



An
Bord
Pleanála

Inspector's Report

ABP-307048-20

Development	Demolition of supermarket building, and for the phased construction a new supermarket building comprising of convenience shop with off licence, and new filling station forecourt.
Location	Whitecastle Lower & Riceland, Knocktopher, Co. Kilkenny.
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	19404
Applicant(s)	Padraic Carroll
Planning Authority Decision	Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	Michelle McMahon, Aoife McMahon and Gabrielle Treacy.
Observer(s)	None.
Date of Site Inspection	13 th of July 2020.
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The subject site (0.72ha) is an existing service station in the village of Knocktopher, Co. Kilkenny. Knocktopher is strategically located south of Kilkenny city, just off the Knocktopher Interchange on the M9, Dublin -Waterford motorway. Prior to the opening of the motorway, Knocktopher was situated on the N10 National Primary route. The village has two pubs, a hotel, a restaurant, another shop, and has a population of 166No. persons (Census 2016).
- 1.2. The service station is located in the northern portion of Knocktopher village, and is accessed directly off the R713, the old Kilkenny-Waterford main road. There is another access to the subject site via the abutting hotel carpark which is accessed from the R699 (a direct link to the M9 motorway interchange), however only local traffic use this access, as it is not an obvious access to the site. Only those with local knowledge of the relationship between the hotel carpark site and the filling station site would use the R699 access/ egress.
- 1.3. On site there is a filling station with a standalone canopy and 3No. fuel pumps, a Centra shop (Ground floor - 528sq., First Floor 102sq.m.) and a storage yard (mainly for solid fuel and gas tanks). There is limited parking available to the rear of the site. The northern portion of the site is a green field, currently used for agricultural purposes.
- 1.4. The site is bounded by residential units to the north and on the opposite side of the public road, with a hotel and associated carpark abutting the site to the south.

2.0 Proposed Development

- 2.1. The proposed development includes for:
 - (a) The phased demolition of the existing Centra supermarket building with ancillary stores and offices, and the demolition of the existing canopy over the fuel pumps

- (b) The construction of a new supermarket comprising of a convenience store and off licence, stores, staff area, toilet facilities, seating, solid fuel store, bin storage, and 2No. new commercial outlets with separate entrances.
- (c) Construct a new canopy over new fuel pumps
- (d) Realignment and alterations to the fuel pump island
- (e) Heavy Goods Vehicle Fuel Pump to be located at the south eastern side of site (subsequently omitted in the revised scheme submitted on 9th of October 2019)
- (f) New roller car wash (subsequently omitted by condition)
- (g) Realignment of boundary and vehicular entrance to the hotel at the southern end of the site
- (h) Extension of the north western site boundary
- (i) New exit lane onto the public road at the rear of the proposed building on the northern corner of the site.

3.0 Planning Authority Decision

3.1. Decision

On the 23rd of March 2020 Kilkenny Co. Co. granted planning permission for the proposed development subject to 17No. conditions. Most of the conditions were standard planning conditions apart from a number of site-specific ones:

- 2. Development Contribution of €17825 payable
- 3. The automatic roller car wash shall be omitted.
- 4. The opening hours shall be from 07.00Hrs to 22.00hrs.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. Report 1 (31/07/2019)

The first planning report focused on the concerns of internal technical reports and third-party objections. A request for further information issued regarding the following:

- Offline service station to facilitate traffic on the M9 and HGVs.
- Include neighbouring residential developments
- Phasing
- Floor areas of retail element have anomalies
- Fast fill pumps, wheel track, analysis pedestrian access, sliding gate to the hotel, signage, landscaping and screening for AA.

3.2.3. Report 2

- The report states the shop area at the service station has grown incrementally over the years. The existing building is 528sq.m. on the ground floor and 102sq.m. on the first floor. The total floor area of the proposed development is 1345sq.m. The proposed extension will create an additional net sale area of 240sq.m. There were discrepancies regarding the initial submission, however these were clarified by further information.
- There is a Retail Impact Statement with the planning application, which states there is insufficient shopping in the village, resulting in leakages elsewhere.
- The District Towns of Callan and Thomastown are outside of the retail catchment area, and the proposed expansion will not impact on them.
- It will improve offline services along the M9, however the fast fuel pump for HGV has been removed to prevent trucks coming into the village off the M9.
- The current service station has 3No. fuel pumps, the new service station will have 4No. pumps.
- There was concern expressed about the additional loading to the Ballyhale-Knocktopher WWTP may impact on a Natura 2000 site, however on further investigation it was found the WWTP can cater for the proposal providing the roller car wash is omitted.

