



An
Bord
Pleanála

Inspector's Report ABP-311890-21

Development	Retention of existing parking area for cars and heavy goods vehicles adjacent to the M6 Service Station, including all associated ancillary site services, and retention of launderette unit (9.5 sq.m.).
Location	M6 Service Station, Tullamore Road, Kilbeggan, Co. Westmeath.
Planning Authority	Westmeath County Council
Planning Authority Reg. Ref.	20/6295
Applicant(s)	Lambe Brothers Ltd.
Type of Application	Permission for Retention
Planning Authority Decision	Split Decision
Type of Appeal	First Party v. Decision
Appellant(s)	Lambe Brothers Ltd.
Observer(s)	Michael O'Grady
Date of Site Inspection	28 th September, 2022
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located towards the southern periphery of the built-up area of Kilbeggan, Co. Westmeath, where it occupies a position along the western side of the R389 (Tullamore) Regional Road, approximately 400m south of the town centre and c. 500m north of Junction 6 on the M6 Motorway. The surrounding area is generally residential in character and includes various formats of housing development, although notable exceptions include the subject site, an adjacent service station, a nearby industrial facility used for the manufacture of steel sheds & garages, and a stretch of agricultural land along the eastern side of the roadway. A row of semi-detached houses dating from the mid-20th Century extends between the site and the town centre while the lands to the south / southwest of the existing service station accommodate a conventional suburban housing development known as 'The Gallops'. The lands to the immediate west of the application site appear to be poorly drained and remain undeveloped. On the other side of the roadway opposite the site is a single storey structure with a line of detached single storey and dormer bungalows extending southwards.
- 1.2. The site itself has a stated site area of c. 0.27 hectares, is broadly rectangular in shape, and comprises an area of hardstanding used for the parking of cars and HGVs associated with the operation of the neighbouring 'M6 Service Centre' (which includes a petrol filling station with a forecourt area and an ancillary retail unit with a deli counter, café area & toilets). Although some of the site includes marked parking bays, the broader site area is not formerly laid out with the parking and circulation of cars and other vehicles, including Heavy Goods Vehicles, occurring somewhat haphazardly. A series of concrete blocks presently prevents vehicular access to the northernmost extent of the site area. Access to the parking area is obtained through the neighbouring 'M6 Service Centre' via a one-way system operating through the forecourt with the vehicular entrance from the R389 Regional Road sited to the south of the road frontage and the exit point located adjacent to the southern boundary of the application site. The roadside boundary of the site is defined by a low wall and hedgerow while the northern site boundary comprises mature hedging with a culverted stream (and a pumping station) set behind same. The remainder of the site perimeter is generally defined by a combination of post and wire fencing and

blockwork walling, save for the extent which facilitates access to / from the adjacent service station.

2.0 Proposed Development

2.1. The proposed development consists of the following:

- The retention of an existing parking area used by cars and heavy goods vehicles adjacent to the M6 Service Station, including all associated ancillary site works & services (e.g. the demarcation of parking spaces).
- The retention of an existing launderette unit (floor area: 9.5m²) which comprises a series of self-service washing / laundry machines set within a fixed covered space. Signage on site indicates that the service is available for use 24-hours a day and seven days a week.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Following the receipt of a response to a request for further information, on 12th October, 2021 the Planning Authority issued a split decision as follows:

- To **GRANT** permission for the retention of the launderette unit (9.5m²), subject to conditions; and
- To **REFUSE** permission for the retention of the existing parking area for cars and heavy goods vehicles adjacent to the M6 Service Station for the following reason:
 - Having regard to the nature, scale and siting of the proposed parking area which will accommodate both cars and heavy goods vehicles and in the absence of satisfactory justification submitted with this application for the need for same at this location, it is considered that the proposed development would result in a haphazard and non-integrated form of development which would impair and pre-empt the comprehensive development of this overall site and adjoining lands should such development be later considered to be desirable or

permissible. To permit the development as proposed would result in a low-order form of development on zoned and serviced lands at this location within Kilbeggan town which is contrary to Policy-Objective CPO 5.22 of the County Development Plan 2021-2027 that seeks to 'Support the proportionate economic growth of and appropriately designed development in self-sustaining towns that will contribute to their regeneration and renewal', would detract from the existing streetscape and visual amenities of the area and depreciate the value of properties in the vicinity. The proposal would set an undesirable precedent for similar development of this type in the future and would be contrary to the proper planning and development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

An initial report details the site context, planning history and the relevant policy considerations before stating that while the principle of the proposed parking area is consistent with the applicable 'commercial' zoning objective, due cognisance must be afforded to the planning history of the site and the justification for the parking of cars & HGVs at the location proposed (the launderette unit is considered to be ancillary to the established commercial use of the wider site). The report provides to examine the rationale for previous temporary grants of permission for the parking area in question and notes that in the intervening period since the most recent approval, the M6 on-line service station between Moate and Athlone has commenced trading. Accordingly, it is queried whether there is a need to provide services to cater for motorway traffic at this location given that any such servicing requirements would now appear to be addressed by a purpose-built, on-line facility. It is further stated that in the absence of an adequate justification for the subject proposal, then more in-depth commercial development of the lands would be desirable. In addition, further details are required as regards the traffic and noise generation so as to assess the impact of the development on the amenity of adjoining lands etc. The report thus concludes by recommending that further information be sought in respect of a number of items, including the need for the development.

