



An  
Bord  
Pleanála

## Inspector's Report ABP-304608-19

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|-------------------------------------|---|
| <b>Development</b>                  | Permission for a new filling station.                                     |
| <b>Location</b>                     | Dundalk Retail Park, Inner Relief Road, Marshes Upper, Dundalk, Co Louth. |
| <b>Planning Authority</b>           | Louth County Council  |
| <b>Planning Authority Reg. Ref.</b> | 19210   |
| <b>Applicant(s)</b>                 | Petrogas Group Ltd.   |
| <b>Type of Application</b>          | Permission  |
| <b>Planning Authority Decision</b>  | Grant permission (20 no. conditions)                                      |
| <b>Type of Appeal</b>               | Third Party (2 no.)   |
| <b>Appellant(s)</b>                 | Charles O'Reilly<br>Thomas McMullan                                       |
| <b>Date of Site Inspection</b>      | 05/09/2019  |
| <b>Inspector</b>                    | Conor McGrath   |

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## **1.0 Site Location and Description**

1.1. The appeal site occupies a prominent position at the roundabout junction of Bothar na Feirme and the N52 Inner Relief Road, approx. 2.5km south of Dundalk Town Centre. The site is part of the Dundalk Retail Park and comprises an area of 0.61ha. Surrounding land uses comprise retail warehousing to the north, a drive-thru restaurant to the east and vacant lands to the south and southeast. There is a large facility with extensive car parking to the east of the site which was formerly occupied as an ice hockey rink and sports arena. There is a local / neighbourhood centre to the west on the opposite side of the N52, at Muirhevnamor. The appeal site has access from an internal road which serves the arena and adjoining drive-through restaurant. The site is generally level and has been partly surfaced with tarmacadam associated with previous use as a car park.

## **2.0 Proposed Development**

2.1. The proposed development comprises a new petrol filling station with the following elements:

- Service station building (466.2 sq.m) containing a net retail area of 100sq.m (including ancillary off-licence, 4.1sq.m), 3 no. food outlets, seating area and rear storage yard.
- Food offering will include a drive-thru hatch facility and will involve hot food for consumption off the premises.
- 6 no. pump islands with branded canopy over.
- Associated signage on each façade (8 no. signs).
- Associated site works including car wash facilities, two-way road along south boundary, landscaping, outdoor seating, car parking, boundary treatment and play area.

The planning report accompanying the application indicates that the application differs from a previously permitted development on the site (ABP-300250-17) in that the proposed net retail floor area is increased from 94.4-sq.m. to 100-sq.m.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to grant permission for the proposed development subject to 20 no. conditions including the following:

- 2) A 1.5m high barrier shall be constructed between the retail area and adjacent circulation / food serving and seating area along or with the line as delineated by the purple line in the submitted drawings.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The principle of development does not conflict with the zoning objectives for the area and is accepted. There would be a reasonable expectation to find the proposed uses at this location. Having regard to the Retail Planning Guidelines, Louth Retail Strategy and Development Plan, there is no basis to deny the additional 9.7-sq.m of retail space.

The RPG's define alcohol as a convenience good and it represents a reasonable extension of the convenience retail offer. Given precedents elsewhere in the town and county, the proposed off-licence is reasonable and acceptable. The proposed barrier ensures compliance with the RPG's but could be reduced in height from 2.2m to 1.5m.

The proposal differs from motorway service station in that it does not provide for HGV's. There isn't a proliferation of filling station uses in Dundalk and the proposal would not undermine the motorway traffic movements or become a destination.

The precedent for the development has been established and there are no visual or design concerns. Given site context, proposed hours of operation are acceptable.

There are no significant pathways connecting the development with the SAC and submission of an NIS is not required. The site is not located within lands liable to flooding.

### 3.2.2. Other Technical Reports

Infrastructure: No objection subject to conditions.

### 3.3. Prescribed Bodies

Irish Water: No objection subject to standard requirements.

### 3.4. Third Party Observations

Three submissions were received by the planning on the application authority which generally raised the following points:

- Lack of need for further off-license and fast-food outlets in the area.
- Contravention of the previous permission on this site.
- Proposed uses are contrary to the intended uses for this area.
- Impact on town centre services, contrary to development plan policy.
- Over-provision of parking demonstrating the character of the development as a destination.