3.2.4. Other Technical Reports

EHO: No objection

Environment Section : No objection

Roads: The site is too confined for heavy goods vehicles pump and this may to vehicles waiting on the main road. The applicant should re-examine increased separation distance on the wheel track analysis. Will the sliding gate between the site and the hotel carpark be left open. Clarification of pedestrian movements.

3.3. Prescribed Bodies

Department of Arts, Culture Heritage and Gaeltacht

No objections subject to archaeological conditions.

Irish Water: No objections

3.4. Third Party Observations

There were 4No. submissions at planning application stage from local residents objecting to the proposed development.

- Knocktopher is a small village (166 residents), the development is out of scale and character
- HGV pump will introduce trucks to the village which is contravention of section 2.8 of the Spatial Planning and National Roads Guidelines 2012.
- Safety of pedestrians, cyclists and motorists in the village at risk
- The existing shop is more than adequate to cater for the village population
- Car wash will impact on village water supply, and the chemicals will affect the environment.
- The M9 reduced all traffic in the village, this proposal will re-introduce traffic into the village.
- Opening hours

4.0 Planning History

4.1 Planning Reference 18/34

Planning permission was refused for an extension to the Centra supermarket, and the inclusion of 2No. retail outlets and a carpark extension for two reasons:

1. *Having regard to the Retail Planning Guidelines 2012 and the Kilkenny County Retail Strategy 2014-2020, the proposal includes a significant floor area of convenience shopping in a small village classified in the Retail Strategy at Tier 5 of small town/ village, and is considered excessive to serve the needs of the population, and out of scale with the size of the village.*
2. *The proposed development by reason of its substandard layout, design, form and streetscape it would constitute an inappropriate urban design response to the site.*

4.2 There are a multitude of planning histories associated with the subject site dating from 1993-2008 which include permissions for alterations or additions to the service station facility and shop. These are not relevant to the current appeal as they are old permissions and minor alterations in the context of the current appeal which is a complete redevelopment of site.

5.0 Policy Context

5.1. National Policy

Retail Planning Guidelines 2012

Section 4.9 outlines criteria in relation to Retail Impact Assessment.

However, where a planning authority considers an application for planning permission to develop a new retail development to be particularly large in scale compared to the existing city/town/district centre, or where a retail strategy or development plan has allocated a specific type and quantum of retail floorspace to a particular settlement and a proposed development absorbs on one site the bulk of that potential retail floorspace, the planning authority may request the applicant, by way of a Retail Impact Assessment (RIA) as set out in Annex 5, to demonstrate compliance with the development plan and that there will not be a material and unacceptable adverse

impact on the vitality and viability of any existing centre. This is a matter for careful technical assessment and professional judgement.

The threshold at which an RIA will be required will be determined in the context of the development plan policies and objectives for retailing or may be raised by the planning authority in pre-application discussions or in the course of determining the planning application. Through the RIA, the applicant must address the following criteria and demonstrate whether or not the proposal would:

- ❖ support the long-term strategy for city/town centres as established in the -- retail strategy/development plan, and not materially diminish the prospect of attracting private sector investment into one or more such centres;
- ❖ have the potential to Increase employment opportunities and promote economic --regeneration;
- ❖ have the potential to increase competition within the area and thereby attract - further consumers to the area;
- ❖ respond to consumer demand for its retail offering and not diminish the range of --activities and services that an urban centre can support;
- ❖ cause an adverse impact on one or more city/town centres, either singly --or cumulatively with recent developments or other outstanding planning permissions (which have a realistic prospect of implementation) sufficient to undermine the quality of the centre or its wider function in the promotion and encouragement of the arts, culture, leisure, public realm function of the town centre critical to the economic and social life of the community;
- ❖ cause an increase in the number of vacant properties in the primary retail area --that is likely to persist in the long term;
- ❖ ensure a high standard of access both by public transport, foot and private car so --that the proposal is easily accessible by all sections of society; and/or
- ❖ link effectively with an existing city/town centre so that there is likely to be -- commercial synergy.

4.11.1 Large Convenience Goods Stores

Large convenience stores comprising of supermarkets, superstores and hypermarkets are now an accepted element of retailing in cities and large towns.

They provide primarily for the weekly convenience goods shopping of households. They require extensive open areas of floorspace together with adjacent car parking as the majority (but not all) their customers undertake their bulk convenience shopping trips by car.

Where a proposal for large convenience goods stores development involves the sale of a significant amount of comparison goods (as is common now in many supermarkets, superstores and hypermarkets), the planning application drawings should clearly delineate the floorspace to be devoted primarily for the sale of convenience goods. The balance between the convenience and comparison element of the proposed store drawings is a critical element in the assessment of the suitability of the development proposal. Where a significant element of the store is indicated to be for comparison goods the potential impact of that element of the store on existing comparison goods stores within the catchment must be included in the assessment of the application.

