



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307551-20

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<b>Development</b>	New concrete yard area within recent refurbished oil depot, granted previously under planning reference 17514, and 24 hour Fuel Card system with the installation of 2 dispenser units
<b>Location</b>	Glebe, Ardee, Co Louth
<b>Planning Authority</b>	Louth County Council
<b>Planning Authority Reg. Ref.</b>	19955
<b>Applicant(s)</b>	Malone Oil Products.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Malone Oil Products.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	7 <sup>th</sup> October 2020.
<b>Inspector</b>	Deirdre MacGabhann

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## 1.0 Site Location and Description

1.1. The 0.622ha appeal site lies to the north of Ardee town, on the eastern side of the R171. This regional road joins the roundabout junction of the N2/R171/N33 approximately 40m to the south of the appeal site. The appeal site comprises an existing fuel depot, with site office, 5 no. car parking spaces, concrete yard with fuel tanks and commercial dispensing area. To the north of the fuel storage area is a separate fenced yard finished in hardcore. This is the location of the proposed development. Access to the site is from the R171, via simple priority junction, with entrance gates set back c.15m from the edge of the R171. On the opposite side of the R171 to the site is a pull in bay/lay-by.

## 2.0 Proposed Development

2.1. The proposed development, as revised by way of further information submitted on the 14<sup>th</sup> April 2020, comprises:

- A new concrete yard, 1220m<sup>2</sup>, within the confines of the existing site, served by the existing attenuation/drainage system incorporated within the recently refurbished oil depot (granted 14th April 2020 under PA ref. 17514).
- Provision of a 24hr fuel card system, with the installation of 2 no. dispenser units.

2.2. Included in the planning application documents are the following documents:

- The Infrastructure Design Report dated 2017. This report refers to the previous proposal to upgrade the then existing fuel depot, granted permission under PA ref. 17/514. It provides details on access to the site, water supply, foul waste water, surface water and fuel storage. Arrangements for surface water and drainage of the site provide for an additional 0.12ha (the subject site) which were not included in PA ref. 17/514, but included for possible future expansion. The proposed development will, therefore 'plug in' to the existing permitted and constructed on site drainage system, which has been sized to accommodate the development, with all surface water collected, attenuated and discharged via a petrol interceptor (Full Retention Forecourt

Separator Class 1) to a stream to the north of the site (see Drawing no. 021-MOPL Proposed Drainage Layout).

- Traffic Impact Assessment Report. This report provides information on existing traffic flows on the N2/R171/N33 roundabout (c. 16,000 vehicles, 24-hr flow) and traffic arising from the existing development (52 trips/day). It states that the proposed development will offer a 24 hour self-service card operated fuel dispensing service to designated haulage firms, with use strictly limited to those who open an account with the applicant. The development will not be open to the general public. The report states that the number of customers expected to use the fuel pumps is 150-200 per week, with a peak of 40/day and a peak flow of 4 customers/hour (based on 24 hour operation). In addition, there will be a small increase in bulk fuel deliveries to the site. No material impacts are predicted on the road links or junctions in the vicinity of the site due to the low percentage increases caused to background traffic and the ability of the N2/R171/N33 roundabout junction to absorb additional traffic. Operation of the site entrance is also determined to be well within capacity (RFC for vehicles turning right into the site from the R171 is significantly <0.75).
- Stage 4 Road Safety Audit (early operation stage) – This is carried out in respect of the operation of the existing entrance to the site and concerns raised by the planning authority regarding the proximity of the site entrance to the N2/R171/N33 roundabout junction. The report considers that the location of the site entrance relative to the roundabout is acceptable given the relatively modest usage of the entrance, the urban setting, the forward visibility provision and the availability of an emergency pull in area.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. On the 11<sup>th</sup> June 2020, the planning authority decided to refuse permission for the development on the grounds :

(1) Traffic safety arising from the increase in vehicle movements associated with the proposed Fuel Card system dispensing units, location of the development in close proximity to the N2/R171/N33 roundabout junction and interference with safety and free flow of traffic on a regional route in close proximity to the N33.

(2) Absence of Appropriate Assessment Screening Report/Natura Impact Statement and risk of impact on European sites (with connectivity to Dundalk Bay SAC and SPA).