## 4.0 Planning History

There have been a number of planning applications on the surrounding lands. The most relevant permission is:

**PA ref. 17/477      ABP ref. ABP-300250-17**

Permission granted on appeal for development of a new filling station on the subject site, comprising:

- Service station building (466.2-sq.m.) with 3 no. food outlets, including drive-thru.
- A net retail area of 94.4-sq.m. (including ancillary off-licence, 4.1-sq.m.)), seating area and back of house area for storage, toilets and food preparation.
- 6 no. pump islands with branded canopy over.
- Storage yard to the rear and associated signage and site works.

This is essentially the same development as that the subject of the current appeal.

In their grant of permission, the Board imposed 17 no. conditions including:

2. The proposed retail area shall be amended as follows:
  - (a) The off-license element shall be omitted.
  - (b) The total net retail space of the forecourt shop shall not exceed 90.3-sq.m..
  - (c) A 2.2 metres high barrier shall be constructed between the retail area and adjacent circulation/food serving and seating area along or with the line as delineated by the purple line in the submitted drawings.

**Reason:** To comply with national policy, as set down in the Retail Planning Guidelines for Planning Authorities.

Also:

**PA ref. 09/41 ABP ref. PL55.236605:** Permission granted for a mixed-use development on these lands (15.25ha) to the east of the Inner Relief Road / N52 and to the south of the subject appeal site, comprising retail warehousing, leisure and restaurant/catering uses and associated works. This was not implemented.

**PA ref. 05/520109:** Permission granted for use of 1.42ha, including part of the subject appeal site, as a car park providing 522 no. spaces and associated works.

## 5.0 Policy Context

### 5.1. Development Plan

#### 5.1.1. Louth County Development Plan 2015-2021

Policy SS 3: To review the Dundalk and Environs Development Plan 2009 – 2015 and to prepare a Local Area Plan for Dundalk and Environs which will be consistent with the provisions of the County Plan.

Section 2.11.4 identifies Dundalk as a Level 2 Major town Centre and county town centre. To retain the primacy of town centres for shopping purposes and to enhance their vitality and viability, new retail development should be located within or as close to identified core retail areas where possible.

## Policies

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

EDE 33: To promote a healthy competitive retail environment within County Louth and to maintain the vitality and viability of the town and village centres and their role as primary retail core areas.

EDE 34: To support the development of Dundalk as a regional shopping centre and primary development centre of Drogheda as the principle locations for future retail development .....

### 5.1.2. Dundalk and Environs Development Plan 2009-2015

The appeal site is zoned RLR Retail, Leisure and Recreation: To provide for retail warehousing and the sale of bulky goods where not more than 10% of the floor area is allocated to sale of small goods. The provision of strategic large-scale retail development of significant scale and nature to draw from a regional catchment and to support the development of Dundalk as a regional shopping destination and the provision of large scale recreation and leisure facilities.

Within this zone

- Drive-through / Fast Food is permitted.
- Petrol Stations are open for consideration.
- Shop Local and Shop are not permitted (local shop is defined as a convenience retail unit of not more than 200 square metres in net floor area)
- Shops Major are open for consideration (*Shop which includes the provision of a unique large scale retail development of significant scale and nature to draw from a regional catchment and to support the development of Dundalk as a regional shopping destination and subject to compliance with the overall zoning relating to the site*).
- Take-away is open for consideration

It is policy (EC 10) to Implement the policy recommendations of the Louth Retail Strategy and (EC 14) to promote Dundalk as a regional shopping destination. The plan notes that the Louth Retail Strategy 2009 contains the following specific retail policies for Dundalk including:

1. Actively promote the development and enhancement of retail floor space in Dundalk Town Centre.
9. Make provision in development plans for local shops and restrict petrol forecourt retail units to 100 sq m.

A nine-level retail hierarchy is identified:

1. Level 1
2. Level 2
3. Small District Centre
4. Civic and Commercial Centres\*
5. Neighbourhood Centres
6. Discount Stores
7. Local Store
8. Local shop
9. Petrol filling station\*

| <b>Level</b>                     | <b>Location</b>  | <b>Objective</b>  |
|----------------------------------|--|---|
| 4. Civic and Commercial Centres* | Muirhevnamor (Inner Relief Road)                         | Provide a limited range of retail services to meet locally generated needs.<br>Maximum permitted net retail floor area 2,000sq.m.<br>Uses permitted include a limited amount of comparison floor space; foodstore (max net retail floor area 1,500sq.m) butchers, post office, banks, pharmacy, health centre / GP, dentist, professional services, solicitors, estate agents, childcare facilities, educational facilities, community halls, training centre, office space for professional services, recreational uses. |
| 9. Petrol Filing Stations        | Various locations development areas and service stations | Provision of small-scale local facilities in compliance with zoning matrix.<br>Maximum permitted net floor area: 100-sq.m.  |



The site is within the designated Muirhevnamor Rapid Regeneration area, located along the Inner Relief Road.