Following the receipt of a response to a request for further information (with the Westmeath County Development Plan, 2021-2027 having been adopted since the previous assessment), a final report was prepared which determined that insufficient details had been provided in support of the need for the retention of the proposed parking area on a permanent basis. It was therefore recommended that a split decision be issued granting permission for the retention of the launderette unit, subject to conditions, and refusing permission for the retention of the parking area.

3.2.2. Other Technical Reports:

Fire Authority: No objection, subject to conditions.

Area Engineer: No objection, subject to conditions.

3.3. Prescribed Bodies

3.3.1. Irish Water: No objection.

3.4. Third Party Observations

3.4.1. A total of 2 No. submissions were received from an interested third party and the principal grounds of objection / areas of concern raised therein can be summarised as follows:

- The applicant has never been granted permission for the development of the site as the 'M6 Service Station'.
- The newspaper notice is defective and fails to comply with regulatory requirements.
- The applicant has no legal interest in the property in question.
- The Planning Authority has failed to take enforcement action against unauthorised development on site (including the use of the car park upon the expiry of its temporary grant of permission).
- Inadequate traffic management controls and associated safety concerns.
- Detrimental impact on the residential amenity of surrounding properties by reason of noise, lighting, traffic movement, and general disturbance.
- The appropriateness of siting a laundrette at the location proposed and the associated increase in retail space.

- The lack of justification for the proposed development.
- Inaccuracies and deficiencies in the submitted particulars.

4.0 Planning History

4.1. On Site:

- 4.1.1. PA Ref. No. 18/6145 / ABP Ref. No. ABP-302206-18. Was granted on appeal on 23rd November, 2018 permitting Lambe Brothers permission (for a temporary period of two years) for the retention of existing parking area for cars and heavy goods vehicle parking and all associated ancillary site services adjacent to the existing M6 Service Station.
- 4.1.2. PA Ref. No. 12/4071 / ABP Ref. No. PL25K.241516. Was granted on appeal on 16th May, 2013 permitting Lambe Brothers permission (for a temporary period of five years) for the retention of existing parking area for cars and heavy goods vehicles parking, permission for extension of parking area and all associated ancillary site works adjacent to the existing M6 Service Station.

4.2. On Adjacent Sites:

4.2.1. *(to the immediate south):*

PA Ref. No. 104108. Was granted on 1st April, 2011 permitting Lambe Brothers permission to demolish the existing single storey shop and for permission to convert the existing commercial garage to a convenience store with a deli counter and seating, including new front facade and all ancillary site services at the M6 Service Station, Tullamore Road, Kilbeggan, Co. Westmeath.

4.2.2. *(to the immediate north):*

PA Ref. No. 156112. Was granted on 20th October, 2015 permitting Tony & Ita Brennan permission for the construction of a two storey extension to the southern gable, single storey extension to the rear, single storey extension and porch to the front elevation and all ancillary site works, all at No. 20 St James Terrace, Tullamore Road, Kilbeggan, Co Westmeath.

4.2.3. (to the northwest):

PA Ref. No. 196084. Was granted on 6th February, 2020 permitting Abbeybrook Co-Ownership permission for the construction of 69 No. two storey dwellings and the provision of public open space to serve the development (and the existing Abbeybrook development). This public open space integrates with existing open space (playground) to the southeast of the Abbeybrook development and provides pedestrian connections to the Lower Main Street. The development also includes a reservation of 0.412 hectares to provide for the future expansion of the Kilbeggan Cemetery and a new vehicular junction with the distributor road serving the Abbeybrook residential development; street lighting; internal roadways; footpaths; foul and SuDS surface drainage; landscaping/boundary treatments and all ancillary infrastructural and engineering works. All at Abbeybrook, Kilbeggan, Co. Westmeath.

4.3. Other Relevant Files:

- 4.3.1. ABP Ref. No. 25HA.0019. Was determined by the Board on 6th November, 2009 under the Roads Act, 1993, as amended, approving the “M6 Athlone Service Area Scheme 2008” in the townlands of Fassagh, Glen and Killogeenaghan, Co. Westmeath.

5.0 Policy and Context

5.1. National & Regional Policy:

- 5.1.1. The ‘*Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012*’ set out the planning policy considerations relating to development affecting national primary and secondary roads, including motorways and associated junctions, outside the 50-60kph speed limit zones for cities, towns and villages. They replace the document, Policy and Planning Framework for Roads, published by the Department in 1985, supplement policy guidance on roads-related matters in other Ministerial guidelines in relation to retail planning and sustainable rural housing, and replace the National Roads Authority policy statement on national roads published in May, 2006. Section 2.8 of the Guidelines refers to the provision of service areas for motorways and states that these may be provided as ‘on-line’ facilities (on lands brought forward by the NRA or local authorities) or as ‘off-line’ area at National Road junctions. It is also noted that a proliferation of private off-line service area facilities at national road

junctions is to be avoided and, therefore, it is important that a coordinated approach between planning authorities be undertaken in consultation with the NRA as part of the drafting of development plans.

5.1.2. The ‘*Design Manual for Urban Roads and Streets*’ (DMURS) provides guidance relating to the design of urban roads and streets. It focuses on streets as attractive places, whether new or existing, and seeks to encourage designs appropriate to context, character and location that can be used safely and enjoyably by the public. The principles, approaches and standards set out in this Manual apply to the design of all urban roads and streets (that is streets and roads with a speed limit of 60km/h or less), except:

- a) Motorways.
- b) In exceptional circumstances, certain urban roads and streets with the written consent of Sanctioning Authorities.