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- 8th January 2020 – The report refers to the planning history of the site and the development granted permission under PA ref. 17/514 which provided for, amongst other things, the replacement of fuel storage tanks and provision of a new concrete yard (2,500sm). The report considers the development to be acceptable in terms of principle (zoning/use), design, scale and form, impact on adjoining properties, car parking and flood risk/surface water. It recommends further information in respect of the matters raised by Infrastructure (see below) and provision of landscaping in accordance with the details submitted under PA ref. 17/514.
- 22nd May 2020 – The report refers to the following matters:
  - Planning history. Refers to previous permissions under PA ref. 04/825, 07/883 and 17/514. States that the 2004 permission for one retail pump was never implemented and site has been solely used for the storage and distribution of oil (it also notes that no development contributions were paid in respect of the 2004 application). As such the proposed development represents an unacceptable intensification of an access onto a regional road (2.5 increase in number of traffic movements/day) in proximity to a roundabout junction with the national road network (N33/N2).
  - Further information. Refers to the report by Infrastructure Services (below) recommending refusal.

- Appropriate assessment. Site drains into ditch which ultimately discharges into Dundalk Bay SPA/SAC. No assessment of impacts on European site. PA therefore not satisfied that no appropriate assessment issues would arise.
- Drainage. Accepts that the existing attenuation/drainage system is capable of providing for surface water runoff from the proposed concrete yard. However, as the yard facilitates the provision of 24 hour fuel pumps, does not recommend that permission be granted for this element of the development on its own.

The report recommends refusing permission on the grounds of traffic hazard and impact on European sites.

### 3.2.2. Other Technical Reports

- Environmental Compliance (2<sup>nd</sup> December 2019) – No objections subject to conditions.
- Infrastructure (7<sup>th</sup> January 2019) – Recommends further information in respect of sight lines, impact of proposed entrance on exit visibility of the N2/R17/N33 roundabout, stopping distance from the N33, Traffic Impact Assessment and Road Safety Audit (Stage 1). Subsequent report dated 19<sup>th</sup> May 2020 recommends refusing permission on the grounds that (a) *‘traffic will back up from the entrance to the roundabout while HGV’s leave the depot, creating a traffic hazard at the entrance and the roundabout’*, and (b) *‘the forward visibility at the entrance, which caters for buses, does not meet the requirements of DMURS 2019 (version 1.1)’*.

### 3.3. Prescribed Bodies/Third Party Observations

3.3.1. None.

## 4.0 Planning History

4.1. The following planning applications have been made in respect of the appeal site:

- PA 81768 – Permission granted for oil storage tanks and pumping facility.
- PA 01814 – Permission for two new 50,000l capacity overground oil storage tanks and truck loading rack at oil storage depot

- PA 04825 – Permission granted for refurbishment of existing oil depot, to include for the retail of product on the proposed site together with the current distributor of products from the existing depot.
- PA 07883 – Permission granted for installation of portacabin on existing site to serve as on site office and toilet facility, with proposed connection to public sewer, and car parking.

## **5.0 Policy Context**

### **5.1. Spatial Planning and National Roads Guidelines for Planning Authorities (DECLG, 2012)**

- 5.1.1. The government’s guidelines on spatial planning and national roads seek to protect the carrying capacity of the national road network. They state that national road interchanges / junctions are an especially important element of the network and local authorities must take care that development close to such interchanges does not compromise the capacity and efficiency of the national road / associated junctions, leading to the premature or unacceptable reduction in the level of service available to road users (section 2.7).

### **5.2. Development Plan**

- 5.2.1. The appeal site lies within the northern limit of the Ardee Local Area Plan 2010 – 2016 (as extended). It is zoned for ‘Commercial and Business’, the objective of which is to provide for mixed commercial/business uses. In section 6.3, Louth County Development plan 2015 – 2021 sets out development management guidelines for industrial and commercial development set out in Chapter 7 of the plan (Transport). These include to safeguard the capacity and safety of national roads, including the N2 Dublin to Derry route and N33 Charleville Interchange to Ardee (paragraph 7.3.3 and Policy TC7 – see attachments). Developments which are likely to impact significantly on the carrying capacity of national routes are required to be accompanied by a traffic transport assessment, road safety impact assessment, road safety audit and mobility plan.

### 5.3. Natural Heritage Designations

- 5.3.1. The appeal site is situated c.20m west of Louth Hall and Ardee Woods proposed Natural Heritage Area (site code 001616). The nearest European site is Stabannan-Braganstown proposed Natural Heritage Area/Special Protection Area (site codes 000456 and 004091 respectively), c.5km to the east of the appeal site. Dundalk Bay Special Area of Conservation, pNHA and SPA lies further east, approximately 12.5km to the north east of the site.