### 5.1.3. Louth County Retail Strategy 2009

The Strategy recognises the importance of protecting and enhancing the retail function of Dundalk. It also identifies the need for local retail centres (local shops, neighbourhood centres, civic and commercial centre and small distinct centres) to meet the need of existing and emerging residential communities. In addition, the strategy acknowledges the existing and potential role of Dundalk as a regional shopping destination.

- Policy 1 – Town Centre: actively promote the development and enhancement of retail floorspace in Dundalk Town Centre and its designated expansion area as befitting its Gateway status in the NSS and RPGBR.
- Policy 6 – Dundalk as a Regional Shopping Destination: promote Dundalk as a Regional Shopping Destination. Therefore, proposals for retail development of such a scale and nature that will demonstrate a significant regional draw will be considered on suitable sites in Dundalk and Environs where it has been clearly demonstrated that the proposed development (meets certain criteria):
- Policy 10 – Local Shops and Petrol Stations: Consistent with the RPG it is the policy that where retail space in excess of 100 sq m net of net retail sales area is associated with petrol filling facilities then the application of the sequential approach to retail development should apply.

## 5.2. National Policy

### 5.2.1. Guidelines for Planning Authorities Retail Planning - Department of the Environment, Community and Local Government April 2012

Key policy objectives of the Guidelines include ensuring that retail development is plan-led and promoting city/town centre vitality through a sequential approach to development;

Paragraph 2.4.3 identifies the Petrol filling station shops floorspace cap as 100-m<sup>2</sup> net irrespective of location. Paragraph 4.11.9 notes that convenience shops are part of the normal ancillary services provided within motor fuel stations. In rural areas,

they can have a very important function as the local shop or small supermarket. Such shops should, however, remain on a scale appropriate to the location, and their development should only be permitted where the shopping element of the station would not seriously undermine the approach to retail development in the development plan.

The floorspace of the shop should not exceed 100-sq.m. net. Where permission is sought for a floorspace in excess of 100 M2, the sequential approach to retail development shall apply.

Definitions:

- Net Retail Floorspace – the area within the shop or store which is visible to the public and to which the public has access including fitting rooms, checkouts, the area in front of checkouts, serving counters and the area behind used by serving staff, areas occupied by retail concessionaires, customer service areas, and internal lobbies in which goods are displayed, but excluding storage areas, circulation space to which the public does not have access to, cafes, and customer toilets.
- Convenience Goods include food, alcoholic and non-alcoholic beverages
- Forecourt Retailing: Mini-supermarket linked to petrol filling stations.

### 5.3. Natural Heritage Designations

The closest sites designated for nature conservation purposes are:

- Dundalk Bay SAC (000455) / SPA (004026), approx. 800m from the appeal site.
- Carlingford Mountain SAC (000453), 6.8km north and
- Stabannan-Braganstown SPA (004091), 11.5m southwest of the site.

## 6.0 EIA Screening

- 6.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity and the absence of

direct connection to any sensitive location, 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.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

Two third party appeals have been received which make the following points:

#### **Charles O'Reilly**

- Development of this nature and scale may detract from Dundalk town centre.
- The nature and range of uses will act as a destination attracting significant activity and is contrary to the provisions of the Development Plan.
- The proposed range of uses will undermine the Retail, Recreation and Leisure land use zoning.
- The development is contrary to condition no. 2 of PL15.30020. Permission should be refused in order to limit retail provision outside designated retail areas.
- The proposal will set a negative precedent, leading to proliferation of retail and fast food outlets in the surrounding area where there are already a significant number of outlets.
- The level of parking overprovision illustrates its intended role as a destination.
- Given its proximity to national road network, the facility can be regarded as an off-line motorway service station and will generate traffic on the N52, contrary to the "Spatial Planning and National Roads Guidelines".

#### **Thomas McMullan**

- The principle of development was determined in the previous appeal on the site.
- The alterations proposed as part of this application were specifically considered and determined under ABP-300250-17.