5.2. Development Plan Policy

Kilkenny County Development Plan 2014-2020

4.7 The objective of the review was to ensure that the requirements of the *Retail Planning Guidelines* would be met in the Development Plan i.e.:

- Confirmation of the retail hierarchy,
- Definition of the core retail area of town centres,
- A broad assessment of the requirement of additional retail floorspace,
- Strategic guidance on the location and scale of retail development,
- Preparation of policies and action initiatives to encourage the improvement of town centres,
- Identification of criteria for the assessment of retail developments.

Table 4.1: County Retail Hierarchy

Level/Retail Function	Centre
Level 1 Major Town Centre/County Town	Kilkenny City & Environs
Level 2 District Centre	Ferrybank (part of Waterford environs)
Level 3 District/sub county town	Callan Thomastown Castlecomer Graigenamanagh
Level 4 Neighbourhood Centre	As designated for Kilkenny City & Environs (Newpark, Loughboy, Loughmacask, Western Environs) and Ferrybank/Belview area in the Environs of Waterford City
Level 5 Small Town/village centre/Rural Area	Various

4.9 Spatial Distribution of New Retail Development

The City and County Retail Strategy, in accordance with the *Retail Planning Guidelines*, provides the strategic policy framework for the spatial distribution of new retail development. The emphasis is on strategic guidance on the location and scale of major retail development. The Strategy does not seek to inhibit small scale retail development in centres around the County, particularly in smaller centres. It should be taken to be implicit in the aims of the Strategy that such developments should be encouraged and facilitated to enhance the sustainability, vitality and viability of smaller centres, including smaller main centres in the County Retail Hierarchy. The following provides guidance on how the Retail Strategy defines the distribution of strategic and non-strategic retail floorspace within the retail hierarchy:

Level 1: Major convenience and comparison, recognising Kilkenny City in its role as a Hub performing an important retailing function.

Level 2: District Centre: To perform an important function for the local community with a good range of convenience shopping and middle order comparison with a range of non-retail services such as banks, library, offices, public houses, restaurants serving the local community.

Level 3: District towns: District Towns play an important role within the county's retail hierarchy. They provide convenience shopping, alongside a level of comparison shopping, serving the population of the immediate catchment of the town and surrounding areas such as small scale hardware, retail pharmacies and clothes shops.

Level 4: Neighbourhood centres: Predominantly additional convenience but also post offices and small-scale comparison such as pharmacies, hardware etc. serving the local neighbourhood.

Level 5: Small town/village centre/rural area: village stores/post offices in rural areas.

12.11.14 Petrol/Filling Stations

- All new petrol stations and refurbished existing stations will require a high standard of design and layout. The forecourt canopy should be integrated into the overall design and sited so that it does not dominate the surrounding buildings.
- Petrol stations will not generally be permitted in residential areas, unless it can be clearly demonstrated that no significant damage to residential amenities will occur by reason of factors such as noise, visual obtrusion, safety considerations or fumes and smells. Consideration may also be given to the limiting of the hours of operation of petrol stations in these circumstances. Car washing facilities should be sited so as not to interfere with residential amenities.
- Any application for a new petrol filling station should provide sufficient road frontage, clear visibility, two points of access, sanitary convenience for public use
- Landscaping and suitable screening shall be required to protect the amenity of the surrounding area and enhance the appearance of the development

- In rural areas petrol stations will not be permitted where they will have a detrimental impact on the surrounding views and prospects, scenery or general amenities.
- Signs should be limited in number and design and located so as to generally form part of the buildings or other structures on site. The placing of signs of any description on footpaths, grass verges or any part of a public roadway will not be permitted. In certain circumstances and depending on the location, the use of standard corporate designs and signage for petrol stations may not be acceptable
- Forecourt lighting, including canopy lighting, should be limited to that which is necessary for the safe operation of a petrol station and should not interfere with the amenities of adjoining premises
- The sale of goods from a petrol station may only be permitted as an ancillary small scale facility which would remain secondary to the use as a petrol filling station where it would not adversely affect local amenities. As per the Retail Planning Guidelines (DECLG, 2012), the petrol/filling station shops floorspace cap is 100m² net. Planning applications for the provision of such shops shall be specifically applied for.
- Parking bays/aisles must be located so as to minimise pedestrian/vehicular conflict

5.3. Natural Heritage Designations

The site is in close proximity to the Little Arrigle River which forms part of the River Barrow and River Nore SAC (Site code 002162).