### 5.4. EIA Screening

- 5.4.1. The proposed development is of a type that constitutes a project for EIA purposes i.e. construction works. It would comprise a sub-threshold development within Class 10(b)(iv), Infrastructure Projects, 'urban development' of the Planning and Development Regulations, 2001 (as amended), involving an area greater than 10 hectares in 'other parts of a built up area'. (I do not consider that the 'parent' development would fall within Class 6(c) of Schedule 5, 'storage facilities for petroleum', as this class refers specifically to petroleum and not fuel oil, which is a manufactured product of petroleum).
- 5.4.2. The proposed development comprises a small site area, 0.662ha substantially less than the threshold for EIA (10ha). It comprises an existing area of hardstanding, adjoining an existing fuel depot, at a site on the edge of Ardee town and one which is not affected by any environmental constraints e.g. landscape, archaeology. Very modest quantities of natural resources will be used in the construction of the development. During operation, fuel oil will be sold from the site and therefore facilitate, indirectly, the on-going use of natural resources. However, given the modest scale of the development (two pumps), in the local or regional context of fuel outlets, this volume is not significant. Waste products arising from the development are not significant. Traffic associated with the development will be relatively modest in the context of the existing vehicle movements on adjoining roads (see below).
- 5.4.3. Having regard to the foregoing, notably the characteristics of the development, including its nature and size, and to its location and potential impact, it is evident that there is no real likelihood of significant effects on the environment. It is therefore



concluded after a preliminary examination of the development under article 109(2) of the planning regulations that EIA is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

#### **6.1.1. First party grounds of appeal are:**

- The development represents an extension to a long established business.
- The development will not have an impact on road safety as demonstrated in the Traffic and Transport Impact Assessment and Road Safety Audit. The level of increased traffic associated with the fuel card facility is minimal and well within the capacity of the surrounding road network.
- The development could be further modified to remove one of the fuel dispensers and restrict use to fuel card holders only.
- The Stage 1 Appropriate Assessment Report (attached to appeal) addresses the second reason for refusal and establishes that the development will not have a substantial or detrimental impact on a European site and would be compliant with relevant policies of the County Development Plan.

### **6.2. Planning Authority Response**

6.2.1. In their response to the appeal (5<sup>th</sup> August 2020), the planning authority refer the Board to the comments made in the Planning Reports in respect of the development.

### **6.3. Observations/Further Responses**

- None.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file and inspected the site, I consider that the main issues in this appeal relate to traffic safety and appropriate assessment. I note the policy context for the development and the

zoning of the appeal site, which as stated by the appellant, the use of the appeal site is consistent with.

## 7.2. Traffic Safety

### Free flow of traffic

- 7.2.1. The appeal site is situated immediately north east of the N2/R171/N33 roundabout junction, with the entrance to the appeal site c.40m from the entrance to/exit from the roundabout.
- 7.2.2. The applicant's Traffic Impact Assessment Report (TIAR) identifies substantial flows on the roundabout junction (c.12,000/12 hours and c.1000/hour), reflecting its location on the National Primary Road network linking Derry to Dublin (N2) and the N2 to the M1 via the N33 (Table 1.1 TIAR). Traffic associated with the existing development is stated to be quite low i.e. 52 vehicle movements per day and at the time of site inspection I observed a small number of vehicles accessing the site.
- 7.2.3. The TIAR predicts that the development, which will be used by the fleet of haulage firms who operate an account with Malone Oil Products Ltd (and not the general public), will generate c.150-200 customers per week, equating to an average of 23-25 customers per day and a peak of 40 customers per day, and twice weekly bulk deliveries. The assessment is based on the premises operating over a 24 hour period, with 40 in/out trips per day and 5 in/out per hour. There is no information on the current pattern of trips made to/from the depot and I consider that an equal distribution of all trips over a 24 hour period is unlikely i.e. that there may be a greater number of trips per hour in normal working hours.
- 7.2.4. The TIAR assesses the likely effect of 40 trips per day on traffic flows on the roundabout junction and road network (Figure 4.1 and 4.2). It is evident from this analysis that the development would generate a modest increase in traffic volume on the R171 and on the roundabout junction (daily and peak hours).
- 7.2.5. With regard to impact on junctions, the TIAR refers to the Traffic and Transportation Assessment carried out to support a planning application for the construction of a Petrol Filling Station on land to the west of the appeal site (PA ref. 17/885) and the low RFC (ratio of flow to capacity) values predicted for the roundabout junction with the operation of the proposed petrol filling station. It is stated that the low

percentage increase in traffic on the roundabout predicted for the proposed development, with an allowance for the growth in background levels, would have a minimal effect on the loading of the roundabout.