- The Board should overturn the decision to grant permission on the basis of the precedent already set for this site and in the absence of any change to relevant planning policy or guidelines.

## 7.2. Applicant Response

Petrogas Group Ltd. make the following comments in response to the third party appeals against the decision to grant permission:

- Both appeals are commercially motivated.
- Condition no. 2 of ABP-300250-17 is considered unreasonable and at odds with the interpretation of the RPG's in other cases.
- A physical barrier demarking the retail space is not necessary.
- Use of floor colour and materials to differentiate between uses is proposed in lieu of an internal barrier to facilitate the control of uses on the site.
- If a barrier is required, it should be no higher than 1.2m.
- The RPG's recognise convenience retail as part of filling station services and define alcohol as a convenience good.
- The proposed 4.1-sq.m. off-licence area is modest and is to be expected in such a development. Other filling stations permitted in the county include off-licenses.
- The Board have previously permitted off-license use in petrol filling stations.
- In one cited ABP case, the inspectors report described off-license use as a logical progression of retail use on a site.
- The inspector under ABP-300250-17 was primarily concerned with the 100-sq.m. floor cap, rather than with the off-licence use on the site.
- There is no national policy basis to cap retail use on the site at less than 100-sq.m. as required under condition no. 2 of ABP-300250-17
- The increase in retail area from that permitted is modest, from 90.3 to 100-sq.m. and accords with local and national retail guidance.
- The range and mix of uses on the site will not impact on Dundalk town centre, as was specifically considered and adjudicated on previously by the Board.
- There are only minor amendments from the permitted scheme and it will not impact on the N52. No new access is required

- Traffic Impact Assessment concluded that there will be no negatives impacts on the road network and the planning authority raised no concerns in this regard.

## **8.0 Assessment**

8.1. The proposed development is almost identical to the proposal lodged under PA ref. 17/477 and granted permission on appeal under ABP-300250-17 in December 2018. The purpose of the application is to seek to overcome the requirements of condition no. 2 of that permission. There has been no change to local, regional or national planning policy in that time and it is considered reasonable to accept that the landuse and development principle of the development has been established.

8.2. While appellants have raised issues in relation to the appropriateness of uses proposed on the site, town centre and retail impacts of the proposed development, and traffic impacts, I am of the view that these matters have generally already been adjudicated on by the Board. I propose therefore to consider this appeal primarily on the basis of the following issues:

- Expansion of convenience retail space and treatment within the development.
- Off-licence use within the site.

### **8.3. Expansion of convenience retail space and treatment within the development:**

8.3.1. The retail planning guidelines regard convenience shops as part of the normal ancillary services provided within motor fuel stations, subject to the floorspace cap of 100-sq.m. Such shops should, however, remain on a scale appropriate to the location and should only be permitted where the shopping element would not seriously undermine the approach to retail development in the development plan. These policy guidelines are reflected in the local planning policies.

8.3.2. The form and layout of development on the site is identical to that previously permitted under ABP-300250-17, with the exception that the internal floorarea delineated as net retail area on the plans has been expanded to include a circulation area between the retail display areas and restaurant seating area. (Note, this can be generally identified on the floor plans as that area containing measurements 1642 and 1405.)

- 8.3.3. The inspector's report in ABP-300250-17 considered that in the local context, there was no need for a retail area of greater than 100-sq.m. In that case, the proposed net retail floor area was 94.4-sq.m. inclusive of off-licence space of 4.1-sq.m. but excluding the circulation area referenced above. Condition no. 2 of the decision in that case required the omission of the off-licence use and consequent reduction in the net retail floor area to 90.3-sq.m.. The restrictions imposed under condition no. 2 were based largely on concerns that the scale of retail use on the site and the multiple retail and off-licence uses would prejudice the occupation of vacant units in the neighbourhood centre located on the opposite side of the N52 at Muirhevnamor. I consider that the development plan policies and objectives for this commercial centre are relevant to the consideration of this appeal.
- 8.3.4. There is a comprehensive Dunnes Stores supermarket within the Muirhevnamor centre, which includes a full and extensive off-license use. Other occupied units in the centre comprise pharmacy, medical centre, hairdressers and café use, while there remains a number of vacant uses in the centre. This facility is zoned as a Civic and Commercial Centre (CCC), *To provide a range and mix of civic and commercial activities to support residential neighbourhoods*. The development plan provides for a limited range of retail services on such sites, with office and other service uses also sought. I consider that the convenience retail function of the centre has been satisfied by the existing supermarket and that outstanding uses in the centre comprise those other, non-retail uses.
- 8.3.5. I note that there is no increase in the physical footprint of development on the site and the proposed revisions relate to the designation of internal floorarea for retail, circulation or food outlet use. The increase in net retail floor area of approx. 10-sq.m. is modest and in accordance with the retail floorspace cap for such locations. I do not consider that such expansion would prejudice the convenience offering in the adjoining commercial centre or the occupancy of vacant units in accordance with the development plan objectives for such centres. I do not therefore regard the proposed revisions to the net retail floor as unacceptable.
- 8.3.6. Condition no. 2 requires the installation of a 2.2m high barrier between the retail and circulation / food court area. This would serve to prevent leakage of retail use into other use areas. I consider that such structure would have a negative impact on the internal design and layout of the premises by reason of its height and is not wholly

