



An
Bord
Pleanála

Inspector's Report

ABP-307174-20

Development	New single-storey service station with petrol / diesel filling station
Location	Creggan & Glosterboy Townland, Cloghan , Co Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	19/420
Applicant(s)	Martin and Pat Grogan
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party V. Grant
Appellant(s)	(1) Orla Cantwell (2) Aidan Healy and others (3) Eamonn Quirke (4) Ben Dalton
Observer(s)	(1) Delores Yell (2) Yvonne Healy (3) Jacqueline Coughlan

Date of Site Inspection

8th September 2020

Inspector

Elaine Power

1.0 Site Location and Description

- 1.1. The appeal site is located on Ferbane Street (N62) approx. 300m north west of the centre of Cloghan village and approx. 6km south of Ferbane. It is bound to the south, east and north east by agricultural lands, to the north and north west by the N62 and to the south east by a detached dwelling. It is noted that there are a number of detached dwellings located on the opposite side of the N62. In addition, there is a motor sales showroom located approx. 70m south of the site, towards the village.
- 1.2. The site is irregular in shape and has a stated area of 1.47ha. It forms part of a larger landholding within the applicant's ownership. The site boundaries include trees and vegetation and a low wooden fence along the N62. There are overhead ESB cables located along the site boundary with the N62 and through the centre of the site.
- 1.3. There is an existing vehicular access to the site from the north west portion of the site, onto the N62. There is no public footpath along the boundary of the site with the N62.
- 1.4. There is a possible future link road located to the east (rear) of the site.

2.0 Proposed Development

- 2.1. It is proposed to construct a service station. The single storey service station building is set back approx. 11m from the boundary with the N62. It has a stated gross floor area of 523sqm, which includes retail area with off licence (68sqm), deli / coffee area, (173sqm), event room (67sqm), storage area (71sqm) and associated storage, preparation areas and toilets. There is an outdoor picnic area adjoining the service station to the south east and an enclosed yard to the north east. The single storey building is a contemporary design with 2 no. mono pitched roofs ranging in height from 5.5m to 7m. The external materials include render, large areas of glazing and timber cladding with a standing seam metal roof. Signage is proposed on the northern, southern and western elevations.

A forecourt area with 4 no. filling areas with a canopy over and 36 no. car parking spaces is provided to the west (rear) of the service station building. A truck refuelling area and truck parking is provided to the north of the service station building, with additional truck parking provided along the internal access road. A car wash area is

provided in the centre of the site between the truck parking area and the car parking area.

- 2.2. Vehicular access is proposed via a new 6m wide access onto the N62. The two-way carriageway runs to the rear (east) the site and provide access to both the car parking and truck parking areas. The car parking area is operated on a one-way system.
- 2.3. The proposed development includes the provision of landscaped areas and a new 2m wide footpath and a 1m wide grass verge along the boundary with the N62. It is noted that some of these works are outside of the red line boundary. 2 no. totem signs are also proposed along the boundary with the N62. These signs are approx. 8m in height and internally illuminated.
- 2.4. The works also include underground fuel storage tanks, service yard, gas storage, new boundary treatments and associated plant and equipment.

2.5. ***Further Information lodged 18th December 2019***

The response to 14 no. items of further information resulted in minor alterations to the proposed development, including the omission of 1 no. totem sign and alterations to the western elevation of the service station building. The submission included an outdoor lighting report road safety audit.

2.6. ***Clarification of Further Information lodged 6th January 2020***

In response to 2 no. items of clarification of further information a revised Road Safety Audit was submitted.

2.7. ***Clarification of Further Information lodged 14th February 2020***

The response to 6 no. items of clarification did not result in any alterations to the proposed development.

2.8. ***Clarification of Further Information lodged 28th February 2020***

The response to clarification did not result in any alterations to the proposed development. A sequential approach analysis was submitted for the proposed retail element of the development.

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 19 no. conditions. The relevant conditions are outlined below: -

Condition 3 (a) ensured that the retail area shall be a maximum of 97sqm.

Condition 3(b) ensured that no change of use of the café area shall take place without a prior grant of planning permission.

Condition 5 required the final elevational treatments of the service station building to be agreed with the planning authority.

Condition 7 required the written agreement of the ESB to relocate overhead powerlines to be submitted to the planning authority.

