason of the Planning Authority's decision to refuse permission refers to the identified hydrological link between the subject site and the River Suck Callows SPA. The reason stated that the NIS had not assessed the potential for sewerage from the site to adversely affect the qualifying criteria of the Suck Callows SPA and therefore the Planning Authority could not rule out an unacceptable risk to the receiving waters which could adversely affect the conservation objectives of the designated site.
- 7.5.2. The subject site is located 2km south of the Carrownagappul Bog SAC (001242) and 11.7km from the River Suck Callows SPA (004097).
- 7.5.3. In response to the Planning Authority's request for further information, the applicant submitted an NIS. The NIS provides a detailed description of the proposed development, the receiving environment and the best practice measures to be implemented during the construction and operational phases. Eleven SAC's and one SPA are identified as being within 15km of the subject site. Of the eleven SAC's, all are screened out on the grounds of a lack of a hydrological connection or that the SAC is within a separate surface water catchment. The single SPA, the River Callows SPA is stated to be 11.6km or 17km surface water distance from the site. The NIS notes that there is the potential for hydrological connectivity from the subject site to the SPA via the Castlegar River and therefore further investigation is required. Section 4.1 of the screening report notes that taking a precautionary approach, a potential indirect pathway exists for impact on the wetland habitat of the SPA. The risk is stated to be a deterioration of water quality, but it is not considered likely due to the appropriately designed storage tank specification and surface water treatment and range of best practice measures. The NIS states that no adverse effects on the integrity of the SPA is anticipated and there is no potential for significant effect. The conclusion of the NIS is that "all identified potential pathways for impact are robustly blocked through the use of avoidance, appropriate design and best practice / mitigation measures".
- 7.5.4. I am satisfied that the information submitted is considered sufficient to allow the Board to carry out an AA.
- 7.5.5. With regard to the Carrownagappul Bog SAC (001242) I am satisfied that the lack of a hydrological link between the two sites and the nature of the receiving environment

is such that significant impacts can be ruled out. I am satisfied that the no likely significant impact will arise and that significant effects on the conservation objectives for the Carrownagappul Bog SAC can reasonably be ruled out. I am satisfied that the proposed development would not result in any significant “in-combination” effects with any other plans or projects.

- 7.5.6. The River Callows Suck SPA is described by the NPWS as a linear, sinuous site comprising a section of the River Suck from Castlecoote, Co. Roscommon to its confluence with the River Shannon close to Shannonbridge, a distance of approximately 70 km along the course of the river. The site includes the River Suck itself and the adjacent areas of seasonally-flooded semi-natural lowland wet callow grassland. The River Suck is the largest tributary of the River Shannon. The qualifying interests are Whooper Swan, Greenland White-fronted Goose, Wigeon, Golden Plover and Lapwing. The conservation objective for the site is to maintain or restore the favourable conservation condition of the qualifying interests. A second objective is “To maintain or restore the favourable conservation condition of the wetland habitat at River Suck Callows SPA as a resource for the regularly-occurring migratory waterbirds that utilise it”.
- 7.5.7. A tributary of the Carrownaginnive River (EPA name, ordinarily known as the Castlegar River) runs to the north of the subject site. The river ultimately discharges to the River Suck. The identified risk is that surface water contaminated by pollutants from the fuel filling station, will reach the Castlegar River and ultimately the River Suck. As noted above, the favourable conservation condition of the wetland habitat of the River Suck is a conservation objective of the SPA, due to its importance as a resource for the regularly-occurring migratory waterbirds that use it.
- 7.5.8. I note the characteristics of the proposed development outlined in the NIS for surface water management, storm water drainage and best practice construction and operational details. It is considered that these measures, combined with the distance (17km along the source-pathway-receptor route) between the development site and the designated site and the nature of the environment in-between are such that the likelihood of significant effects on the water quality of the SPA is low. I am satisfied that the identified risks are not significant nor are they likely. I am satisfied that the proposed development itself would not be likely to have a significant effect on any Natura 2000 site.

- 7.5.9. It is considered that the proposed development would not adversely affect the integrity of the conservation objectives of the designated site. Therefore I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No 004097, River Suck Callows SPA, or any other European site, in view of the site's Conservation Objectives.

8.0 Recommendation

- 8.1.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the zoning objective for the site, the pattern of existing and permitted development in the area, it is considered that subject to the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would not adversely impact on the visual amenity or character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information submitted to the Planning Authority on the 22nd day of January 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

- 2 Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission(s) granted on 10/12/2007 under appeal reference number PL07.221318, planning register reference number 06/3886 (as extended by 12/1428 and 17/1699), and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

- 3 Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

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

- 4 (a) No construction shall begin until the planning authority confirms in writing the commencement of works to upgrade the wastewater treatment plant.

(b) No house or building shall be occupied until the planning authority confirms in writing that the wastewater treatment plant has been commissioned.

Reason: In the interest of public health

5. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

(a) The recommendations of the Road Safety Audit, Stage 1/ 2 Report submitted to the Planning Authority on the 22nd January 2019

(b); The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.

(c) Pedestrian crossing facilities shall be provided at all junctions;

(d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works,

(e) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

6. The site shall only be used as a petrol filling station and no part shall be used for the sale, display or repair of motor vehicles.

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

- 7 Prior to the commencement of development, the developer shall obtain written agreement from the Planning Authority for hours of operation of the filling station.

Reason: In the interest of protecting the residential amenity of the area.

- 8 No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the canopy, on the forecourt building or anywhere within the curtilage of the site) unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

- 9 Details of the materials, colours and textures of all the external finishes to the proposed filling station shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 10 The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. All works shall be undertaken in accordance with the Archaeological Pre-Development Testing Report submitted to the Planning Authority in December 2018. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably qualified archaeologist who shall carry out site testing and monitor all site investigations and other excavation works, following demolition, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection (in situ or by record) of any remains that may exist within the site

- 11 Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

- 12 The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the Planning Authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the Planning Authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Gillian Kane
Senior Planning Inspector

3 July 2019