necessary. The first party have requested that this be omitted and that different floor colour or materials be used to demark the different uses and facilitate inspection and enforcement where required. Alternatively, they have requested that where a screen or barrier is required, that the height be reduced in height from 2.2m to 1.2m. Having regard to the proposed internal layout and uses for the site I would express a preference for the latter approach, however, with the height reduced to 1.5m as conditioned by the planning authority, which would also provide screening for users of the seating area adjacent to the retail unit.

#### **8.4. Off-license use:**

- 8.4.1. Condition no. 2 of ABP-300250-17 required the omission of proposed off-license use from the site. This related to 4.1-sq.m. of retail space, which is the same as the current proposal. The floor plans in both planning cases identify areas of the shop unit for Off-License and Wine Sales uses. I measure these areas to equate to approx. 2.7-sq.m. In neither case do the delineated areas equate to 4.1-sq.m. and it is not clear therefore where the proposed use would be provided within the shop. I consider that, in the event of a decision to grant permission for the use on the site, a condition should be attached requiring that floor plans clearly identifying the proposed area be submitted to and agreed with the planning authority.
- 8.4.2. Reference is made in the appeal response to previous decisions of the Board, however, I note that each case must be considered on its own merits and in the context of the local planning policies. I do not consider that off-license use can always be regarded as an expected or acceptable use in retail outlets.
- 8.4.3. The scale of the proposed off-license use is relatively minor and there is no increase in the physical footprint of development on the site. Overall retail use would remain below the floorspace cap prescribed in the development plan and RPG's. The existing Dunnes Stores supermarket at Muirhevnamor includes a relatively extensive off-license, which is of a greater scale than that proposed in the subject development. I note that off-license use is not specifically identified as a permitted use under the CCA zoning.
- 8.4.4. In this context, and having regard to the limited scale of the proposed use, I do not consider that the proposed development would be contrary to development plan

retail policies, or that it would undermine adjoining landuses or the occupation of vacant units in the adjoining Civic and Commercial Centre in accordance with the objectives of the development plan for the area. I consider therefore that the proposed off-license use in the form proposed would be acceptable.

## **9.0 Appropriate Assessment - Screening**

The closest European site to the appeal site is the Dundalk Bay SAC (000455) and SPA (004026), located approx. 800m to the east. Other European sites in the wider area include Carlingford Mountain SAC (000453), approx. 6.8km to the north and Stabannan-Braganstown SPA (004091), approx. 11.5m southwest of the site.

The qualifying interests of Dundalk Bay SAC and SPA are set out in Appendix 1 to this report. The Conservation Objectives for the SAC and SPA are to maintain the favourable conservation condition of the various habitats and bird species for which the sites have been selected.

The proposed development comprises a petrol filling station and associated uses and includes provision for the storage and sale of hydrocarbons / fuels and as well as car wash facilities. Foul and surface water from the development will discharge to the public drainage networks and the development provides for the installation of interceptors which will prevent oil / petrol entering the surface water drainage system.

Due to prevailing soil conditions, on-site discharge of surface water to ground is not viable and therefore the application provides for the attenuation of surface water run-off via underground storage tanks and throttled discharge to the sewer network.

There is no direct discharge to watercourses draining to the SAC / SPA. The planning authority raised no issues with these drainage proposals.

The site is located within the established urban area and was previously partly developed for use as a car park. There will be no loss of habitat in the European site and there are no direct connections to the site. Standard construction methods and compliance with statutory requirements for such developments will ensure that



contamination of surface waters is unlikely and that there is no likely impact on any European site.