Condition 11 limited the hours of operation of the service station to between 06.30 and 22.00.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planners report raised some concerns regarding the proposed development and recommended that further information be sought regarding the following: -

- Having regard to concerns raised by TII a Road Safety Audit is required.
- Layout to be revised in accordance with DMURS
- A lighting scheme is required
- A drawing shall be submitted indicating the relocation of the stormwater and waste water manholes to the grass verge. #
- Having regard to the Retail Planning Guidelines a sequential approach is required for the development
- Additional details of the intended use of the proposed event room
- A breakdown of car parking spaces proposed

- This application is for a service station, to eliminate ambiguity 'future development' should be removed from all drawings
- 1 no. totem pole should be omitted
- Details of extractor fans serving the food prep areas
- A landscaping scheme is required
- The western façade should be revised
- The applicant shall address the 13 no. third-party submissions on file

Following the receipt of further information on the 18th December 2019 it was considered that 4 no. items had not been addressed by the applicant. A letter was issued by Offaly County Council on the 23rd December 2019 requesting that these items be addressed.

Following the receipt of further information on the 6th January 2020 the area planner considered that clarification of further information was required regarding the following:

-

- Based on the assessment carried out by the planning authority a sequential approach to the proposed retail development is required.
- If floor areas are changed the car parking requirements shall also be altered.
- The western elevation should be reconsidered
- A full set of drawings are required which reflect the changes to the western elevation
- The provision of shrubbery should be considered on the western corner of the site.
- In accordance with the proposals in the RSA revised drawings should be submitted showing the proposed pedestrian courtesy crossing.

Following receipt of clarification of further information on the 14th February 2020 it was considered that 1 no. item had not been addressed by the applicant. A letter was issued by Offaly County Council on the 19th February 2020 requesting that this item be addressed.

Following the receipt of further information on the 6th 28th February 2020 the area planner considered that all items of concern had been fully addressed and recommended that permission be granted subject conditions.

3.2.2. **Other Technical Reports**

Area Engineer final report: No objection subject to conditions

Environment and Water Services: No objection subject to conditions

Environment Section: No objection subject to condition requiring a Construction Environmental Management Plan being submitted

Road Design final Report: No objection subject to conditions.

Chief Fire Officer: No objection subject to compliance with Building Control Regulations

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland final report: No objection in principle.

Irish Water: No objection in principle, noted that a Trade Effluent Licence and a pre-connection agreement is required for the development.

HSE: No objection in principle.

3.4. **Third Party Observations**

13 no. third party submissions were received the concerns raised are similar to those in the third-party appeals outlined below.

4.0 **Planning History**

None

5.0 Policy Context

5.1. Cloghan Village Plan

The Cloghan Village Plan is set out in Volume 2 of the Development Plan. Objectives for the village include the provision of a relief road to the east of the village, improved footpaths and underground overhead cables. The subject site is zoned for Local Employment / Services. The associated aim for this zoning is the provision of mixed-use development with a preference being given for employment and/or village core type uses including potential expansion associated with the church. This zoning objective is also considered to be suitable for land uses, which will generate employment opportunities.

5.2. Offaly County Development Plan 2014 – 2020

Cloghan is identified as a well-established village in the Development Plan. The Development Plan states that *'the use of land as 'Local Employment / Services Lands' shall be taken to include the use of land within villages to which no specific preferred land use is being assigned but to where distinct development opportunities exist to provide development that contributes positively to the location or to a wider area'*. In accordance with Table 8.3 – Landuse Zoning Matrix, a service station (petrol) is open for consideration on lands zoned Local Employment / Services.

Cloghan is a Tier 5 – Village in the Settlement Hierarchy. The Plan states these villages are smaller settlements, many of which are very attractive and rural in character. The level of services provided will vary between settlements and will depend on the surrounding rural hinterland.

This will bring variety and vitality to the settlements, providing a wider choice of services and will help to create a 'centre' with a greater sense of place.

Cloghan is a Tier 4 local shopping location. The plan states that new small-scale retail developments will be supported where they meet the needs of the local population. The assessment criteria for Retailing and Motor Fuel Stations as set out in Table 5.4 are: -

- *Convenience shops part of the normal ancillary services provided within motor fuel stations should remain on a scale appropriate to the location.*
- *The floorspace of the shop should not exceed 100 sq.m net;*
- *Where permission is sought for a floorspace in excess of 100 sq.m., the sequential approach to retail development shall apply*

The relevant chapters of the development plan include Chapter 1 Core Strategy and Settlement Strategy, Chapter 2 Economic Development Strategy, Chapter 5 Retail and Town Centre Strategy and Chapter 8 Development Management Standards.

5.3. National Guidance

Retail Planning Guidelines for Planning Authorities, 2005

5.4. Natural Heritage Designations

The appeal site is located approx. 4km south of the Moyclare Bog SAC (000581), approx. 5km west of the Middle Shannon Callows SPA (004096) and approx. 7km south of Ferbane Bog (000575).