5.2. Development Plan

5.2.1. Westmeath County Development Plan, 2021-2027:

Land Use Zoning:

The proposed development site is zoned as ‘*Commercial*’ with the stated land zoning policy objective ‘*CPO 15.8: Provide for appropriately scaled commercial development that compliments the town centre*’.

Other Relevant Sections / Policies:

Chapter 8: Settlement Plans:

Section 8.3.2: Kilbeggan:

Section 8.3.2.8: Commercial & Retail Development

Chapter 10: Transport, Infrastructure & Energy

Chapter 15: Land Use Objectives:

Section 15.11: Commercial:

This ‘*Commercial*’ zoning provides for commercial and business uses such as offices, service industry, warehousing, hotel, car parking and the facilitation of

enterprise/retail park/office type uses as appropriate. Retailing is open for consideration on this zoning, provided that a sequential test is carried out and the lands are demonstrably the optimum location for the nature and quantum of retail development proposed.

Chapter 16: Development Management Standards:

Section 16.5: Retail Development:

CPO 16.39: Service Stations:

In assessing planning applications for service stations, the following considerations will be taken into account:

- Forecourt Store/Retail unit associated with a petrol filling station should generally not exceed 100sqm net floor area. Where an increase in this standard is sought, the Sequential Approach to retail development shall apply i.e. the retail element shall be assessed similar to an application for a standalone retail development in the same location.
- Forecourt shops should be designed and sited to facilitate safe pedestrian and bicycle access, with unimpeded access for delivery vehicles. The safety aspects of circulation and parking within the station forecourt should be demonstrated fully.
- Design and layout of service stations and forecourts should be of high-quality and integrate with the surrounding built environment. In urban centres, where the development would be likely to have a significant impact on the historic or architectural character of the area, the use of standard corporate designs and signage may not be acceptable.
- Forecourt lighting, including canopy lighting, should be contained within the site and should not interfere with the amenities of the area.
- Ancillary services such as car wash services should be sited so as not to result in queueing onto the public road network or negatively impact on neighbouring residential amenities.

- Rapid EV charging point(s) should be provided and clearly demarcated with appropriate signage, in collaboration with ESB networks.
- The development of Off-line Motorway Service Areas at national road junctions shall contain facilities of a type that avoids the attraction of short, local trips, a class of traffic that is inconsistent with the primary intended role for motorways and other national roads and associated junctions in catering for strategic long-distance inter-urban and inter-regional traffic.
- It is Council policy to restrict the development of new service area facilities along rural sections of national roads and/or associated junctions, where the maximum speed limit applies, as such developments would create significant safety risks and affect the level of service available to road users, as well as impact on the viability and vitality of existing urban settlements.
- The provision of off-line motorway service areas at national road junction and road side service facilities on non-motorway national roads and junctions shall have regard to Section 2.8 of the DoECLG Spatial Planning and National Road Guidelines and TII Policy on Service Areas.

Appendix 4: County Westmeath Retail Strategy:

Section 7.3.5: Self-Sustaining Growth Town – Kilbeggan

Policy RP31: Self-Sustaining Growth Town – Kilbeggan:

It is the policy of the Council to sustain and enhance the retail and services offer of Kilbeggan Town Centre and harness the potential of its heritage asset and tourism profile.

Section 7.4.16: Petrol Filling Stations:

The GRP 2012 reinforced that the size of retail units associated with petrol filling stations should not exceed 100m² net. Where permission is sought for floorspace in excess of 100m² in retail units associated with petrol filling stations, the Sequential Approach to retail development shall apply i.e. the retail element of the proposal

shall be assessed by the Planning Authority in the same way as would an application for retail development (without petrol/diesel filling facilities) in the same location. In addition, there has been development pressure for non-retail food takeaways and cafes at filling stations which have the potential to adversely affect smaller town and rural centres through trade diversion. In respect of the latter, this is highlighted as a concern of the Council.

To be consistent with the guidance in the GRP 2012 and limit the range and function of petrol filling stations, it is the policy of the Council:

GR28: To restrict the size of any retail units associated with petrol filling stations to 100m² of net retail floor area and ensure that any proposals above this threshold will be subject to the Sequential Approach.

GR29: To prohibit food takeaway outlets and cafes in petrol filling stations if not located in a designated centre.

5.3. Natural Heritage Designations

5.3.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The Grand Canal Proposed Natural Heritage Area (Site Code: 002104), approximately 1.0km east of the site.
- The Split Hills and Long Hill Esker Proposed Natural Heritage Area (Site Code: 001831), approximately 3.7km northeast of the site.
- The Split Hills and Long Hill Esker Special Area of Conservation (Site Code: 001831), approximately 3.7km northeast of the site.