- 7.2.6. Having regard to the modest increase in flows on the roundabout, this conclusion is not unreasonable. However, I am mindful that the Board refused permission for the proposed petrol station (ABP-301017) on the grounds that they were not satisfied that the development would not give rise to significant intensification of the use of the junction (see attachments).
- 7.2.7. Section 4.8 of the TIAR considers the operation of the site entrance. It assumes that all traffic from the development approaches from the south (N2/R171/N33 roundabout junction) and exits to the south. The TIAR uses TD42/95 to carry out an analysis of the likely effect of the development on flows on the R171. Predicted peak hour turning movements at the R171/site entrance are shown in Figure 4.5. It is evident from the analysis that predicted RFCs are very modest and substantially below the levels likely to give rise to delay or queue. Notably, this includes for vehicles turning right into the site from the R171, where any delay or queue could impact of the flow of vehicles on the roundabout (i.e. leaving the roundabout to join the R171).
- 7.2.8. Whilst I am mindful that the technical analysis, as reiterated by the appellant, has indicated an absence of effect, it is predicated on (a) the arrival and departure of customers in the even manner assumed in the TIAR (spread over 24 hours) and (b) on an anticipated number of customers (150-200 customers/week). The appellant does not examine the very reasonable scenario where several customers arrive simultaneously, or therefore the vulnerability of the entrance junction to intensification of use. Under normal circumstances, given the low RFCs indicated, this scenario may well be manageable, but given the proximity of the entrance of the proposed development to the roundabout junction, it would take few large vehicles waiting to turn into the appeal site to interrupt flows on the N2/R171/N33 roundabout junction. Further, a single large vehicle or several smaller vehicles could limit or preclude use of the pull-in bay opposite the appeal site, increasing the risk of a rear ended shunt (vehicles tend to accelerate away from a roundabout).

7.2.9. In section 6 of the appeal documentation, the appellant states that he would be willing to remove one of the fuel dispensers, restrict access to the site to fuel card holders only or any other reasonable condition the Board deem appropriate. In this regard, I note that the application is for fuel card holders only. Further, I do not consider that the applicant has adequately demonstrated how vehicle movements to the site will be controlled to the proposed levels, and I consider that the location of the development is one which is inherently unsuitable for any use which generates any substantial intensification of turning movements.

#### Forward visibility

7.2.10. The appellant refers to road safety issues arising from the forward or advance visibility of the entrance to the appeal site that is available to drivers travelling on the R171. This matter was raised in the course of the planning application but is not specifically raised as a reason for refusing permission. As stated by the appellant forward visibility, travelling south on the R171 towards the site is in excess of 65m and therefore exceeds the minimum stopping distance for a bus or HGV within the 60kph speed limit zone that applies. I would also accept that the N2/R171/N33 roundabout junction would slow traffic speeds for vehicles travelling north on the R171, and that a reduced sightline of 49m is not unreasonable and could be achieved (see Figures 1 and 2 or appeal documentation and drawings submitted). I also note the conclusions of the Road Safety Audit, as referred to by the appellant, *'that the location of the site entrance relative to the roundabout is acceptable'* (section 2.3.1. of Road Safety Audit). However, this is predicated on, amongst other things, *'the relatively modest usage of the entrance'*. For the reasons stated above, I am not satisfied that the TIAR has adequately assessed the consequences of the proposed development on the roundabout junction and there is a risk that it will give rise to queuing on the R171 and the potential for delays on the free flow of traffic through the national road roundabout junction.

7.2.11. Having regard to the foregoing, I consider, therefore that proposed development would be contrary to Policy TC7 of the Louth County Development Plan 2015-2021 and the government's guidelines on Spatial Planning and National road which seek to safeguard the carrying capacity of the national road network.

