



An  
Bord  
Pleanála

## Inspector's Report ABP.304718-19

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<b>Development</b>	Construct a warehouse building for use as a bus depot, new site entrance and all ancillary works
<b>Location</b>	Cloonanorig, Monavalley Industrial Estate, Tralee, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	19/120
<b>Applicant(s)</b>	Bernadette Daly
<b>Type of Application</b>	Planning permission
<b>Planning Authority Decision</b>	Grant s.t. conditions
<b>Type of Appeal</b>	First party & Third Party
<b>Appellant(s)</b>	Bernadette Daly Siobhan Flynn
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23 <sup>rd</sup> August 2019
<b>Inspector</b>	Mary Kennelly

## **1.0 Site Location and Description**

- 1.1.** The site is located at Monavalley, which is on the northern outskirts of Tralee town. Monavalley Industrial Estate is located on the western side of the R556, Ballybunnion Road, and there are housing estates located to the south and on the eastern side of the main road. The housing estate to the south is known as St. Brendan's Park and to the southwest is known as Gallowsfield. There is a road to the south of the site which provides access to the residential areas but there is no access to the site from this road. The site is accessed by means of the internal industrial estate road, which is known as Gallowsfield Estate Road.
- 1.2.** The site has a stated area of 0.11ha. It is accessed from the north. The site is currently vacant and there are industrial buildings on either side of it. The southern boundary does not extend as far as Gallowsfield, with a largely vacant area remaining to the rear (c.26m in depth). Part of the rear boundary also faces a small warehouse building. The boundary of the Monavalley Industrial Estate with Gallowsfield to the south is defined by a masonry wall with security railing on top, with a combined height of approx. 3m (estimated).
- 1.3.** The northern boundary of the site is with a grass verge along the Gallowsfield Estate Road and includes several mature trees which continue along the verge to the east and the west of the site. There is an existing timber post and rail fence delineating the boundary with the grass verge.

## **2.0 Proposed Development**

- 2.1.** Permission is sought for the construction of a new warehouse building with a stated floor area of 237.6sq.m. The stated purpose of the warehouse is as a bus depot for 'Dublin Bus'. The service offered by Dublin Bus is a 7 day a week, hourly service between Tralee and Dublin. It is stated that the warehouse and the site shall be used to house and maintain buses when they are not in use. It is noted in the cover letter that the applicant had previously applied for permission (17/772) on a slightly larger site which was refused by the P.A. on the grounds that an existing surface water culvert and a public foul sewer ran through the site. It was pointed out that the applicant had since agreed a diversion of the storm sewer, (as indicated by the 3m wide wayleave shown on the submitted plans), and the current position is that the

existing storm culvert will not be required to be diverted, (letter from Irish Water indicating pre-connection agreement included with application).

- 2.2.** The proposed new building is located at the rear of the site and is set back approx. 28m from the road frontage. The setbacks from the eastern and western boundaries are 5.503m and 1.5m respectively and 1.9m from the southern boundary. It has a footprint of 16.05m x 15.895m. It has a pitched roof with an eaves height of 4.62m and a ridge height of 6.0m. There are two large roller shutter doors on the northern elevation. The proposed materials comprise metal cladding with concrete finish. The area to the front of the proposed warehouse is to be used as Bus turning area and a bus parking area, and includes 3 car parking spaces. The existing storm culvert is located in the north-eastern corner of the site with the wayleave for the diverted sewer travelling down the eastern side of the site.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to grant permission subject to five conditions, the majority of which are of a standard nature. The following conditions are of note:

Condition 2 – Development contribution of €7,128.

Condition 3 – No change of use without a prior grant of permission

Condition 4 - Connect to public water supply and public foul sewerage system. No development to commence without prior agreement from Irish Water.

Condition 5 – prohibited any work to culvert or associated way leave and no building works to commence until foul sewer is diverted to satisfaction of Irish Water.

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

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

It was noted that the site is located in an area zoned 'M4 Built Up Area' (as per Variation 5). Bus Depot is not included in the Zoning Matrix, but it was noted that both 'Vehicle Repair Garage' and Warehouse/Storage Depots/Distribution Centres'

are both Open to Consideration in this zone. The proposed use as a Bus Depot was considered to be an industrial type use and therefore acceptable in principle. It was noted that the lands were previously zoned General Industry and that the proposed use is consistent with the current zoning as it was considered that it supports the primary industrial use of the land use of the built-up area in which it is situated.