5.4. EIA Screening

5.4.1. Having regard to the nature and small scale of the proposed development, the site location outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public mains services, and the separation distance from the nearest 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 retention of the existing car parking is essential to ensure the future viability of the adjoining highly successful filling station business which generates a large demand for the parking of cars and Heavy Goods Vehicles.
- The decision to refuse permission does not specifically refer to the proposal as 'materially contravening' the Development Plan and, therefore, the Board is constrained in its assessment by the provisions of Section 37(2) of the Planning and Development Act, 2000, as amended.
- The proposed development accords with the applicable land use zoning with Section 15.11 of the Development Plan stating that this '*Commercial*' zoning '*provides for commercial and business uses such as offices, service industry, warehousing, hotel, car parking and the facilitation of enterprise/retail park/office type uses as appropriate. Retailing is open for consideration on this zoning, provided that a sequential test is carried out and the lands are demonstrably the optimum location for the nature and quantum of retail development proposed*'. It should also be noted that the land use matrix contained in the Plan refers to a 'Commercial Car Park' as being '*Permitted in Principle*' on lands zoned as 'Commercial'.
- Although the level of car parking proposed is greater than would be typical for most filling stations, it is not of a scale which would represent a significant planning consideration.
- The proposed car park will serve the adjacent filling station owned by the applicant and represents a complementary use in this regard.
- The proposed car parking will be screened from the existing housing to the north and southwest by a combination of existing planting and buildings while any future development on the residentially zoned lands to the west will have

to take account of the car park (if permitted under this appeal) in terms of its layout such as by providing for an appropriate buffer & screen planting.

Accordingly, it is submitted that the car park proposed for retention would not have a material impact on either the existing land uses or any future residential development on those lands to the west.

- There is no legal requirement for the applicant to demonstrate a need for the proposed development, particularly where the development in question is permitted in principle under the relevant land use zoning. The planning assessment relates to the suitability of the land use rather than the purpose of same.
- The rationale for the proposed development arises from the applicant's need for the car park to facilitate the demand for car / HGV parking generated by the adjoining filling station and retail unit (as is evident from imagery submitted with the application).
- The refusal / loss of the car park will likely result in the haphazard and piecemeal parking of cars / HGVs along the roadside which would pose a major traffic hazard given the location of the site along the main approach to the town from the motorway.
- Cognisance should be taken of the accompanying report compiled by Traffic Transport and Road Safety Associates Ltd. which asserts that despite the opening of the M6 'on-line' service station between Moate and Athlone, there is a continuing demand for the overnight parking of HGVs at the subject site.
- The demand for the existing car / HGV parking has been strong since the opening of the 'on-line' M6 service station. This is largely because most of the HGV traffic is going to or coming from local businesses in the town while the majority of customers visiting the filling station come from the Tullamore direction or are crossing from the north towards Mullingar. Therefore, it is submitted that the car / HGV park has no material impact on the functionality of the on-line service station.
- The N52 Tullamore to Kilbeggan route is at the third stage of the 'Option Selection' process and the 'Emerging Preferred Route Corridor' has been identified following completion of the Stage 2 Project Appraisal process. When

operational, this route will likely generate additional traffic linking with the motorway and it is imperative that the applicant's car parking area is large enough to cater any increase in demand from passing motorists / custom.

- The accompanying correspondence from the Retail Sales Operations division of Circle K Ireland outlines the growth in fuel sales from 2011 to 2021 with significant volumes having been sold even after the opening of the on-line M6 service area and during the COVID-19 pandemic. It states that there is a significant amount of commercial traffic along this route (the N52 Limerick / Dundalk corridor) and that the subject premises has been serving its requirements. In effect, a truck facility at this location is considered vital in order to provide services / rest areas for drivers.
- Sales participation data shows that the existing business functions as a neighbourhood shop for locals as well as passing traffic and, therefore, sufficient parking needs to be available.
- Notwithstanding the COVID-19 lockdown, the existing business only experienced a minimal drop in shop sales (not fuel sales) thereby indicating that the retail use largely serves the people of Kilbeggan and the surrounding hinterland.
- It is important to ensure that there is sufficient room to accommodate future demand for electric vehicle charging points.
- The proposal will provide for the orderly parking of cars & HGVs and will avoid haphazard and piecemeal car parking.
- The suggestion that the works amount to a non-integrated form of development is rejected. The proposal is compatible with the adjoining filling station and will not impact on adjoining or future uses.
- In response to the implication that the subject site would be suitable for an alternative commercial use, the proposed development is 'permitted in principle' while there is no specific policy, objective or masterplan in the Development Plan which identifies a different type of commercial use for this site. Therefore, there can only be a reasonable expectation that the use of the site as a car park is generally acceptable.

- Any other commercial use of the site could potentially undermine the vitality and viability of Kilbeggan town centre.
- The proposal is not contrary to the broader economic provisions set out in Policy Objective CPO 5.22 of the Development Plan. Instead, the retention of the car park will support the future sustainability of the applicant's business which provides for local employment.
- The suggestion that the car park detracts from the streetscape or visual amenity of the area is rejected on the basis that it is largely screened from the public road by a stone wall and hedging. In this regard, the applicant is also amenable to the provision of additional screen planting and landscaping on site as a condition of any grant of permission.
- The third-party objector resides in the dormer dwelling opposite the site entrance. Given the siting of that dwelling below the public road and the mature hedging & trees to the front of the property, there is no clear view of the site entrance from its ground floor and, therefore, it is considered that no issues arise as regards vehicle lights on exiting the development site. The noise assessment submitted with the planning application also concluded that noise emissions would be negligible. Accordingly, it is highly unlikely that there would be a material impact on the residential amenity of the objector's dwelling.
- Considering that the car park to be retained is linked to the adjacent filling station, it is unreasonable to suggest that the proposal will set a precedent for similar development in the area.
- In response to the concerns expressed by the case planner as regards the appropriateness of the nature and siting of the parking area, the Board is referred to the comprehensive noise assessment submitted with the application which has concluded that there will be no material impact on neighbours arising from noise, including HGVs (described as negligible).