5.4. EIA Screening

Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, the absence of any connectivity 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.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the grounds of appeal:

- ❖ The **Bally Hale- Knocktopher Health Check Report 2018** refers to the character, charm and historic core of Knocktopher, and the heritage aspects are to be promoted for tourism, work towards National Tidy Towns, and examine potential for Green Infrastructure.
- ❖ **Kilkenny County Development 2014-2020** Knocktopher is Level 5 small town/ village and is at the bottom of the retail hierarchy. Petrol Filling stations are not normally permitted in residential areas. According to the Plan, future growth in villages will be incremental, small in scale and appropriate to the size, scale and Character of the village.
- ❖ There was a development refused on the subject site, under planning reference 18/34. The previous application was a significantly smaller proposal, and the planning authority refused it, because it was considered to be excessive to meet the needs of the local population, and that the existing shop was adequate to meet the needs of the population of Knocktopher. The existing shop in the filling station is sufficient to meet the needs of the village.
- ❖ **Unclear application and associated documentation** It is unclear if the applicant still proposes to attract HGV fuelling into the village given that new HGV pump remains within the title and a new road to accommodate HGV traffic has been granted under the permission. The applicant did not respond to the use of the facility as an offline motorway service station.
- ❖ **Traffic Safety Issues** The existing Carroll's Centra and fuel station is served by 3 points of access and one is via the R699 Carroll's Hotel and Bar, and the other two access points are off the R713. The proposal seeks to add and additional HGV exit lane onto the R713 thus creating 4 points of access and egress. The addition of an exit lane plus increase in retail traffic will exacerbate and existing hazardous road situation.

- (a) Directly across the road from the filling station are 4No. dwellings and 2No. pedestrian entrances. There is a dangerous bend on the road on approach from Stoneyford. The addition of an additional HGV exit lane from the petrol station would increase the number of access points along the narrow 80metre stretch of road would increase the number of access points to 7 and add further to an already dangerous road situation.
- (b) The existing access/ egress off the R713 is confusing, and an additional access will cause further confusion. The access off the R699 is via an unmarked carpark, and in close proximity to a hazardous roundabout.
- (c) There is concern for the safety of pedestrians, including children that walk from the school bus which stops outside of the hotel on the R713. The R713 is also popular with cyclists, and both cyclists and pedestrians will have problems navigating the village centre of Knocktopher.
- (d) Regarding the number of motorist/ shoppers which the applicant wishes to attract from the surrounding catchment areas and motorway is set out in the Retail Impact Statement. Traffic turning movement generated by the upgraded service station would interfere with the safety, sightlines and free flow of traffic along village roads.
- (e) Any reintroduction of HGV traffic into the village is likely to have a negative overall impact on the residents of Knocktopher, the air quality and the aesthetics of the rural village.

- ❖ **Scale of Development** There is an existing non-village service station on the outskirts of Paulstown (24 Hour Applegreen Station) which is tailor-made for HGVs and is only 19minutes from the Knocktopher site along the M9. There is also a proposed non-village 24hour service station due to be built on the outskirts of Millinavat (Planning Ref: 17/456) only 10minutes to the south of Knocktopher along the M9.
- ❖ **Scale of development and its impacts on the character and landscape of Knocktopher** The floor plan drawings illustrate the proposed shop is twice the size of the existing shop. The proposed development is a sizable supermarket, deli counter, 36 No. person restaurant, 2No. separate retail units, and a forecourt. The proposal will impact negatively on the rural character of the village. The proposal lacks sensitivity to the existing village

community who have chosen to live in a small village. The large-scale development will have a negative impact on the rural character and landscape of the village.

- ❖ **Overlooking/ Impact on Residential Amenities;** The proposal will directly overlook a number of residences impacting on the privacy and residential amenity of these properties. What type of businesses will rent the two retail units will they impact on amenities in terms of opening hours and noise. The impact of overlooking from proposed retail units and HGV exit lane would be excessively intrusive for occupants affecting neighbouring dwellings.
- ❖ **Environmental and Sustainable Development Issues ;** Knocktopher is located in a stronger rural area. The village is accessed form a myriad of dangerous winding roads. There are no public transport links to any village or town form Knocktopher. Billy's Tearooms in Ballyhale and Centra in Mullinavat and surrounding town have adequate convenience stores to meet the daily needs of the residents. The existing Centra store in the village is adequate to cater for the needs of the villagers.

There has been a number of failed attempts to rent out retail units in Knocktopher. The two retail units could be left vacant.

Litter management is another concern, and the existing shop generates a substantial amount of litter around the village.

After the 2018 drought, Knocktopher endured water restrictions for nearly 5months. The condition to exclude the Roller Car wash facility is welcome. According to the NIS the WWTP serving the village is currently at capacity. The NIS states the additional staff numbers will not overload the WWTP any further. Yet there was no account take of the deli, the restaurant or the ten new toilets in the report.