Reference was made to the previous planning refusal, (17/772) which related to a warehouse (but not specifically for a bus depot), and it was noted that the reason for refusal has been addressed by means of the proposal to divert the foul sewer and to provide for a wayleave for the storm sewer and culvert. It was further noted that no objections have been raised by Irish Water, Water Services or Operations Department of Kerry Co. Co.

Further information was requested in respect of the number of buses likely to use the depot at any one time and to the proposed maintenance aspect of the proposed development and the intended hours of operation. Drawings were also requested in respect of the proposed new entrance and the surface water drainage details within the location of the proposed fuel interceptor.

**Further Information** was submitted on **26<sup>th</sup> April 2019**. This was in the form of a letter stating that the proposed depot is intended to facilitate the use of five buses daily on the following basis:

- Once the buses leave the depot, they do not return until they have finished their schedule for the day.
- The buses return to the depot each night to be cleaned and refuelled.
- Buses will be parked inside and outside the warehouse, but within the site boundary.
- Cleaning consists of hoovering and wiping clean internally using household products. External cleaning is carried out using a product called No-H2O and dry cloths. No water is required for cleaning the buses externally.
- No routine maintenance will be carried out at the Tralee Depot. Repairs are carried out at the main depot in Dublin.

Information is also provided regarding re-fuelling methods including the fuel storage tank specifications (Appendix 1) and the procedure for refuelling vehicles in Tralee Depot (Appendix 2).

The Area Planner considered that these responses were sufficient and satisfactorily addressed the issues raised in the FI request. It was noted that the warehouse could accommodate 2 buses and that a further 3 buses could be parked in the front yard and it was considered that it would not give rise to any issues of traffic hazard or parking on the public road. As there would be no maintenance in the form of vehicle repairs carried on, it was considered that the proposed development would not be injurious to residential amenity.

### **3.2.2. Other Technical Reports**

**Water Services** – no objection to development re water supply or sewage disposal. Existing sewer line to be diverted.

**Fire Services** – Fire safety and disability access certs required/

**M.D. Operations Dept.** – request for FI. A layout drawing of the surface water details with the location of the fuel interceptor within the development and details of same. A detailed drawing of the proposed new entrance and all works associated with the construction of the new entrance.

### **3.3. Prescribed Bodies**

**Irish Water** – no objection raised. It was noted that the sewer line must be diverted.

### **3.4. Third Party Observations**

Patrick & Siobhan Flynn – Objections raised as follows:

- Density and nature of development - The proposed development would be contrary to the Development Plan policies and would be detrimental to the character of the area. The area has reached its capacity for this type of development. The proposal represent overdevelopment.
- Residential amenity of the area - will be adversely affected. The type of development is unsuitable for a mixed-use area with light industry, schools, colleges etc. The noise associated with the repair of vehicles is unacceptable.

- Inaccurate and inadequate information – various items not shown on drawings including a recently constructed warehouse (15/239).
- Visual amenity – the removal of the mature trees which screened the site from the residential estate to the south will mean that the proposed development will be highly visible and will detract from the visual amenity of the area.
- Traffic hazard – the proposal will result in increased traffic with heavy vehicles which is inappropriate given the high level of pedestrian activity in the vicinity of the site due to the varied land-uses. The proposed car parking is inadequate and the space within the site for parking and turning buses is unlikely to be sufficient, which will result in overspill parking.
- Land ownership issues.

## 4.0 Planning History

17/772 – P.A. refused permission on the grounds that a public sewer and a surface water culvert within the site would be affected.

## 5.0 Policy Context

### 5.1. Development Plan

5.2. The lands were zoned General Industry in the Tralee Town Development Plan 2009-2015. However, this plan has now been extended (until 2021) and varied. Variation No. 5 was adopted in September 2018. The purpose of the variation included several objectives including the incorporation of new objectives and policies from the Tralee Municipal District LAP 2018-1024 and various other strategies and plans. It also incorporated the MyPlan.ie General Zone Types Classification Scheme, which effectively replaced the zoning contained in the original Town Development Plan. It also placed a greater emphasis on renewing and developing brownfield lands in existing built-up areas rather than continual expansion and sprawl of the town out into the countryside (Revision 5).