In the event that the Board considers noise to be a material concern, the applicant would reluctantly accept a condition to close the car park at night (24:00-06:00 hours), although the filling station is open 24/7 with the shop doors open from 05:30 to 23:00 hours (with a hatch service thereafter) and

thus the likely result of any such closure would be the haphazard parking of HGVs on the public road at night.

- The two key issues raised in the assessment of the previous planning applications lodged on site (which each culminated in a temporary grant of permission) were the Roads Objective running through the lands and the opening of the on-line M6 service area. The Roads Objective is no longer included in the current Development Plan while the on-line service station is now operational (with no material impact in parking demand at the subject site).

6.2. Planning Authority Response

None.

6.3. Observations

6.3.1. Michael O'Grady:

- The extended car park is only held by Mr. Ronan McCarthy under licence from Westmeath County Council.
- Mr. McCarthy is not a party to the planning application or the appeal.
- The appeal is invalid as it has been lodged by a party (Lambe Brothers) different to that which made the planning application (M6 Service Station Lambe Brothers Limited).
- The reference in the grounds of appeal to '*haphazard and piecemeal car parking on the street*' only serves to confirm the daily occurrences of such practices.
- Most, if not all, of the HGVs use the existing 'Exit' to gain access to the extended parking area (the 'Exit' sign has been obscured in Figure No. 18 of the grounds of appeal).
- Illegal on-street parking is a matter for An Garda Siochana.
- It is not accepted that most of the HGV traffic goes to and from local businesses.

- The M6 Service Station has never applied for permission for 24-hour opening.
- The trees & planting to the front of the observer's property have been purposely allowed to grow in excess of their normal height in an effort to try and reduce the noise and light pollution attributable to traffic exiting the service station which detrimentally impacts on the observer's health and residential amenity.
- Mr. McCarthy is not a party to the appeal and for him to offer a 'piecemeal' solution by reducing trading hours is of no relevance.

6.4. Further Responses

None.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The principle of the proposed development
- Impact on residential amenity
- Appropriate assessment

These are assessed as follows:

7.2. The Principle of the Proposed Development:

7.2.1. The proposed development includes for the retention of an area of hardstanding used for the parking of cars and HGVs associated with the operation of the neighbouring 'M6 Service Centre' which was originally granted permission under PA Ref. No. 104108 on lands to the immediate south of the subject site. In this regard, and by way of background, it is relevance to note that the service station as initially approved was only to occupy the southernmost extent of the landholding shown in blue in the submitted particulars to the exclusion of the subject site. However, it would appear that relatively shortly after the approval of PA Ref. No. 104108 (in April, 2011) the extent of the service station lands was expanded without the benefit of planning permission to incorporate the use of the subject site for parking purposes

as evidenced by the lodgement of PA Ref. No. 12/4071 on 1st November, 2012 (which sought permission to retain the existing parking area for cars and HGVs as well as permission for the extension of the parking area and all associated site works). In the Board's subsequent determination of PA Ref. No. 12/4071 / ABP Ref. No. PL25K.241516, it rejected the recommendation of the reporting inspector to refuse permission and instead issued a temporary grant of permission to enable the effect of the development on the amenities of the area to be reviewed in five years' time having regard to the circumstances then prevailing. More particularly, the Board's Order stated that a temporary permission would *'facilitate an assessment of progress on (i) the development of the permitted service station on the M6 motorway near Athlone granted under reference number 25HA.0019 and (ii) the Council's delivery of its objective to build a link road through the subject site'*.

- 7.2.2. In anticipation of the expiration of the temporary approval previously issued, a further application (PA Ref. No. 18/6145) was lodged with the Planning Authority on 11th May, 2018 for the retention of the existing parking area. The decision on that application was also appealed to the Board under ABP Ref. No. ABP-302206-18 and presented a similar scenario to that previously assessed under ABP Ref. No. PL25K.241516. However, in the intervening period between the approval of ABP Ref. No. PL25K.241516 and the lodgement of ABP Ref. No. ABP-302206-18, the subject lands were rezoned from *'Residential'* to *Commercial'* in the Westmeath County Development Plan, 2014-2020 with the commercial zoning corresponding only to the landholding containing the M6 Service Centre and subject site (although it remained an objective of the Development Plan to build a link road through the site i.e. Objective O-KBN4: *'To improve the access to the existing enterprise and employment lands with a proposed link between the Tullamore Road and Clara Road, subject to archaeological and environmental assessment, and between the R446 and L-1223'*). In the assessment of ABP Ref. No. ABP-302206-18, the reporting inspector was of the opinion that the development site, when taken in conjunction with the use of the adjoining 'M6 Service Centre', was not of a sufficient scale to cater for the use and its associated parking area. However, it was suggested that a temporary use would be permissible pending the opening of the more appropriately located and scaled 'on-line' M6 Athlone Service Area further west along the motorway (as previously permitted under ABP Ref. No. 25HA.0019 as part

of the “M6 Athlone Service Area Scheme 2008” in the townlands of Fassagh, Glen and Killogeenaghan, Co. Westmeath). This recommendation was accepted by the Board and thus permission for the retention of the parking area was granted for a further temporary period of two years from the date of the order. Condition No. 3 of that decision expressly refers to the two-year duration of the grant of permission and states that the use of the site was to cease and the hard surfacing and parking area removed and the lands returned to grass on or before its expiration. The reason for this condition (and, by extension, part of the rationale for the temporary grant of permission) was to allow for ‘*a review of the development having regard to the circumstances then pertaining including the opening of the M6 Athlone Service Area*’.