### 7.3. Appropriate Assessment

- 7.3.1. I note the appellant's concerns that, in contrast to the decision of the planning authority, planning reports indicated that there were no concerns regarding the impact of the development on European sites. Notwithstanding this, a Stage 1 Appropriate Assessment Report (AAR) is included in the appeal documentation. It concludes that no appropriate assessment issues arise, and a stage 2 report is not required.
- 7.3.2. **European sites.** The appeal site lies c.5km to the south west of Stabannan-Braganstown SPA and c. 2.5km to the south west of the Dundalk Bay SAC and SPA.
- 7.3.3. **Conservation objectives.** Qualifying interests of the European sites of the set out below:

European Site	Qualifying Interests
Stabannan-Braganstown SPA (004091)	Greylag goose ( <i>Anser anser</i> )
Dundalk Bay SPA (004026)	Great Crested Grebe ( <i>Podiceps cristatus</i> ) Greylag Goose ( <i>Anser anser</i> ) Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) Shelduck ( <i>Tadorna tadorna</i> ) Teal ( <i>Anas crecca</i> ) Mallard ( <i>Anas platyrhynchos</i> ) Pintail ( <i>Anas acuta</i> ) Common Scoter ( <i>Melanitta nigra</i> ) Red-breasted Merganser ( <i>Mergus serrator</i> ) Oystercatcher ( <i>Haematopus ostralegus</i> ) Ringed Plover ( <i>Charadrius hiaticula</i> ) Golden Plover ( <i>Pluvialis apricaria</i> ) Grey Plover ( <i>Pluvialis squatarola</i> ) Lapwing ( <i>Vanellus vanellus</i> ) Knot ( <i>Calidris canutus</i> ) Dunlin ( <i>Calidris alpina</i> ) Black-tailed Godwit ( <i>Limosa limosa</i> ) Bar-tailed Godwit ( <i>Limosa lapponica</i> ) Curlew ( <i>Numenius arquata</i> ) Redshank ( <i>Tringa totanus</i> ) Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) Common Gull ( <i>Larus canus</i> ) Herring Gull ( <i>Larus argentatus</i> ) Wetland and Waterbirds
Dundalk Bay SAC (000455)	Estuaries Mudflats and sandflats not covered by seawater at low tide Perennial vegetation of stony banks

	<p>Salicornia and other annuals colonising mud and sand  Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>)  Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p>
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- 7.3.4. Conservation objectives for Stabannan-Braganstown SPA are generic, to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interest. Conservation objectives for Dundalk Bay SAC and SPA are to maintain the favourable conservation condition of the species and habitats listed as Special Conservation Interest, which is defined by specified attributes and targets.
- 7.3.5. **Potential Effects.** The appeal site is significantly removed from the European sites and no direct or indirect effects will arise by way of land take, noise, disturbance or air pollution. Impacts on Stabannan-Braganstown SPA are therefore unlikely (distance from the site). Potential effects may arise from the discharge of contaminated water into the waterbody adjoining the site, which flows via the River Dee and ultimately into Dundalk Bay.
- 7.3.6. **Likely effects (direct, indirect and cumulative).** Surface water from the appeal site will discharge into the existing surface water management system. This was designed under the parent permission PA ref. 17/512, to cater for the proposed development and includes a hydrobrake system and petrol interceptor. The planning report in respect of this parent permission considered the matter of appropriate assessment and determined that no Stage 2 Appropriate Assessment was required. No concerns have been raised by any party regarding the efficacy of this system and I would consider therefore, that the development which will discharge to the existing permitted system will not give rise to downstream water pollution or the risk of significant effects on a European site.
- 7.3.7. **In combination effects.** In combination effects are highly unlikely given the absence of predicted effects.
- 7.3.8. **Appropriate Assessment Screening Conclusion.** Having regard to the foregoing, I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Stabannan-Braganstown SPA (site

code 004091), Dundalk Bay SAC (site code 000455) or Dundalk Bay SPA (site code 004026), or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **8.0 Recommendation**

8.1. I recommend that permission for the development be refused.

## **9.0 Reasons and Considerations**

The site of the proposed development is located in close proximity to a significant junction linking the N2 and N33 national roads and the R171 regional road (Carrickmacross Road Roundabout). This junction forms an integral part of the national road network. The Board is not satisfied, on the basis of the information submitted with the application and appeal, that the proposed development, would not give rise to vehicle turning movements in proximity to the roundabout junction which would interfere with the safe flow of traffic on the public road and the level of service and carrying capacity of the national road infrastructure at this location. The proposed development would therefore be contrary to policies of the County Development Plan and the government's Spatial Planning and National Roads: Guidelines for Planning Authorities 2012, which seek to preserve the level of service provision and the carrying capacity of the national road network, and the proper planning and sustainable development of the area.

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Deirdre MacGabhann  
Planning Inspector

13<sup>th</sup> October 2020