5.3. The site is now zoned **M4 – Existing Built-Up Area of Mixed Use**. It is stated at Para 11.4 -

It is the policy of the Local Authority to facilitate development that supports in general the primary land use of the surrounding existing built-up area.

Development that does not support or threatens the viability or integrity of the primary use of these existing built-up areas shall not be permitted.

Appendix A: Zoning Matrix indicates that Warehouse/Depots/Distribution Centres are 'Open for Consideration' in this zone.

#### **5.4. Natural Heritage Designations**

Tralee Bay Complex SPA (004188 and

Tralee Bay and Maharees Peninsula, West to Cloghane SAC (002070).

### **6.0 The Appeal**

#### **6.1. Grounds of Third-Party Appeal**

The third-party appeal was submitted by the neighbouring residents to the north. The main points raised may be summarised as follows:

- Development Plan policies - The proposal would be contrary to the policies for the M4 zone which does not provide for a bus depot. This type of use is catered for in Networks and Basic Infrastructure Zone. Much of the built-up area of the town is zoned as M4. The character of the area has changed to one of mixed-use and there has been a significant level of development in the recent past. The area has reached its capacity for this type of development. The proposed development would be detrimental to the character of the area and would undermine the objectives of the M4 zoning as it does not support the primary land use of the surrounding area. An industrial type use is incompatible with residential, educational, training and community uses.
- Need for warehouse building – the parking of buses on the site does not necessitate the construction of a warehouse and it is likely that other activities, such as vehicle repairs, will be carried out in due course within the building.

- Residential amenity of the area – the introduction of a bus depot with associated maintenance use will adversely affect the residential amenity and peace and quiet of the area. The type of development is unsuitable for a mixed-use area with light industry, schools, colleges etc. The noise associated with the repair of vehicles is unacceptable. It is disputed that a bus which breaks down would be hauled all the way to Dublin to be repaired. The P.A. did not restrict vehicle repairs as a condition of its permission. The potential for noise nuisance, particularly late at night, is very high and has not been addressed by the P.A.
- Development Management Guidelines (Chapter 12 TDP) – the development plan sets out the criteria against which industrial development must be assessed. This has not been adhered to in the assessment of the current application.
- Inaccurate and inadequate information – various items not shown on drawings including a recently constructed warehouse (15/239). No Sustainability Assessment Report has been submitted as required by chapter 13 of the Development Plan. No landscaping proposals have been submitted as required by the Development Plan (10.8). The building must not encroach within 4.5m of the side party boundaries (TDP 13.10). Mitigation measures to reduce noise emissions are also required by the TDP (Chapter 13).
- Visual amenity – the removal of the mature trees which had previously screened the site from the residential estate to the south will mean that the proposed development will be highly visible and will detract from the visual amenity of the area. It is disputed that this could not have been considered by the P.A. as the reduction in size of the site was a deliberate attempt to move the boundary. There is no reason why the developer should not be required to plant trees to screen the building and a landscape plan should be required.
- Traffic hazard – A Road Safety Audit is required, and this should have been requested by the P.A. The proposal will result in increased traffic including trucks and buses, which will endanger the public given the high level of pedestrian activity in the vicinity of the site due to the varied land-uses. The proposed car parking is inadequate (4 spaces, not 3, are required) and the



space within the site for parking and turning buses is unlikely to be sufficient, which will result in overspill parking. The site area is too restrictive to cater for the proposed development. The logistics of the time schedule is inconsistent with the proposals as outlined in the Further Information.

- Compatibility with infrastructure services on site – it is unclear whether the layout of the proposed development would comply with the required distances for the various sewers on the site. The petrol interceptor is located under the car parking spaces. This means that it will be inaccessible while staff cars are parked there. No detailed information was submitted regarding the proposed interceptor, despite such a request from the P.A. It is unclear if the interceptor would be adequate in the event of a fuel spill. The storage of fuel on the site is risky due to the restricted nature of the site, making the risk of a collision with a fuel tank a possibility.

## **6.2. Planning Authority Response to third-party grounds of appeal**

The P.A. has not responded to the third-party grounds of appeal.