Light, Noise and Air Pollution are concerns particularly of the HGV is introduced.

6.2. Applicant Response

A summary of the main points in the applicant's response to the appeal is as follows:

- ❖ The petrol filling station was opened in 1996. It has been extended in 2008 with an additional 316sq.m. under planning reference 07/29. In 2018, planning permission was refused for the retail expansion of the facility because it might impact on higher order settlements, and the layout and design was considered to be substandard.
- ❖ A new application was prepared in consultation with the planning authority regarding the retail impact, and a superior design and layout was proposed on the site.
- ❖ Given modern retailing methods, the applicant has maintained his desire to upgrade the existing filling station to meet modern consumer expectations., failure to do so will imply a loss of business to other retail outlets
- ❖ The proposal is not an offline service station to cater for M9 traffic.
- ❖ In accordance with the Retail Planning Guidelines and the County Retail Strategy, The petrol filling station has been assessed as if it were a stand alone retail outlet. The proposal is consistent with the planning policy for the area. Shops associated with filling stations have an important role to play in rural areas. The RIA found the limited existing convenience retail shops in the area are overtrading and/ or expenditure was leaking from the area.
- ❖ The proposal is consistent with national and local policies.
- ❖ The proposed development is within the speed limits of the village, the Roads Department and the planning authority did not consider the development to be a traffic hazard.
- ❖ The proposal is to expand the existing local retailing and fuel function. Customers who buy fuel often spend longer in the shop this results in the 3No. fuel pumps been less efficient, and having a less turn over than most filling stations. There is a need for additional pumps, and additional retailing which will not impact on higher order retail centres.
- ❖ The appellants reside in an urban area, where development is encouraged. The investment and expansion of commercial activity in the village should be welcomed and will not have a negative impact on the village.

6.3. **Planning Authority Response**

The 'Fast Fill' pump for HGV traffic has been omitted along with the car wash facility. The proposed 'Exit Only' lane is proposed to cater for large 'Centra' delivery trucks and this could alleviate any traffic congestion at the entrance closer to the village centre.

7.0 **Assessment**

7.1. The appeal will be assessed under the following headings:

- ❖ Compliance with Development Plan Policies
- ❖ Retail Impact
- ❖ Traffic Safety
- ❖ Visual Amenity
- ❖ Residential Amenity
- ❖ Other Matters
- ❖ Appropriate Assessment

7.2 **Compliance with Development Plan Policies**

The proposed development consists of an expansion and upgrade to an existing filling station and convenience store located in the heart of Knocktopher village in Co. Kilkenny. According to the Kilkenny County Development Plan Settlement Hierarchy, Knocktopher is classified as a Smaller Town and Village. The subject site is located within the built-up part of the village alongside a hotel, public house and residential developments within the Settlement Boundary for Knocktopher as illustrated on Figure 3.8 of the development plan. The site is accessed off the main spine road through the village, the R713 (the former Kilkenny-Waterford National Primary route).

According to Section 3.3.5.3 of the development plan, relating to objectives for smaller towns and villages, the planning authority's aim is to facilitate development of housing, economic development, services and infrastructure in the smaller towns

and villages of the county at a scale and character which is appropriate to sustain and renew the services in the areas.

A previous proposal for the expansion of the shop and filling station was refused by the planning authority under planning reference 18/43 for matters relating to the Retail Impact Assessment and its substandard layout, design, form and scale. The previous proposal was considered to be an inappropriate design response to the village setting. The current application is in response to the previous refusal following consultations with the planning authority.

The most notable elements of the current proposal include, the overall existing site area is to be increased by including a greenfield area to the north of the existing shop, the shop/ offices building will increase from 630sq.m. to 1345sq.m (including 2No. new additional retail units, 115sqm each), the forecourt area will be enlarged to include additional fuel pumps and 54No. carparking spaces will be provided and a new exit will be created onto the R713 at the rear of the shop.

The existing filling station and shop are long-established businesses in the village, providing essential services to the community. The fillings station has been operating since 1996, with an extension to the shop granted permission under planning reference 07/29 for an additional 316sq.m. in 2007. Filling stations and convenience shopping has evolved during that time. The applicant states the proposal is to update the premises to modern retailing methods, to improve its efficiency and to meet with modern expectations. The ground floor will include a retail area with supermarket isles, a seating area (58sq.m.), with a deli/food prep area, an off licence, toilets, staff area and store.

On balance, the proposed development represents a complete refurbishment and enhancement of an existing filling station and shop, that provides an essential service to the community of Knocktopher. There is no change to the existing land use, and the overall principle is acceptable and in line with the current development plan policies.