5.5. EIA Screening

Having regard to the limited nature and scale of the proposed development and 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

4 no. third party appeals were received by Orla Cantwell, Aidan Healy and others, Eamonn Quirke and Ben Dalton. The concerns raised in the appeals are similar and are summarised below.

Principle of Development

- The village of Cloghan has a population of 600. The scale of the proposed development is more appropriate in a large town. It would primarily be serving a passing trade and not local needs.
- There is an existing service station located approx. 300m south of the appeal site and an additional service station located approx. 6km north of the appeal site, both provide convenience stores including off licence. There is no requirement for an additional service station.
- The site is zoned for local employment / services and it is noted that the proposed use is open for consideration. However, it is considered that the development would occupy a significant portion of zoned lands while generating a relatively small number of low paying jobs.
- The National Planning Framework and Regional Spatial and Economic Strategy for the Eastern and Midlands aims to protect the character of rural villages. The scale and design of the proposed development does not comply with the guidance set out.

Design and Layout

- The design of the building does not address the N62 and does not provide any passive surveillance to the village. The siting of the building requires pedestrians to walk around the building and does not provide any direct linkages to the village.
- The proposed development is located at the edge of the town centre and does not improve or address the public realm. The proposed development, by reason

of its poor design, and overdevelopment of the site would negatively impact on the character of the village.

- The scale, bulk and mass of the proposed building would have a negative impact on the existing residential and visual amenities of the adjoining properties.
- The proposed development would comprise the largest car park in the village. Its location on the edge of a rural village detracts from the landscape value of the area.
- Having regard to the rural nature of Cloghan the proposed development, which is significantly higher than adjoining properties would form an incongruous feature in the streetscape and would be inappropriate in its setting.
- The proposed totem sign would have a negative impact on the visual amenities of the area and on the adjoining residents.
- The design and layout does not allow for a link between the N62 and the proposed link road, located to the east of the appeal site, which is required under the Cloghan Village Plan.

Residential Amenity

- A condition was granted to limit the hours of operation to 06.00 to 22.00 however it is unclear if trucks and HGV's would still have access to the site outside of these hours. Concerns raised regarding the potential noise and nuisance.
- The proposed development would include CCTV. There are concerns of loss of privacy for adjoining residents.
- The applicant falls to address concerns regarding light spill, headlight glare, smell and vibrations.

Retail Use

- There was no assessment of the impact of the proposed retail development on existing services in the village. There is no evidence-based demand for this development.
- Concerns that the retail element of the development is greater than 100sqm.

- The submitted sequential approach is flawed as it only reviews sites that have the capacity to accommodate a large petrol station and not solely the retail component. A correct sequential approach would have concluded that there are a number of vacant properties, underutilised and undeveloped sites capable of absorbing the retail element within the settlement core of Cloghan. These sites would be far more accessible to local residents. The proposal is contrary to the Retail Planning Guidelines.
- There is an over provision of off licences in the village and there is no compelling case for the provision of an additional off licence.
- The planning authority never assessed the operator of the restaurant element of the development. It is considered that the end user would supply some form of takeaway service. There are concerns that the development would include a fast food restaurant, which would be detrimental in such close proximity to a school.

Environmental Impact

- The proposed development would have a negative impact on air quality. There are no measures in place to monitor air quality.
- The surface water run-off from the car wash and fuel spillage would have a negative impact on the surrounding environment.
- Having regard to the nature of the development an EIA should have been carried out.
- The proposed development would result in the loss of a mature hedgerow and trees. No bat survey has been submitted.

Traffic

- Cloghan is a heavily trafficked village. The additional traffic generated by the proposed development would negatively impact on the operation of the N62. The development would cause congestion and result in queuing in the village.
- Concerns that the Road Safety Audit was not carried out independently. The RSA did not include a traffic count, or an assessment of the trips generated by the proposed development.

- The increased number of HGV's and trucks would result in a traffic hazard for local pedestrians.
- Allowing additional vehicular movements in a 60km zone in close proximity to a 100km zone is a traffic hazard.
- Concerns that cars would park up on the N62 to access the retail unit. This issue has not been addressed in the design of the scheme.
- Concerns regarding HGV turning movements into the development and the potential negative impact on road safety.

Water Services

- Serious concerns regarding the capacity of the sewerage network and the negative impact that the proposed development would have on existing residents.

Concerns were also raised regarding a lack of transparency, as the pre-planning meeting notes were not included with the application.