## **6.3. First party response to third-party grounds of appeal – 22<sup>nd</sup> July 2019**

The first party responded on 22<sup>nd</sup> July 2019. The response was mainly in the form of a rebuttal. However, a number of points of note were made as follows:

- The operation of the bus depot will be based on 5 buses per day. Once the buses leave the depot, they will not return until they have finished their schedule for the day.
- A detailed schedule for the times of departure and arrival from the depot has been included. The departure times range from 00.45 to 10.30 hours and the arrival times range from 19.00 to 04.00 hours. A bus timetable is enclosed.
- The proposed depot is not intended to accommodate other Dublin Coach buses which service the Tralee-Dublin route. These include buses departing Princes Quay in Tralee at 12.30pm, 1.30 pm, 3.30pm and 5.30pm. These buses travel between Burgh Quay in Dublin and Princes Quay in Tralee and will not attend the Monavalley depot. These are separate buses which turn

around within the hour and remain on Princes Quay. They do not require refuelling due to the capacity of their tanks.

- The logistics for the parking and manoeuvring of buses within the depot and yard are set out. This includes the schedule for cleaning and refuelling. It is emphasized that all scheduling is carried out on a strict time schedule, 7 days a week. A plan Drg. No. 2018/50/03 showing the location of the bus bays accompanied the description of the schedule.
- It was confirmed that no routine maintenance will be carried out at the depot and the fuel tank will be located inside the warehouse and will comply with all fire safety regulations.

#### **6.4. Grounds of first party appeal – Condition 2 Financial Contribution**

The first party appeal is against Condition no. 2 which required the payment of €7,128 in accordance with the P.A.'s Development Contribution Scheme. The grounds of appeal may be summarised as follows:

- The Kerry County General Development Contribution Scheme 2017 includes reductions at Section 5 for the following:

R14 Warehousing for the purposes of storage located within the boundary of a settlement – Reduction of 60% Development Contribution charges for Industrial Warehouse Developments.

- The 60% reduction was not applied by Kerry Co. Co. in respect of this development. The developer has referred the matter to the P.A. and the response was as follows :

“Clearly a bus depot used for the parking, cleaning and refuelling of coaches does not meet these criteria and the development contributions outlined above were calculated correctly and in accordance with the current GDSCS.”

- The developer responded to this by stating that the bus depot will be used for the parking/storing of 2 no. buses. It is stated that the refuelling will take place “outside the warehouse as demonstrated in the photographs”.

- The proposed development is considered to be “storage” and there are no timeline restrictions on how often the items stored can be moved into and out of the warehouse. The Development Contribution has therefore been calculated incorrectly and is contrary to the aim of the GDCS to “support economic development”.

## 6.5. P.A. response to first party appeal

The P.A. responded on 29<sup>th</sup> August 2019. The main points may be summarised as follows:

- Information was provided in the FI response of 26/04/19 that buses would be parked inside and outside the warehouse and that the cleaning of the buses (internally and externally) would be carried out inside the building.
- The Kerry County GDCS sets out contribution rates for various types of development, including industrial development. On the basis that the buses would be cleaned inside the warehouse, it was decided that the relevant contribution was for ‘Industrial Buildings’.
- Reduction R14 applies to warehousing for the purposes of storage located within the development boundary of a settlement. This reduction does not apply to the proposed bus depot, which is clearly not intended for use as a storage facility.
- The application site is located within the development boundary for Tralee-Killarney Hub where a levy of €18.00 per square metre applies to Industrial Buildings.
- Calculation of development contribution

Floor area of building 237.36sq.m

Roads & Community Transport: 237.36sqm @ €6.20/sqm = €1,473.12

Community & Amenity: 237.6sqm @ €5.80/sqm = €1,378.08

Tralee Levy: 237.36sq.m @ €18.00 = €4,276.80

Total : €7,128.00

## **7.0 Assessment**

**7.1.** It is considered that the main issues arising from the appeal are as follows:-

- Principle of development
- Residential amenity
- Visual amenity
- Traffic safety and convenience
- Financial contribution
- Environmental impact assessment
- Appropriate assessment

### **7.2. Principle of development**

**7.2.1.** The site is located in a built-up area that was originally constructed as Monavalley Industrial Estate. The area surrounding the industrial estate is largely residential, some of which is long-established (such as Gallowsfield, St. Brendan's Park, Cloonanorig etc. to the south), and some of which was more recent (Shanakill and Killeens to the north). The industrial estate itself has also undergone several changes of use over the past decade or two with several sites/buildings incorporating educational or community type uses. These uses include Brookfield College to the south-east of the site, Kerry Enterprise Training Board to the north-east of the site and a gymnasium to the north-west and St. John of God Services further to the north-west. However, for the most part, the character of the industrial estate remains largely intact with a wide range of industrial, light industrial and warehouse type uses.