- 7.2.3. The subject application has sought to retain the existing parking area permanently on the basis that there is no longer any objective to provide a link road through the site (as per the Westmeath County Development Plan, 2021-2027) and, more specifically, that there remains a demand for the development despite the opening of the ‘on-line’ M6 Athlone Service Area between Junctions 7 & 8 of the motorway on 13th September, 2019. In support of the foregoing, it has been submitted that the on-line service area has had no material impact in terms of parking demand at the subject site with visiting traffic being predominantly local or travelling cross-country between Tullamore & Mullingar. It is further stated that as the same provider operates both the neighbouring off-line ‘M6 Service Centre’ and the on-line ‘M6 Athlone Service Area’ that no concerns arise from a commercial perspective as both service stations can operate in tandem and attract sufficient traffic to be commercially sustainable. It has also been suggested that the subject parking facility is necessary otherwise there will likely be issues with indiscriminate parking both within the existing filling station and along the public road (with particular concerns raised in respect of HGVs).
- 7.2.4. At the time of writing, it would appear that the parking area proposed for retention has been in continuous use (with and without the benefit of planning permission) for at least 10 No. years having been approved on two different occasions. Furthermore, it is apparent that the circumstances of the site and the applicable policy considerations have changed over time, with particular reference to the land use zoning, the opening of the “M6 Athlone Service Area” and, most recently, the

omission of any road objective applicable to the site with the adoption of the Westmeath County Development Plan, 2021-2027. In this regard, it is notable that in tandem with the changing circumstances of the site (i.e. the change in the land use zoning from 'residential' to 'commercial' and the previously anticipated opening of the M6 Athlone Service Area), the initial grant of permission was for a period of 5 No. years whereas the most recent Board approval was only for a duration of 2 No. years (with that grant of permission having expired approximately 2 No. years ago). Therefore, given the prolonged use of the application site for parking purposes associated with the neighbouring service station and the policy provisions of the current Development Plan, it is understandable that the applicant has sought permission to retain the parking area indefinitely. However, while the planning history and previously authorised use of the site are legitimate considerations, the pertinent issue is whether the proposal is presently acceptable, taking into account the character and amenities of the area, and if it would now be conducive to the proper planning and sustainable development of the area.

- 7.2.5. In assessing the overall principle of the proposed development and its appropriateness at this location, it should be noted at the outset that the proposed development site is zoned '*Commercial*' in the Westmeath County Development Plan, 2021-2027 with the stated land zoning policy objective '*CPO 15.8: Provide for appropriately scaled commercial development that compliments the town centre*'. In this regard, I am mindful that the parking area under consideration is used in association with the adjacent service station and that use as a '*Fuel Filling Station*' and a '*Shop – Local*' are both '*Open for Consideration*' on commercially zoned lands as per Table 15.1: '*Land Use Zoning Matrix*' of the Development Plan. In accordance with Section 15.3 of the Plan, a use which is deemed '*Open for Consideration*' may be permitted provided it complies with the zoning objectives, standards and requirements set out in the County Development Plan and the proposal would not conflict with the permitted, existing or adjoining land-uses by reason of its nature and scale. Therefore, cognisance must be given to the potential impact of the proposed development on the residential amenity of neighbouring properties, with particular reference to existing and prospective housing to the north, east & west, and I propose to consider this matter later in my assessment.

- 7.2.6. With respect to the indicative link road shown in the previous Westmeath County Development Plan, 2014-2020 (Objective No. KBN4), the route for which extended through the development site, no such objective has been included in the current Westmeath County Development Plan, 2021-2027. Therefore, in the absence of any such requirement, there would appear to be no constraint to the development of the subject site for more permanent purposes.
- 7.2.7. Accordingly, having regard to the planning history of the site and the rationale for earlier temporary grants of permission, and noting that the current land use zoning and the omission of the indicative road link have served to address (in part) certain factors that had previously been identified as barriers to the permanent retention of the subject development, it remains necessary to consider the appropriateness of the submitted proposal having regard to the opening of the M6 Athlone Service Area (on the M6 Motorway near Athlone as permitted under ABP Ref. No. 25HA.0019).
- 7.2.8. The proposed development operates in conjunction with the neighbouring service station which includes a petrol filling station, a forecourt area, and an ancillary retail unit with a wide range of associated services including a deli counter, café area & toilets etc. (as well as the laundrette unit proposed for retention). It also provides dedicated parking for Heavy Goods Vehicles and allows for the overnight parking of trucks as evidenced by the Traffic Analysis Report submitted in response to the request for further information issued by the Planning Authority (notwithstanding that there is signage on site which prohibits all-day parking and refers to a maximum stay of 2-hours with clamping in operation). Within the grounds of appeal, it has been submitted that the filling station is open 24-hours / 7 days a week with the shop doors open from 05:30 to 23:00 hours (with a hatch service thereafter). The intimation would also appear to be that the parking area is similarly available for 24-hour usage. In effect, when considered in conjunction with the existing service station, the parking area proposed for retention provides a temporary off-line service situated c.500m north of Junction 6 on the M6 Motorway with access via the R389 (Tullamore) Regional Road. In a broader context, it is my opinion that the service station and parking area function as an off-line motorway service area.
- 7.2.9. From a review of the planning history of the site, it would appear that the service station originally approved under PA Ref. No. 104108 was intended to replace and expand on an older established fuel sales operation. More notably, the business