6.2. Applicant Response lodged 19th June 2020

The applicant submitted a detailed response to 3 no. third party appeals by Orla Cantwell, Aidan Healy and others and Eamonn Quirke on the 19th June 2020. It included revised drawings, a description of the site location and the proposed development and details of relevant policies and guidelines relating to the proposed development. The response to the grounds of appeal are summarised below: -

Principle of Development

- The appeal site represents less than 50% of available lands zoned Local Employment / Services in the village. A service station is open for consideration under the zoning objective and is therefore acceptable in principle.
- The attractive vernacular architecture of Cloghan is acknowledged. While the appeals site is located within the settlement boundary and is contiguous to the existing building up area is it removed from the historic core. The proposed development would not impact on the setting of any existing buildings in the village centre or the attractiveness of the village.

- The proposed service station building is of an appropriate scale and design for a greenfield site, adjoining an existing built up area.
- The proposed development is in accordance with national, regional and local policy and objectives.
- There is a lack of any purpose-built service station which meets the required level of service for larger vehicles for a significant stretch of the N62.
- The existing filling station in Cloghan serves a more local demand as its design, location and function is not equipped to serve larger vehicles. The development would not have a significant impact on the vitality or viability of the existing filling station having regard to the differing roles which these facilities play.

Retail Use

- The northern part of the village is not served by any convenience retail provision or any café or restaurant. The proposed development would allow for improved choice and convenience for local residents. There is ample catchment for 2 no. small convenience stores.
- Any argument that the development should be refused on grounds of local competition are ill considered and anti-competitive.
- The application is for a restaurant use and not a fast food outlet.

Access and Traffic

- The development does not fall into a class of development that requires a Traffic Assessment. There is no evidence to suggest that the proposed development would lead to significant additional traffic and queuing in the village.
- The proposed development would not endanger public safety. A RSA has been carried out and informed the design. TII have no objection to the proposed development.
- The proposed development would serve existing HGV's and would not generate additional HGV in the village. The development, which provides HGV parking, would eliminate the need to HVG's to park along the roadside in the

village, which regularly occurs. It would also reduce trips on regional roads to access service stations with adequate facilities.

- The development would not lead to a proliferation of vehicular entrances to a transitional zone on a national road. There are a limited number of residential dwellings within the 60km zone, which do not generate a significant number of trips. The car sales garage is located within the 50km zone.
- The access is designed in accordance with best practice and auto-tracks have been provided for HGV turning movements.
- The site is zoned for development and as such would inevitably require a vehicular access onto the N62.
- The development has been designed to ensure there is sufficient car parking within the site, overflow car parking onto the N62 is not a concern.

Design

- Having regard to condition no. 5 and concerns raised by third parties regarding the western elevation of the proposed service station building revised drawings have been submitted with the appeal. New windows have been introduced to ensure an appropriate sense of articulation and visual interest on the frontage which will be visible on the approach to Cloghan, from the N62. The external materials would be high quality and durable.
- The additional windows would allow for passive surveillance and interaction with the streetscape.
- The design is not overly bulky or excessive in height. It is an appropriate design response to the proposed use and the site context and would contribute positively to the village.
- The proposed development represents a robust response to its setting on the N62, as the building screens views of other elements of the development, such as the covered filling area, car parking and the car wash facility.
- The pedestrian courtesy crossing at the entrance to the proposed development has also been revised in accordance with condition no. 4.

- The proposed totem sign would be significantly removed from the nearest dwelling. It would not have a negative impact on the existing residential or visual amenities of the area.

Residential Amenity

- A significant buffer and screening is provided between the site and the adjoining house to the south. The development is also significantly set back from the N62 to ensure there are no negative impacts on the existing residential amenities.

Environmental Impact

- No significant environmental impacts have been identified which would warrant a sub-threshold EIA.
- An Appropriate Assessment was undertaken by the planning authority and it was concluded that the development would not result in any likely significant effects on any European sites.

Water Services

- Offaly County Council have reviewed the application and did not raise any concerns regarding waste water capacity on Ferbane Street.

6.3. Applicant Response lodged 7th July 2020

The applicant submitted a detailed response to a third party appeals by Ben Dalton on the 7th July 2020. The response reiterates a number of points raised in the initial response on the 19th June 2020 . Additional items raised to the grounds of appeal are summarised below: -

- The retail element is standard for that provided in a modern purpose built service station. The retail element has a gross floor area of 103sqm, which is only marginally above the recommended 100sqm as set out in the Retail Planning Guidelines.
- A sequential test was carried out and the planning authority considered that this was an appropriate location for the proposed development. There does not exist a site within the village that would accommodate the proposed development.