**7.2.2.** The Zoning Matrix indicates that uses such as 'Warehouse, Depots, Storage and Distribution' and 'Light Industry' are all 'Open for Consideration', as is 'Vehicle Repairs Garage'. It is considered, therefore that the proposed use as a bus depot which includes parking of buses, light maintenance and refuelling, would not be contrary to the M4 zoning for the site.

**7.2.3.** The Development Plan for the area (as varied by Variation 5) seeks to facilitate development that supports in general the primary land use of the surrounding existing built-up area, and will not permit development which fails to support or threatens the viability or integrity of the primary use of these existing built-up areas. The primary land-use of the existing built-up area is considered to be industrial. Thus, the use of the site as a Bus Depot is considered to be appropriate in principle, provided that any such development respects the residential amenity of the lands surrounding the industrial estate.

**7.2.4.** The developer has confirmed that it is not proposed to carry out any vehicle repairs from the premises. It is suggested, therefore, that in order to avoid any such intensification of the use, repairs of vehicles should be specifically excluded from the use of the proposed building, without a further grant of planning permission. It is considered that this should be specified in a condition of any permission, should the Board be minded to grant permission.

### **7.3. Residential Amenity of occupiers of adjoining sites**

**7.3.1.** The closest residential properties to the site are located to the south, c30-40m. away. The P.A. restricted the use to a bus depot and prohibited a change of use without a further grant of permission. I would agree that this would be appropriate given the nature of the use and the lack of restrictions on the hours of operation, and the relative proximity to residential uses to the south.

**7.3.2.** No assessment has been carried out in respect of noise emissions. As discussed above, there are no proposals to carry out vehicle repairs and the maintenance aspect of the proposed development involves cleaning with domestic type products and vacuuming. The proposed building has two large roller shutter doors at the front of the structure, which face north away from the residential properties. If these doors were left open during cleaning operation and manoeuvring of buses, the activities could potentially give rise to noise nuisance, particularly at night when the background levels would be very low. It is considered, therefore, that a condition which would restrict noise emissions from the site would be appropriate, should the Board be minded to grant permission.

#### **7.4. Visual amenity**

- 7.4.1.** The appellants have sought the reinstatement of the trees on the southern boundary of the Monavalley Estate with Gallowsfield. It is claimed that these trees were felled by the developer in the intervening time between the refusal of the first application, (Reg. Ref. 17/772 - on a larger site which extended to the boundary) and the submission of the current application. It is submitted that the reduction in the size of the site is not sufficient justification for the lack of screening proposals.
- 7.4.2.** The site layout shows the site boundary wedged between existing industrial buildings on either side and partially screened by a further industrial building from the south. There are no proposals that I am aware of for the development of the remainder of the former application site (17/772), which is currently laid out as grass with a masonry wall (c. 1.5m high) and a security railing on top (c. 1.5m) forming the boundary with Gallowsfield.
- 7.4.3.** The proposed development is an industrial building within an industrial estate, which is typical of the types of buildings on neighbouring sites. It is of an average scale and height with a use of materials commonly used in neighbouring buildings. The rear elevation is well removed from the external boundary of the estate with the residential properties to the south. It is acknowledged that the recent felling of trees on the boundary will make the proposed building more readily visible from the housing estate, but this is not considered to be sufficient justification for a requirement to replant the trees on this boundary as part of the current development. It is considered that some landscaping and screen planting should be provided, however, within the boundaries of the proposed development in accordance with the requirements of the development plan, particularly as it will be necessary to fell trees along the road frontage to provide access to the site. Should the Board be minded to grant permission, this matter could be addressed as a condition of any such permission.