would seem to have been envisaged as serving the needs of the immediate locality along with passing traffic with Condition No. 2 of the grant of permission limiting the net retail sales space to 100m² thereby satisfying the requirements of the *'Retail Planning, Guidelines for Planning Authorities'* and avoiding the need for a sequential test (while the area planner raised concerns at the time as regards the inclusion of a food preparation & seating area, this was not considered to involve retail space and was deemed acceptable). The likelihood is that over time the range of services offered by the service station gradually expanded, however, with the incorporation of the subject site and its use to accommodate vehicular parking in excess of what would be considered typical of a local service station, with particular reference to the provision of overnight parking for HGVs and its usage as a truck / rest stop (with access to 24 hour / 7 day retail services), the broader use of the service station and the subject site has developed beyond what was permitted under PA Ref. No. 104108 and is more akin to that of an off-line motorway service area.

- 7.2.10. It is in the context of the foregoing that the proposal should be assessed. Both the *'Spatial Planning and National Roads, Guidelines for Planning Authorities'* and Objective CPO 16.39: *'Service Stations'* of the County Development Plan state that off-line service areas should not include facilities of a type that would generate short, local trips, a class of traffic that is inconsistent with the primary intended role for motorways and other national roads and associated junctions in catering for strategic long-distance inter-urban and inter-regional traffic. Conversely, local service stations unsuited to use as off-line service areas should not seek to act as a destination for strategic long-distance inter-urban and inter-regional traffic.
- 7.2.11. Since the temporary grant of permission issued under ABP Ref. No. ABP-302206-18, the on-line 'M6 Athlone Service Area' has opened approximately 22km further west along the motorway. In my opinion, this is an eminently more suitable location for the type of services offered at the subject site. That development has been purposely designed to include facilities that cater for the refuelling, refreshment and toilet needs of drivers and passengers. More specifically, it includes dedicated truck circulatory, parking and refuelling services set apart from other uses in addition to toilet and shower facilities. This service area is also situated away from nearby housing thereby avoiding any impact on residential amenity and is directly accessible from the motorway network.

- 7.2.12. While the subject application has sought to justify the retention of the parking area on the basis that it provides a service to passing traffic, including HGVs, and is commercially sustainable in tandem with the 'M6 Athlone Service Area', it is my opinion that, when taken in conjunction with the adjacent service station, its continued usage serves to accommodate a use / service which is more appropriately located elsewhere and is already provided at the existing on-line M6 service area. The subject proposal would appear to function as a destination in its own right for inter-urban / inter-regional traffic, particularly HGVs, travelling along the M6 motorway and within the surrounding area. Such traffic would be more appropriately served by the purpose-built and dedicated facilities provided at the M6 Athlone Service Area. Furthermore, the parking area proposed for retention is in excess of the limited needs of a service station with an ancillary retail use which is only intended to serve a local need without detriment to the town centre of Kilbeggan. In addition, the size, layout and usage of the existing parking area leaves little room for the manoeuvring of vehicles, especially for HGVs and trucks, and gives rise to conflicting traffic movements and haphazard parking practices as was observed during my site inspection. Notably, use of the existing parking area in practice does not correspond with the layout shown on either the 'existing' or 'pre-existing' site plans submitted with the planning application, although I would accept that the revisions to the parking and circulatory layout shown on the 'Existing Site Layout Plan' would alleviate some of the manoeuvring difficulties.
- 7.2.13. In my opinion, the proposed development serves to introduce unnecessary additional heavy traffic into a predominantly residential area of the village of Kilbeggan. Given the proximity of existing housing, with particular reference to that on the adjoining lands to the immediate north and noting that the neighbouring lands to the west of the application site are zoned for new residential development, I am satisfied that the retention of the parking area in question would be injurious to the residential amenity of surrounding housing by reason of increased noise, traffic, lighting and general disturbance.
- 7.2.14. Furthermore, I would concur with the Planning Authority that the retention of the parking area would not represent the most desirable use of these zoned and serviced lands and that their redevelopment for an alternative and more appropriate

purpose (either in isolation or in tandem with the adjoining commercially zoned lands) would likely be preferable.

- 7.2.15. With respect to the launderette unit proposed for retention, the installation of such services as part of commercial / retail development has gained popularity in recent years and is now somewhat commonplace. In this regard, given the limited scale and nature of the proposal, I am satisfied that it will be complementary to the established retail use of the service station.

7.3. Impact on Residential Amenity:

- 7.3.1. The existing parking area functions as part of the adjacent service station and is '*Open for Consideration*' on commercially zoned lands as per the land use zoning matrix set out in the Development Plan. Moreover, the development is permissible provided it does not conflict with permitted, existing or adjoining land-uses by reason of its nature and scale. In effect, cognisance must be given to the potential for the proposed development to have an adverse impact on the residential amenity of neighbouring properties.
- 7.3.2. Given the nature and usage of the parking area, with particular reference to the hours of operation and its use for the overnight parking of Heavy Goods Vehicles, its relationship with the neighbouring service station, and the proximity of existing dwellings to the north and east as well as any future housing that may be developed on the adjacent zoned lands to the immediate west, concerns arise as regards the need to preserve and protect the residential amenity of the occupants of those properties. In this regard, consideration needs to be given to the potential impacts attributable to the increased traffic movements, lighting, noise levels, and general disturbance arising from the operation of the development.
- 7.3.3. In response to a request for further information issued by the Planning Authority which sought the submission of proposals with a view to mitigating any potential impact on the residential amenity of neighbouring properties, the applicant submitted a 'Noise Assessment Report' prepared by Traynor Environmental Ltd. This report details that baseline noise monitoring was undertaken over a four-day period (20th July – 24th July, 2021) at two locations deemed to be representative of neighbouring housing i.e. NM1 proximate to the northern site boundary and NM2 alongside the eastern site boundary / adjacent to the public road. Measurements were conducted