7.3 Retail Impact

The planning authority refused the first planning application, planning reference 18/34, because it considered the level of convenience retail floor space to be excessive for a Tier 5 Small Town/ village to meet with the needs of the local

population. It was further considered the previous proposal failed to meet with the sequential approach as identified in Section 4.9.2.1 of the Kilkenny County Development Plan 2014-2020 and it was considered to be out of scale with the village of Knocktopher. The appellants consider the proposed development to be a complex retail centre which includes a sizable supermarket, 36No. person restaurant and two separate retail outlets.

The further information detailed the proposed floor areas:

- Retail Area excluding tills = 460sq.m
- Off-licence = 35sq.
- Deli-/ Food prep = 52sq.m
- Seating = 58sq.m.
- Storage= 233sq.m.
- Staff = 121sq.m.
- Ancillary/ entrance/ Toilets = 68sq.m.

The existing shop has a retailing floor area of 255sq.m. therefore the current proposal represents an increase of 205sq.m. In addition, there are 2No. separate retail outlets proposed each 115sq.m. According to the Retail Strategy in the development plan, proposals for 500sq.m. net convenience and comparison developments should be subject to the sequential test. The planning application includes a Retail Impact Assessment. This report details the current retail floor space available in the local catchment area, and it found limited convenience retailing in the Knocktopher causing leakage into other areas. The two closest District towns, Callan and Thomastown, are outside of the catchment area. The RIA examined other villages within the catchment area, and it was found the existing shops are over trading and expenditure is leaking form the area. The current function of the site is a service/ filling station with an ancillary shop will change to enhance the retailing function on the site with an ancillary service/ station. The RIA also stated the proposed development would provide for enhanced offline services from the M9 (Dublin – Waterford) which is situated 1.5km west of Knocktopher.

It has been demonstrated the proposed extension of the retail floor area can be accommodated without impact on higher order settlements.

7.4 Traffic Safety

The subject site is within the speed limits of the village settlement. The existing forecourt has 3No. fuel pumps (6No. filling areas). At the present time the shop is fulfilling its convenience retail function for the village catchment, which ultimately means customers purchasing fuel and groceries spend longer in the shop. The result is the fuel sales are less efficient than they should be, there is frequent long queues at pumps. The proposed increased space on the forecourt, additional carparking and ease of access off the R713 into the site will ensure a more efficient and safe use the forecourt area. The Roads Department of Kilkenny Co. Co. has recommended bollards be installed along the R713 fronting the site.

By way of further information submitted on 9th of October 2019, the proposed Fast Filling HGV pump was omitted from the site layout. The constraints of the site and the village do not allow for fuelling of HGVs on the subject site. The removal of the fast fuel HGV pump will also allay the concerns of the community regarding attracting trucks off the M9 into the village. There is a purpose-built motorway service station in Paulstown north of the county, and one is permitted in Mullinavat under 10minutes south of the Knocktopher interchange. The proposed development is not intended to facilitate passing trucks off the M9 but intends to attract passing private cars.

The proposed layout indicates one entry off the R713, and 2No. exits. It is a similar access/ egress layout currently on site however an additional exit is included to the north of the site at the rear of the shop away from the forecourt area. This will result in greater ease of movement throughout the site in combination with a separate loading bay to serve the shop along the western elevation of the development. On balance, in terms of traffic safety and free flow, the proposed layout is a greatly enhanced layout to the existing arrangement on site, and I welcome the three exit and

At the present time, the shop and filling station are fully accessible from the abutting hotel carpark to the south of the site. The appeal file indicates, the adjoining hotel and carpark are owned by the applicant. Local traffic from the Regional Road R699

(which runs parallel to the R713 and connects Knocktopher to the M9) drive through the hotel car park to the shop as opposed to driving towards the roundabout on the R713. During my inspection, I witnessed a number of cars driving through the hotel carpark at high speed coming or going towards the R699 from the subject site. This is unacceptable, and given the increased scale of the proposed development, I recommend the vehicular access from the subject site via the hotel carpark be permanently closed in the interests of pedestrian safety in particular relating to the hotel carpark.

7.5 Visual Impact

The existing filling station and Centra shop are dated and tired looking in appearance along the streetscape. The street elevation of the shop is a blank red brick gable end. The forecourt canopy includes a tile roof finish which is the best feature of existing facility when viewed from the streetscape. The new elevations and finishes are more contemporary. The pitched roof is being replaced by a flat roof, and the finishes to the elevations consist of grey cladding and nap plaster finish. I consider the front (south eastern elevation) to be a considerable visual improvement on the existing front elevation of the shop. There is ample glazing and a stone finish with a vertical emphasis at the main entrance to the facility. The new canopy will be a standard filling station canopy consisting of internally illuminated fibre glass.