- The proposed development would not result in overdevelopment of the site. It would constitute an appropriate and considered form of development in terms of its scale, layout and design.
- The level of car parking proposed is considered to be appropriate for the nature and scale of the proposed development.
- The boundary with the N62 is not a mature hedgerow. It comprises a wooden fence and low-lying brambles, grasses and nettles. There are no mature trees along this boundary. The loss of this boundary would not be significant in terms of biodiversity or bats.
- It is proposed to retain the hedgerows along the southern and eastern site boundaries.
- The proposed development does not have the potential to impact on the viability and vitality of the village centre, would not seriously injure the visual amenities of the area, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience.

6.4. **Planning Authority Response (21st July 2020)**

The planning authority have no objection in principle to the proposed development. However, the submission noted that there was an error in the wording of condition no. 4 and the revised drawings submitted by the applicant do not represent the recommendations of the local authority. The correct wording of the condition should read: -

Prior to commencement of development, the applicant shall submit for the written agreement with the Local Authority, a revised site layout plan which shows the pedestrian crossing located before the first exit off the internal accessway, in line with the footpath along the eastern elevation of the service station.

It is also considered that the drawing submitted by the applicant are not in compliance with condition no. 5 which sought the reduction in the amount of panel / cladding on the western elevation.

6.5. Observations

3 no. observations were received from (1) Delores Yell, (2) Yonne Healy and Jacqueline Coughlan. The concerns raised were similar to those in the third party appeals. The concerns raised are summarised below: -

- The proposed development would contravene national, regional and local planning guidelines and the governments Climate Action Plan.
- The proposed development would result in a traffic hazard which would endanger public safety. It would result in traffic congestion and cause queuing in the village.
- The proposed development would have a negative impact on the existing facilities and services within the village.
- The proposed development would have a negative impact on the existing residential amenities for adjoining properties and could result in anti-social behaviour.
- Noise generated by the proposed development would have a negative impact on the existing amenities of the village.
- The further information response did not include any comment on the 13 no. objections received by the planning authority, as required by the request. The process is flawed and not transparent. Concerns were also raised that the pre-planning notes are not attached to the planning file.

6.6. Further Responses

Appellants Response to the Applicants Response to the Appeal

3 no. submissions were received from (1) Orla Cantwell, (2) Eamonn Quirke and (3) Aidan Healy & others, to the information submitted in the applicant's response to the appeals. The concerns raised in the submissions are similar and a number of concerns raised in the appeals are reiterated in the submission. The responses are summarised below:

- The proposed pedestrian crossing indicated on the revised drawing submitted with the appeal would create a further traffic hazard, as all vehicles turning into the facility would have to stop on the N62 and wait for pedestrians to cross.
- The proposed development would serve passing trade and would not enhance the village. There are numerous sites on the N62 which would be more suitable for this type of development.
- The building is too high and would have a negative impact on the visual amenity of the area.
- The need for a Traffic Assessment should have been scoped by the Planning Authority. There is traffic congestion in the village during peak periods and the proposed development would have a negative impact on the existing situation.
- There is still serious concerns that vehicles access and egressing the site would encroach on the public footpath.
- The proposed development would generate additional trips to the café and restaurant and these would not be ancillary to the trips generated by the filling station.
- The houses on the opposite side of the N62 are not well set back from the public road.
- Concerns regarding parking on the N62 do not relate to an insufficient supply of parking within the development. However, for convenience customers are likely to park on the side of the road rather than enter the site.
- The applicant's response does not fully address concerns raised in the appeals and observations.
- The proposed development would be out of character with the area, would give rise to conflicting traffic movements, is contrary to planning policies and objectives, which renders the development contrary to the proper planning and sustainable development of the area.

Observers Response to the Applicants Response to the Appeal

2 no. submissions were received from Delores Yell and Yvonne Healy, to the information submitted in the applicant's response to the appeals. The concerns raised in both the submission are similar and a number of concerns raised in the observations are reiterated in the submission. The responses are summarised below.

- There is no evidence submitted that the proposed development would not impact on the viability or vitality of the village.
- The site has always been in agricultural use. It is unclear when it was rezoned for development.
- The proposed pedestrian crossing indicated on the revised drawing submitted with the appeal would create a further traffic hazard, as all vehicles turning into the facility would have to stop on the N62 and wait for pedestrians to cross.
- The design and layout should be revised so that it addresses the proposed relief road to the east of the site. As once this road is constructed it is assumed that all HGV's would avoid the village and use this route.
- The revised elevational treatments would not improve the visual amenity and the proposed building does not blend with the existing character of the village.
- HGV's very rarely stop on the N62 and never block the road.

Applicants response to the Planning Authority's submission

The response to the planning authority's submission resulted in minor amendments to the scheme, including the following: -

- The proposed pedestrian crossing has been relocated to before the first exit on the internal access road; and
- The cladding on the western elevation has been reduced.