on a continuous basis (the 30-minute average noise level was measured on site) with the daytime period ranging from 07:00 – 23:00 hours and the night-time period ranging from 23:00 - 07:00 hours. By way of summation, it is stated that the dominant noise sources at each location during both the daytime and night-time baseline monitoring was road traffic passing along the M6 Motorway and / or the adjacent Tullamore Road. Other noise sources at both locations were made up of various activities within the parking areas, including the arrival and departure of HGVs and the running of engines. Section 6.0 of the report proceeds to detail the results of predictive noise modelling carried out for 10 No. 'Noise Sensitive Locations' in the surrounding area in scenarios with and without the parking area & laundrette unit in operation. This modelling concluded that the noise level associated with the development to be retained, in the absence of noise mitigation, would be negligible in both the day-time and night-time. Further to the assessment of the potential ingress of noise at the closest residential properties, the report has also submitted that noise from the operation of the parking area will be within the acceptable design range criteria.

7.3.4. While I would acknowledge the contents of the noise impact assessment, I would have a number of reservations as regards its findings. For example, the baseline noise monitoring was carried out with the development in place and thus is not representative of the 'normal' noise environment in the absence of the parking area. By extension, I am not satisfied that the noise prediction modelling serves to verify the results of the baseline monitoring. There is also a lack of detail as regards the pattern of usage of the parking area during the monitoring periods, including the number and frequency of vehicle types (with particular reference to HGVs), and the occurrence of any tonal or impulsive noise etc. attributable to sources such as refrigeration / air handling units or reserving signals etc. Similarly, it is unclear as to whether any cognisance was taken of such noise sources in the prediction modelling.

7.3.5. Given the 24-hour operation of the parking area and its use as a rest-stop for the overnight parking of HGVs, in my opinion, the arrival, manoeuvring and departure of vehicles late at night or during the early morning is likely to result in some level of disturbance by reason of noise to the amenity of neighbouring residents. This would likely be compounded by noise attributable to any refrigeration / air handling units,

reserving signals, and general activity on site e.g. the headlights of manoeuvring vehicles.

- 7.3.6. At this point, it is of relevance to note that although the 'Traffic Analysis Report' (TTRSA) submitted by way of further information has asserted that there has been no material change in trip generation associated with the development since the opening of the on-line M6 Service Centre, there would appear to have been an increase in both the volume of HGV traffic visiting the site and the demand for the overnight parking of HGVs between 2019 and 2021. While I would caution against placing too much emphasis on the results of a single overnight, the number of HGVs availing of overnight parking at the site would appear to have doubled between 2019 and 2021 (although this only equates to 3-4 No. additional vehicles).
- 7.3.7. Having regard to the land use zoning, the nature and usage of the parking area proposed for retention, the surrounding pattern of development and the proximity of existing housing, with particular reference to that on the adjoining lands to the immediate north, and noting that the neighbouring lands to the west are also zoned for new residential development, I am not satisfied that the retention of the parking area in question would be conducive to the preservation and protection of the residential amenity of the occupants of existing and future dwellings in the immediate surrounds given the potential for increased noise, traffic, lighting and general disturbance.

7.4. Appropriate Assessment:

- 7.4.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

8.1. Having regard to the foregoing I recommend that a split decision be issued in respect of the proposed development as follows:

- **REFUSE** permission for the retention of existing parking area for cars and heavy goods vehicles adjacent to the M6 Service Station, including all associated ancillary site services, based on the reasons and considerations marked (1) under.

Reasons and Considerations (1)

1. Having regard to the nature, scale, use and siting of the parking area proposed for retention, the absence of a satisfactory justification for the provision of such services at this location, and the proximity of nearby housing, it is considered that the proposed retention of the parking area on the site would seriously injure the residential amenities and depreciate the value of neighbouring properties by reason of noise, traffic (including Heavy Goods Vehicles), lighting and general disturbance.. The development proposed to be retained would, therefore, be contrary to the proper planning and sustainable development of the area.
- **GRANT** permission for the retention of launderette unit (9.5 sq.m.) in accordance with the said plans and particulars based on the reasons and considerations marked (2) under and subject to the conditions set out below.

Reasons and Considerations (2)

Having regard to the site location on lands zoned as 'Commercial', the policies of the planning authority as set out in the Westmeath County Development Plan, 2021-2027 for the area generally, the planning history and use of the site, the pattern of development in the area, and the nature and scale of the development to be retained, including its relationship with the adjacent service station, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an appropriate form of development at this location, would not have an adverse impact on the vitality and viability of the town centre, would not seriously injure

the amenities or the character of the area, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 13th day of September, 2021, 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 within three months of the date of this order and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

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

Reason: In the interest of public health.

3. 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 within three months of the date of this order 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.

Robert Speer
Planning Inspector

7th November, 2022