The north-eastern or the streetscape elevation onto the R713 is very bland. It extends 35.2metres in length and is 5.5metres in height. The two small retail units do break up the extensive blankness of the side wall along the streetscape. In my opinion, there was an opportunity lost to provide a quality architectural statement and design along main approach into the village from Kilkenny city. In addition, there is no direct access to the supermarket from the main street of the village, all foot traffic from the village will have to cross the forecourt area. This elevation needs to be revisited by the developer to create a horizontal feature similar to the south eastern elevation, with a new access provided between the two retail outlets. This will also give a proper streetscape legibility to the 2No shopfronts and create a direct link between the retail outlets and the supermarket, generating more footfall and a safer pedestrian access to this element of the development. Under the current proposal, the two shop units are independent of the supermarket and the filling station, and patrons using the forecourt or supermarket will not be inclined to go around the

building to gain access to the shops. On balance, I consider the two units need to be integrated into the overall retail element, and the most practical and aesthetically acceptable means to do this, is to provide a direct access to the supermarket from the streetscape elevation, ultimately breaking up the dull and lifeless streetscape created by the long and narrow plaster wall and grey cladding.

7.6 Residential Amenity

The subject site is a busy supermarket and filling station within a village setting abutting residential properties on most sides. The current proposal is a similar development on a larger scale. Given the provision of additional parking, a new deli-restaurant and two additional shops, I consider the residential amenities will be enhanced by the proposal, as the facility will provide a wider range of goods and services for the small populations of 166No. persons in Knocktopher.

A condition should be attached to ensure the retail outlets are 'shops' only in line with the definition in the Planning Act.

On balance I do not envisage any potential injury to existing residential amenities as a result of the proposed development.

7.7 Other Matters

- ❖ The existing facility currently employs 5No. fulltime staff and 25No. part time staff. It is envisaged that following completion of the development, there will be 12No. fulltime staff and 30No. part-time staff.
- ❖ The water supply is from the mains water supply.
- ❖ The development discharges to the Ballyhale-Knocktopher Wastewater Treatment System, which discharges to the Little Arrigle River. The proposed roller car wash was omitted by condition by the planning authority because of concerns regarding overloading the existing sewer line. The treatment plant is currently at capacity, however it is not considered the proposed development would have a significant impact upon the loading of the WWTP given the limited increase in wastewater volume that would be generated by additional staff.

- ❖ A condition relating to the provision of electric car charges within 10% of the carparking spaces should be included.

7.8 Appropriate Assessment

Stage 1 Screening

The proposed development is located 120metres to the north of the River Barrow and River Nore Special Area of Conservation (Site Code: 002162). There is a small stream located 110m to the west of the site, which joins the Glebe Stream 185metres downstream. The Glebe Stream is 185metres to the south of the site which travels for 1.6km prior to joining the Little Arrigle River. The Little Arrigle River flows for 4.8km prior to joining the River Nore. Both the Glebe Stream and the Little Arrigle River are designated as part of the River Barrow and River Nore SAC (Site Code: 002162).

The proposed development does not directly impinge on any part of a European site, and as such would not be expected to impact upon a protected site through the destruction of habitat, disturbance of habitat or direct reduction of in species density.

There is no disturbance to protected habitats anticipated during the construction or operational phase of the development due its location in the built up area, and the site is partially built upon, and the residual area is modified grazing land which is of limited value to protected species such as otters and kingfishers associated with the R. Nore.

The stormwater drainage from the development connects to the Glebe Stream, 190metres from the site, and the wastewater directed to Ballyhale-Knocktopher WWTP discharges to the Little Arrigle River. Thus, the proposed development would be hydrologically linked to the SAC. A section of the River Barrow and River Nore SAC is also designated as the River Nore SPA, which is located 6.6km downstream of the development site. The proposed development is hydrologically linked to both the SAC and SPA sites. All waters discharging from the Ballyhale-Knocktopher WWTP will be treated prior to discharge into the Little Arrigle River.

It is not anticipated that the operational phase of the development has the potential to impact on the SPA or SAC due to deleterious effects on the water quality.

Stormwater from the site would comprise of clean rainwater runoff and would be directed through a Full Retention Oil Separator prior to discharge.

During the construction phase of the projects, a deterioration in water quality can arise through the release of suspended solids into a watercourse. The proposed development is to be constructed on a phased basis to ensure the shop is kept opened during the 6month construction period. Having regard to the phased and incremental construction phase, the fact the site is a brownfield site with the same landuse as that proposed, there are existing oil separators on site to address the surface water runoff, the separation distance from the site to the stream along the western axis of the village, I consider there is no potential for signifigant impacts on European sites as a result of the proposed development by itself or in combination with other developments, therefore Stage 2 Screening is not required.