Planning Authority Response lodged 2nd September 2020

The planning authority have no objection to the revised proposals submitted the appeal and recommend that their decision to grant permission be upheld by the Board.

Appellants Response to the Applicants Response to the Planning Authority's Submission

2 no. submissions were received from (1) Orla Cantwell and (2) Aidan Healy & others, to the information submitted in the applicant's response, received on the 14th August 2020, to the planning authority's submission. The responses reiterated concerns raised in the previous submissions. Additional concerns are summarised below: -

- The relocated pedestrian crossing is still a concern. The requirement to relocate the entrance highlights the inadequacies with the development, which would result in significant queuing and prolonged turning movements on the N62.
- The submission from Aidan Healy & others included photographic and video footage of agricultural machinery accessing and egressing the site, which caused queueing on the N62.
- The changes to the eastern elevation are immaterial.

7.0 Assessment

7.1. As indicated, the appeal refers to this revised scheme as submitted by the applicant in response to the appeal on the 19th June 2020 and 14th August 2020. The main issues in this appeal relate to the principle of development, design and layout, residential amenity and traffic. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development
- Design and Layout
- Residential Amenity
- Traffic
- Appropriate Assessment

7.2. **Principle of Development**

- 7.2.1. The appeal site is located within the settlement boundary for Cloghan and is zoned for Local Employment / Service uses. The associated aim for this zoning objective is the provision of mixed-use development with a preference being given for employment and / or village core type uses including potential expansion associated with the church. This zoning objective is also considered to be suitable for land uses, which will generate employment opportunities. In accordance with Table 8.3 – Landuse Zoning Matrix of the development plan a service station (petrol) is open for consideration on lands zoned Local Employment / Services.
- 7.2.2. Concerns have been raised by third parties that there is no requirement for the proposed development and that the scale of the proposed service station would have a negative impact on the existing retail unit and services within the village. Section 2.5.3 of the Retail Planning Guidelines, 2012 states '*the planning system should not be used to inhibit competition, preserve existing commercial interests or prevent innovation*'. Therefore, the issue of oversupply of service stations / retail / cafes / food outlets will not be given consideration in the assessment.
- 7.2.3. Concerns have also been raised that the proposed retail element of the development is contrary to the retail planning guidelines. Section 4.11.9: - Retailing and Motor Fuel Stations of the guideline's state that the floorspace of the shop should not exceed 100 sqm net. Where permission is sought for a floorspace in excess of 100sqm, the sequential approach to retail development shall apply. The proposed retail element of the service station has a stated gross floor area of 103sqm and a stated net floor area of 97sqm.
- 7.2.4. A sequential approach was submitted to the planning authority by way of clarification of further information. It assessed 4 no. additional greenfield sites and concluded that the subject site was the most appropriate site as it was the closest to the village centre, within safe and easy walking / cycling distance from all residences within the village, therefore, the location would limit the number of vehicular trips generated by the development. It is noted that the planning authority raised no objection in principle to the proposed retail element. However, a condition was attached to the final grant of

permission that the proposed retail element of the development be no greater than 100sqm.

- 7.2.5. I have no objection in principle to the provision of an ancillary retail element to the proposed development, however, having regard to the sites location within a village, it is my opinion that restricting the net floor area of the retail element of the proposed development to 100sqm is appropriate in this instance.

7.3. ***Design and Layout***

- 7.3.1. The revised scheme, submitted on the 19th June 2020 and 14th August 2020 in response to the appeals and observations, comprises the construction of a single storey service station with a gross floor area of 571sqm. The service station building incorporates a retail area with off licence (97sqm), deli / café (173sqm) with a preparation area (36sqm) and storage (31sqm), event room (67sqm), internal storage area (71sqm) and toilets. There is an outdoor picnic area adjoining the service station to the south east and an enclosed yard to the north east. Signage is proposed on the northern, southern and western elevations of the building. A forecourt area with 4 no. filling areas with a canopy over. 36 no. car parking spaces are provided to the west (rear) of the service station building. A truck refuelling area and truck parking is provided to the north of the service station building, with additional truck parking provided along the internal access road. A car wash area is provided in the centre of the site between the truck parking area and the car parking area.
- 7.3.2. Concerns were raised by third parties that the poor-quality design of the proposed development would have a negative impact on the character of the village and would for an incongruous development on the edge of the village. The Planning Authority raised some concerns regarding visual bulk of the building and attached a condition that the northern, southern and western elevational treatments be revised.
- 7.3.3. The applicant considers that the design is appropriate and would contribute positively to the village. Revised drawings were submitted in response to the appeal which indicate the provision of new windows to ensure an appropriate sense of articulation and visual interest on the frontage which will be visible on the approach to Cloghan, from the N62. It is also stated that the additional windows would allow for passive surveillance and interaction with the streetscape.