#### **7.5. Traffic safety and convenience**

- 7.5.1.** The appellants raised concerns regarding the volume of traffic and the risks associated with traffic movements into and out of the site. However, the response from the applicant on 22<sup>nd</sup> July 2019 states that the depot would be required for five buses only, and that their arrivals and departures would be spaced out over a

number of hours. Information was also provided regarding the methodology for manoeuvring buses within the site without causing any spill-over effect on the adjoining road. It is considered that provided that the use was restricted to five buses, as indicated in the information submitted with the application and appeal, the proposed development would not be likely to give rise to any issues of traffic hazard or parking overspill onto the adjoining road. This could be addressed by means of an appropriately worded condition, should the Board be minded to grant permission.

## **7.6. Other matters**

**7.6.1.** The appellants raised concerns regarding the layout of the yard in respect of existing sewers and culverts, the location of the petrol interceptor on top of parking spaces and a fuel spill risk. It is noted that the existing storm culvert runs along the wayleave and the proposed external bus bays and that the new storm line would run beside the bays and the eastern side of the building. The foul sewer is to be diverted so that instead of running through the site of the warehouse, it would run along the wayleave. The revised drawing submitted to the P.A. on 26<sup>th</sup> April 2019 showed the petrol interceptor located away from parking spaces. It is noted that the Engineering Department of the P.A. and Irish Water have raised no concerns regarding the siting of this infrastructure and services.

## **7.7. Financial contribution**

**7.7.1.** Condition 2 of the P.A. decision required the payment of €7,128 as a financial contribution under the terms of the current Kerry County GDCS. The calculations are set out in the P.A. response of 29/08/19. The developer maintains that a reduction of 60% should have been applied as the proposed development falls within the development description of warehouse/storage. However, the P.A. disagrees and considers that the nature of the use is such that it falls within an Industrial Use as it is proposed to clean the buses within the building.

**7.7.2.** The GDCS was adopted by Kerry County Council in 2017 and is the current scheme in operation. It includes a development contribution charge for Roads and Transport Infrastructure and for Community and Amenity Infrastructure. The charges are set out in Section 4 of the GDCS. The charge for Industrial Buildings is €6.20 per sq.m (R & T) and €5.80 per sq.m (C & A), totalling €12.00 per square metre. The charge for commercial buildings is €18.00 per sq.m.

**7.7.3.** In addition to the above charge, the GDCS includes a charge for the Hub Towns of Tralee and Killarney, which it is stated reflects the increased demand on the delivery of infrastructure in these towns. The Hub town Charge for Industrial Buildings is €18 per square metre and is €32 per square metre for commercial buildings. The P.A. in the current case, has applied the development charge of €12.00 per sq.m for an industrial building and the Hub Town charge of €18.00 per sq.m, as it was considered that the proposal falls within the definition of an Industrial Building.

**7.7.4.** Section 5 of the GDCS includes a list of development types where a reduction in the charge will be applied. There are seven development types listed under the heading of Industrial Development. The developer considers that the proposed development falls within R14 - 'Warehouse', (clarified as "warehousing for the purposes of storage"), to which a reduction of 60% would apply. However, the P.A. has stated that as the building is used to clean the buses, rather than merely for storage, the reduction in respect of warehousing does not apply.

**7.7.5.** Article 5 of the Planning and Development Regulations 2001, (as amended), includes definitions of industrial building, light industrial building and industrial process. "**Industrial Building**" means a structure....used for the carrying on of any industrial process; a "**Light Industrial Building**" means one in which the processes carried on, or the plant/machinery installed, could be carried on/installed in any residential area without detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

An "**Industrial Process**" means any process which is carried on in the course of trade or business, other than agriculture, and which is

- (a) For or incidental to the making of any article or part of an article, or
- (b) For or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale.....

And for the purposes of this paragraph, "article" includes a 'vehicle'. It is further noted that the definition of a "**Repository**" is a structure (excluding any land occupied therewith) where storage is the principal use and where no business is transacted other than business incidental to such storage.