I note from the file, that a Natura Impact Statement was prepared by the applicant following a request for further information which included a requirement to screen the proposal in terms of AA. The Pa had been concerned the proposed development may impact on the Ballyhale-Knocktopher WWTP which discharges into the local river system and has a hydrological link to the SPA. However, the Ballyhale-Knocktopher WWTP was found to be capable of taking and treating the additional loading from the proposed development providing the roller cash wash is omitted form the overall scheme. In addition, I consider the subject site is located a sufficient distance from any watercourse (namely the stream to the west of village) to ensure there will be no release of suspended solids or uncured concrete during the construction works. There is a sufficient buffer area i.e. 80-110metres between the western site boundary, and the small stream that runs along the western axis of the village.

8.0 Recommendation

- 8.1. Based on the above assessment, my site inspection and consideration of the appeal file, I recommend the Board uphold the planning authority's decision to grant planning permission for the proposed development.

9.0 Reasons and Considerations

Having regard to the long established use of the site as a service station and shop, the policies and objectives in the current development plan for the area, the pattern of development in the area, the planning history of the site, the nature and scale of the proposed development it is considered subject to compliance with the conditions set out below, the proposed development would represent a traffic safety improvement on the existing service station, would not lead to a significant intensification in traffic movements on the R713, would not seriously injure the visual amenities of the area and would comply with the Retail Planning Guidelines, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 9th day of October 2020 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to the commencement of the development the following revised proposals shall be submitted to and agreed in writing with the planning authority:</p> <ul style="list-style-type: none">(i) The automatic roller car wash shall be omitted from the overall scheme;(ii) The Fast Fuel Pump for HGVs shall be omitted from the overall scheme;

	<p>(iii) a revised site layout to include bollards along the footpath fronting the site on the R713</p> <p>(iv) a revised north eastern elevation to include access to the supermarket between the two shop units which shall include a design feature or finish with a vertical emphasis similar to the proposed south eastern elevation.</p> <p>Reason: In the interest of traffic and pedestrian safety and the visual amenities of the area</p>
3.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.</p> <p>Reason: To ensure adequate servicing of the development, and to prevent pollution.</p>
4.	<p>The site shall only be used as a petrol filling station and associated shop and no part shall be used for the sale, display or repair of motor vehicles.</p> <p>Reason: In the interest of protecting the [residential] amenities of the area.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
7.	<p>No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the</p>

	<p>canopy, on the forecourt building or anywhere within the curtilage of the site) unless authorised by a further grant of planning permission.</p> <p>Reason: In the interest of visual amenity.</p>
8.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(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, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.</p> <p>The assessment shall address the following issues:</p> <p>(i) the nature and location of archaeological material on the site, and</p> <p>(ii) the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
9.	<p>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</p>

	<p>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.].</p> <p>Reason: In the interest of sustainable waste management</p>
10.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the [residential] amenities of property in the vicinity.</p>
11.	<p>A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities 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.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
12.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p>

<p>(a) Location of the site and materials compound(s) including areas identified for the storage of construction refuse;</p> <p>(b) Location of areas for construction site offices and staff facilities;</p> <p>(c) Details of site security fencing and hoardings;</p> <p>(d) Details of on-site car parking facilities for site workers during the course of construction;</p> <p>(e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;</p> <p>(f) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>(h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;</p> <p>(i) Provision of parking for existing properties at during the construction period;</p> <p>(j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>(l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>

13.	<p>Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.</p> <p>Reason: In the interest of visual amenity</p>
14.	<p>The proposed development shall be subject to a Stage 2 and Stage 3 Road Safety Audits in accordance with Transportation Infrastructure Ireland publication GE-STY-01027. All reports, and audits shall be submitted to the planning authority and shall be in accordance with the requirements of the TII Audit team.</p> <p>Reason: In the interests of traffic safety</p>
15.	<p>All-on site lighting shall be directed into the forecourt area and shall not spill onto surrounding residential properties and/or public road in a manner, or to an extent, likely to cause a nuisance to residential amenity or road users.</p> <p>Reason: In the interest of traffic safety and visual and residential amenity.</p>
16.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
17.	<p>A minimum of 10% of the proposed car parking spaces in on-surface and multi-storey car parking shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fitout of charging points.</p> <p>Reason: In the interests of sustainable development.</p>
18.	<p>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</p>

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

. Caryn Coogan
Planning Inspector

18th of August 2020