- 7.3.4. The appeal site is located on the N62 approx. 300m north west of the centre of Cloghan village. The appeal site is located in a transitional area. It is bound to the south, east and north east by agricultural lands, to the north and north west by the N62 and to the south east by a detached dwelling. It is noted that there are a number of detached dwellings located on the opposite side of the N62. In addition, there is a motor sales showroom located approx. 70m south of the site and a community hall, approx. 100m south of the site towards the village.
- 7.3.5. The western elevation of the service station building is set back approx. 11m from the boundary with the N62. The entrance to the service station is located on eastern elevation. The building includes signage on the northern, southern and western elevations. It is also proposed to provide a totem sign at the boundary with the N62. This sign is approx. 8m in height by 2.3m in width and is internally illuminated. It would include the operators logo, fuel prices and shop signage.
- 7.3.6. The building is a contemporary design with 2 no. mono pitched roofs ranging in height from 5.5m to 7m. The external materials include render, large areas of glazing and timber cladding with a standing seam metal roof. The siting and design of the service station screens the car parking area and car wash facility from the N62. The Landscape Design Plan (Drawing no. P1910-P003) submitted by way of further information indicates that a 1.2m high post and landscaping would be provided along the boundary with the N62, including additional tree planting adjacent to the proposed truck parking and ornamental ground cover adjacent to the service building.
- 7.3.7. Having regard to the nature and scale of the proposed development, it is my view that the proposed design and layout is appropriate in this instance. It is noted that the planning authority attached a condition to ensure that landscaping proposals are fully implemented on the site, if permission is being contemplated it is recommended that a similar condition be attached.

7.4. ***Residential Amenity***

- 7.4.1. The proposed development is located a minimum of approx. 30m east of the closest residential property, which is located on the opposite side of the N62. In addition, there is a detached residential property located approx. 70m south of the proposed development. Concerns were raised by third parties that light, noise, vibrations and

odour generated by the proposed development would have a negative impact on the existing residential amenities.

- 7.4.2. An outdoor lighting report was submitted by way of further information which indicates that the extent of the light spread would be contained within the site boundaries. Therefore, it is considered that the proposed development would not result in undue light pollution. Concerns have also been raised regard to glare from headlights accessing and egressing the site. While it is noted that there are a number of detached dwellings located on the opposite side of the N62, the proposed access is not located directly opposite any dwelling. Having regard to the distance of the properties from the appeal site, the limited potential for glare to occur, it is my view that the proposed development would not result in a significant nuisance to surrounding dwellings
- 7.4.3. Concerns were also raised regarding noise and vibrations generated from the proposed development. Having regard to the sites location on a heavily trafficked National Road, and the separation distances from the adjoining residential properties it is my view that the proposed development is unlikely to generated undue noise disturbance or vibrations.
- 7.4.4. With regard to concerns regarding odour, it is also my view that having regard to the nature of the use on site and the separation distances between the proposed development and adjoining residential properties that it is unlikely to generate undue odour.
- 7.4.5. It is noted that the planning authority attached a condition to the final grant of permission that the hours of operation be limited to between 06.00 and 22.00. If permission is being contemplated it is recommended that a similar condition be attached. It is also recommended that a condition be attached that parking of vehicles is not permitted overnight, to reduce the potential for any undue noise and nuisance on adjoining residential properties
- 7.4.6. In conclusion, it is considered that having regard to the separation distances between the proposed development and the nearest residential dwellings and the hours of operation that the proposed development is unlikely to cause undue noise and nuisance to existing residents.

7.4.7. Concerns were also raised that CCTV associated within the proposed development would negatively impact on the privacy of adjoining residents. The information submitted does not include any details of proposed CCTV network. However, having regard to the proposed use it is my opinion that the use of CCTV would be likely. To ensure the privacy of local residents it is recommended that a condition be attached to any grant of permission that any CCTV cameras provided are fixed and angled to face into the site and shall not be directed towards any adjoining properties.

7.5. **Traffic**

7.5.1. The proposed development is located on the eastern side of the N62, in a 60km per hour zone. The village of Cloghan is located at the cross roads of the N62 and Regional Roads R356 and R357. It was noted on a site visit on the 8th September 2020 that the village is heavily trafficked, including a significant number of HGV movements.

7.5.2. The proposed development service station includes the provision of 36 no. customer car parking spaces, 4 no. staff car parking spaces, and 14 no. truck / HGV car parking spaces. These spaces are accessed from a new internal road network, via the N62. It is noted that 6 no car parking spaces include electrical vehicle (EV) charging stations / points.