**7.7.6.** As the proposed building is intended for use as a depot involving the parking, manoeuvring, cleaning and refuelling of buses, it is considered that it falls within the



definitions of an industrial building in which an industrial process is carried out. The definition of Repository is more aligned with the clarification note for R14 set out in the GDCS, as it would involve merely storage. The cleaning and refuelling of the buses would not be an incidental activity, but would be the primary purpose of the depot along with parking of the buses for a few hours. Thus, I would agree with the P.A. that the Reduction R14 would not be applicable in this instance. Condition 2 should therefore be attached to any permission, should the Board be minded to grant permission.

## **7.8. Environmental Impact Assessment**

- 7.8.1.** Having regard to the nature, size and location of the proposed development, 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.

## **7.9. Appropriate Assessment Screening**

- 7.9.1.** There are several designated sites within 15km of the appeal site. The closest designated sites are as follows:

Tralee Bay Complex SPA (004188) – c.3km to southwest.

Tralee Bay and Maharees Peninsula West to Cloghane SAC (002070) – c.3km to southwest.

Ballyseede Wood SAC (002112) – c.3km to the southeast

Slieve Mish Mountains SAC (002185) – c. 6km to the south

Stack's Mountains to Mullaghareirk Mountains West Limerick Hills and Mount Eagle SPA (004161) – 6km to Northeast

- 7.9.2.** Having regard to the nature and scale of the proposed development, the distances from the said designated sites, no Appropriate Assessment issues arise. It is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

Having regard to the urban location of the site which is located within an established

industrial estate within the Development Boundary for the Hub town of Tralee and to the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would be in accordance with the policies and objectives for the area as set out in the Tralee Town Development Plan 2009-2016 (as extended and varied) and would not seriously injure the amenities of the area or of property in the vicinity 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.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars submitted to the planning authority on the 26<sup>th</sup> day of April 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. The development shall be used solely as a bus depot for the parking, cleaning and re-fuelling of five buses as described in the documents submitted to the planning authority and the Board. A change of use or intensification of this use shall not take place without the benefit of a further planning permission, notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended.

**Reason:** In the interests of orderly development and to safeguard the amenities of the area.

3. No vehicle repairs shall be carried out at the premises without a prior grant

of planning permission.

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

4. The noise level shall not exceed 55dB(A) rated sound level, (that is corrected sound level for a tonal or impulsive component) as measured at the nearest noise sensitive location between 08.00 and 20.00 hours Monday to Friday inclusive and shall not exceed 45dB(A) at any other time.

Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority within two months of the date of this order.

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

5. No goods, raw materials or waste products shall be placed or stored outside the building, other than in receptacles approved by the planning authority.

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

6. A plan containing details for the management and storage of waste (and in particular recyclable materials and end-of-life metal equipment) within the development, including facilities for the storage, separation and collection of waste, and in particular recyclable materials and for the ongoing operation of this facility shall be submitted to and agreed in writing with the planning authority within two months of the date of this order.

**Reason:** In the interest of the amenities of the area and to ensure the provision of adequate refuse storage.

7. Details of the materials, colours and textures of all the external finishes to the proposed building 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.

8. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

- (i) Existing trees, hedgerows, stone walls, specifying which are proposed for retention as features of the site landscaping
- (ii) The measures to be put in place for the protection of these landscape features during the construction period
- (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder
- (iv) Details of screen planting which shall not include cupressocyparis x leylandii
- (v) Details of roadside/street planting which shall not include prunus species.
- (vi) Hard landscaping works, specifying surfacing materials and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

(c) A timescale for implementation

All planting shall be adequately protected from damage until established.

Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

9. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision

amending or replacing them, shall be displayed or erected within the curtilage of the site unless authorised by a further grant of planning permission.

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

10. Prior to the commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.

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

11. Water supply and drainage arrangements for the site, including the disposal of surface water shall comply with the requirements of the planning authority for such works and services. No surface water shall be discharged onto the public road or adjoining properties.

**Reason:** In the interests of environmental protection and public health.

12. No building works shall be carried out over the culvert or associated wayleave. No building works shall commence until the foul sewer traversing the site is diverted to the satisfaction of Irish Water.

**Reason:** In the interests of orderly development and public health.

13. The developer shall pay to the planning authority a financial contribution of €7,128.00 (seven thousand, one hundred and twenty eight 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.

**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 Kennelly  
Senior Planning Inspector

25<sup>th</sup> September 2019