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, the nature and scale of the proposed development, and the nature of the receiving environment, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Dundalk Bay SAC or SPA (Site Codes 000455 and 004026, respectively), or any other European site, in view of the sites' Conservation Objectives. A Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

## **10.0 Recommendation**

- 10.1. That permission be granted for the proposed development, subject to the conditions set out below.

## **11.0 Reasons and Considerations**

- 11.1. Having regard to the design and layout of the proposed development, the policies and objectives of the Louth County Development Plan 2015 – 2021 and the Dundalk and Environs Development Plan 2009-2015, and the provisions of the Retail Planning Guidelines issued by the Department of the Environment, Community and Local Government in April, 2012, it is considered that, subject to compliance with the conditions set out below, the proposed development would not detract from the vitality of Dundalk Town Centre or prejudice the retail objectives of the development plan for this area, would not be prejudicial to public health, would be in accordance with Louth Retail Strategy 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.

## 12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. The proposed retail area shall be amended as follows:
  - (a) The total net retail floorspace of the forecourt shop shall not exceed 100-square metres.
  - (b) Proposed off-license use shall not exceed 4.1-square metres.
  - (c) A 1.5 metres high barrier shall be constructed between the retail area and adjacent circulation/food serving and seating as defined in purple on dwg. No. PL-05 Proposed Elevations Proposed Floor Plans submitted to the planning authority on 22/03/2019.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In particular, the drawings shall clearly identify the location and extent of off-licence use within the retail unit.

**Reason:** To comply with national policy, as set down in the Retail Planning Guidelines for Planning Authorities.

3. All planting/landscaping shall be provided and maintained in accordance with the landscaping scheme including the Root Barrier system submitted to the planning authority. Any tree or plant which die are removed or become seriously damaged or diseased within a period of three years, shall be replaced within the next planting season with others of similar size and species.

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

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

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

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

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

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

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

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

7. During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location with the vicinity, shall not exceed –
- (a) an Leq, 1 hour value of 55dB(A) during the period 0800 to 2200 hours from Monday to Sunday inclusive
  - (b) and Leq, 15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

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

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

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

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

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

9. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

10. All lighting used within the forecourt shall be directed and cowled so as not to interfere with passing traffic.

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

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

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

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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

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

**Reason:** In the interests of visual amenity and orderly development

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

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

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

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

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

16. 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 and noise management measures.

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

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

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

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Conor McGrath  
Planning Inspector

06/09/2019

## Appendix 1

The qualifying interests of Dundalk Bay SAC (000455) are as follows:

- Estuaries [1130],
- mudflats and sandflats not covered by seawater at low tide [1140],
- perennial vegetation of stony banks [1220],
- salicornia and other annuals colonising mud and sand [1310],
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330] and
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410].

The qualifying interests of Dundalk Bay SPA (004026) are as follows:

- Great Crested Grebe (*Podiceps cristatus*) [A005],
- Greylag Goose (*Anser anser*) [A043],
- Light-bellied Brent Goose (*Branta bernicla hrota*) [A046],
- Shelduck (*Tadorna tadorna*) [A048],
- Teal (*Anas crecca*) [A052],
- Mallard (*Anas platyrhynchos*) [A053],
- Pintail (*Anas acuta*) [A054],
- Common Scoter (*Melanitta nigra*) [A065],
- Red-breasted Merganser (*Mergus serrator*) [A069],
- Oystercatcher (*Haematopus ostralegus*) [A130],
- Ringed Plover (*Charadrius hiaticula*) [A137],
- Golden Plover (*Pluvialis apricaria*) [A140],
- Grey Plover (*Pluvialis squatarola*) [A141],
- Lapwing (*Vanellus vanellus*) [A142],
- Knot (*Calidris canutus*) [A143],
- Dunlin (*Calidris alpina*) [A149],
- Black-tailed Godwit (*Limosa limosa*) [A156],



- Bar-tailed Godwit (*Limosa lapponica*) [A157],
- Curlew (*Numenius arquata*) [A160],
- Redshank (*Tringa totanus*) [A162],
- Black-headed Gull (*Chroicocephalus ridibundus*) [A179],
- Common Gull (*Larus canus*) [A182],
- Herring Gull (*Larus argentatus*) [A184] and

Wetland and Waterbirds [A999]