7.5.3. Concerns have been raised in the third-party submissions that a Traffic Impact Assessment should have been submitted with the application as the proposed development would generate additional vehicular trips including HGV's in the village which would cause congestion and queuing. The applicant has stated that there is no requirement for a Traffic Impact Assessment and that the proposed development would not generate additional trips, as it is considered that the development would provide a facility for existing trips on the road network.

7.5.4. In accordance with TII guidelines there is no requirement for a Traffic Impact Assessment to be carried out. In my view having regard to the nature and limited scale of the proposed development, it is unlikely to generate a significant number of additional trips on the N62. It is also noted that the planning authority and TII have no objection to the proposed development.

7.5.5. Auto-track drawings, submitted in response to the appeal, indicated that that a variety of vehicle types, including a 13.6m long articulated vehicle can access and egress the site safely and efficiently without impacting on the public footpath. In addition, a pedestrian crossing point is proposed within the site, before the first exit on the internal access road. The location of the pedestrian crossing provides a designated crossing point for vulnerable road users, while also allowing sufficient space for turning manoeuvres for HGV's. It is noted that a designated pedestrian route has also been provided within the development, between the service station building and the car parking areas. It is my view that the proposed development would not result in a traffic hazard or generate any road safety concerns.

7.5.6. Concerns were also raised that the proposed development would result in vehicles parking on the N62 and walking into the development. In my view, having regard to the orientation of the development away from the N62, with the main door to the retail unit located on the eastern elevation, and the availability of car parking adjacent to the main entrance, it is considered unlikely that vehicles would park on the N62 / opposite side of the building and walk. Therefore, it is my opinion that additional mitigation measures to prevent vehicles parking on the N62 are not warranted in this instance.

7.6. ***Appropriate Assessment***

The appeal site is located approx. 4km south of the Moyclare Bog SAC (000581), approx. 5km west of the Middle Shannon Callows SPA (004096) and approx. 7km south of Ferbane Bog (000575). Having regard to the nature and small scale of the proposed development within a serviced urban area and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 **Recommendation**

It is recommended that permission be granted subject to conditions

9.0 Reasons and Considerations

- 9.1. Having regard to the zoning objective of the subject site, its location within an existing urban settlement 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 acceptable and would not seriously injure the amenities of the area and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 18th day of December 2019, 6th day of January 2020, 14th February 2020 and 28th February 2020 and by the further plans and particulars received by An Bord Pleanála on the 19th day of June, 2020 and the 14th day of August, 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.

Reason: In the interest of clarity

2. The total net retail sales space of the forecourt shop shall not exceed 100 square metres.

Reason: To comply with national policy, as set down in the Guidelines for Planning Authorities Retail Planning issued by the Department of the Environment, Community and Local Government in April, 2012.

3. Use of the overall premises shall be restricted to those uses specified in the documentation lodged with the planning authority and any change of use,

whether within the use class for exempted development of the planning and Development Regulations, 2001 as amended, or otherwise, shall be subject to the prior permission of the planning authority.

Reason: In the interest of orderly development.

4. The proposed Service Station and all ancillary uses shall not operate outside the period of 0630 to 2200 hours. No deliveries or parking of vehicles shall occur outside of these hours.

Reason: In the interest of residential amenity.

5. 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.

Reason: In the interest of visual amenity

6. All proposed car parking spaces shall be capable of accommodating functioning electric vehicle (EV) charging stations / points, details to be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of sustainable transportation.

7. The landscaping scheme shown on Drawing no. P1910-P003 submitted to the planning authority on the 14th day of February 2020 shall be carried out within the first planting season following substantial completion of construction works.

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 five 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 interest of residential and visual amenity.

8. Prior to commencement of development, the applicant shall submit details of a written agreement with ESB regarding the relocation of existing overhead powerlines.

Reason: In the interest of complying with appropriated ESB policies.

9. Any CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining properties.

Reason: In the interest of residential amenity

10. All external lighting of the proposed development shall be cowled and directed away from the public roadway and from surrounding residential dwellings.

Reason: In the interest of public safety and visual amenity.

11. No additional development shall take place above roof parapet level, including air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

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

Reason: In the interest of residential amenity

13. 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 the commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

Reason: In the interest of visual amenity.

14. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

15. The applicant shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

16. Site development and building works shall be carried out only between the hours of 0700 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.

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

17. 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 but not limited to, hours of working, noise and dust management measures, the management of construction traffic and off-site disposal of construction waste.

Reason: In the interests of public safety, residential amenity and protection of the environment.

18. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development

Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Elaine Power

Planning Inspector

22nd September 2020