



An
Bord
Pleanála

Inspector's Report ABP-313495-22.

Development

Alterations to the existing service station retail unit to provide for a drive-thru restaurant, additional signage, roof plant and reconfiguration of the service station forecourt to include revised vehicular and pedestrian circulation and all ancillary works.

Location

Maxol Service Station, Dublin Road, Castletroy, Limerick.

Planning Authority

Limerick City & County Council.

Planning Authority Reg. Ref.

21/1347.

Applicant(s)

Maxol Ltd.

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party.

Appellant(s)

Maxol Ltd.

Observer(s)

None.

Date of Site Inspection

03/10/2022.

Inspector

A. Considine.

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	6
3.1. Decision	6
3.2. Planning Authority Reports	7
4.0 Planning History.....	9
5.0 Policy and Context.....	10
5.1. Development Plan.....	10
5.2. Natural Heritage Designations	11
5.3. EIA Screening	11
6.0 The Appeal	13
6.1. Grounds of Appeal	13
6.2. Planning Authority Response	15
6.3. Observations	15
7.0 Planning Assessment	16
7.1. Introduction	16
7.2. Principle of the development.....	16
7.3. Roads & Traffic	18
7.4. Water Services & Flood Risk.....	21
7.5. Other Issues.....	23
8.0 Appropriate Assessment.....	24
8.1. Introduction	24
8.2. Screening for Appropriate Assessment.....	25
8.3. In Combination / Cumulative Effects	25

8.4. Conclusion on Stage 1 Screening:..... 25

9.0 Recommendation..... 26

10.0 Reasons and Considerations 26

11.0 Conditions 27

1.0 Site Location and Description

- 1.1. The appeal site is located approximately 4km to the east of Limerick City Centre on the Dublin Road in the Castletroy area of the City. The site is bounded to the north by the Dublin Road, to the east by undeveloped lands – although planning permission has been granted by ABP for the construction of 200 houses on the site. The site is bound to the south by the Castletroy Town Centre which includes a shopping centre with a variety of stores including restaurants and coffee shops. The centre is also served by a large surface car park area. To the west of the site, there is a dwelling while a hotel and Lidl lie to the north of the Dublin Road.
- 1.2. The subject site is occupied by a petrol service station which includes a Centra shop and deli. The site also includes a car wash facility and 3 small retail outlets including a pharmacy, butchers and a stationary store. The site has a stated area of 0.84ha.

2.0 Proposed Development

- 2.1. Permission is sought for:
 - alterations to the existing one and two storey service station retail unit with deli, ancillary off-licence, storage and offices comprising a single storey extension (45.5sqm) and internal alterations to 79sqm of existing floor area to provide for a drive-thru restaurant (65sqm) resulting in the reduction in the existing seating area, increased ancillary storage and office space;
 - roof plant;
 - additional signage comprising 4 no. internally illuminated signs on the front and east side facades (0.58sqm, 0.99sqm, 1.13sqm, 2.04sqm) and 1 no. illuminated sign inside the shopfront (1.15sqm).

Total gross floor area of the service station retail unit, drive thru and ancillary uses to be 992sqm.

The proposed development will also consist of the reconfiguration of the service station forecourt and site including:

- removal of totem sign, forecourt canopy and 6 no. pump islands, parcel kiosk and solid fuel store;
- relocation of AC plant and enclosure, control room, water tank, container, gas tank and enclosure, car wash bays, lance wash bay, and service bays;
- provision of 4 no. pump islands and a new forecourt canopy with integrated public lighting and internally illuminated signage,
- 22 no. bicycle parking spaces (10 no. covered), 1 no. coach and 2 no. HGV parking spaces, 4 no. covered EV car charging points, 20 no. additional car parking spaces (88 no. total),
- external seating and 11 no. free standing signs (1.7sqm, 1.42sqm and 2.25sqm) including 8 no. internally illuminated signs (2 no. x 0.68sqm double sided, 2 no. x 1.39sqm, 2.67sqm, 3.59sqm, 6.46sqm, and 14sqm double sided replacement totem);
- reconfiguration of existing vents, fills and hardstanding;
- revised vehicular and pedestrian circulation, including provision of a drive-thru lane, boundary treatments, hard and soft landscaping, changes to levels and all site development works above and below ground.
- Retention permission is sought for a 7.6sqm area currently in use as an electrical room

All at Maxol Service Station, Dublin Road, Castletroy, Limerick.

2.2. The application included a number of supporting documents including as follows:

- Plans, particulars and completed planning application form,
- Planning Report / Cover Letter
- Traffic & Transportation Assessment
- Engineering Report and Drawings
- Odour Impact Assessment
- Noise Impact Assessment

2.2.1. Following receipt of the response to the FI request, the applicant submitted the following additional reports:

- Response to the FI request
- Engineering Planning Report
- Traffic & Transportation Assessment
- Road Safety Audit
- Lighting Impact Assessment Report
- Noise Impact Assessment

The submission does not propose the omission of the drive-thru and includes proposals for the relocation of the car wash from the eastern boundary to the southern boundary.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for the proposed development for the following two stated reasons:

1. Having regard to the location of the existing filling station on a highly trafficked route, the nature of development and concentration of retail activities in the vicinity of the site including takeaway facilities and given the car dependent nature of the use, it is considered that the proposed drive thru restaurant is contrary to the Objective 11.6.2.2 of the Draft Limerick Development Plan 2022 in relation to an excessive concentration of takeaway type developments in an area and would be contrary to the proper planning and sustainable development of the area as a whole.
2. The proposed development as outlined is considered to give priority to car infrastructure over more sustainable transport methods and as such would be contrary to National Policy Objective 27 which is to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed

developments, and integrating physical activity facilities for all ages and would thereby be contrary to National Planning Policy and sustainable development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, the planning history of the site and wider area and the Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening section.

The Planning Report notes that the proposed development of the drive thru restaurant would be an additional offering as there is no permission granted for a takeaway facility or restaurant at this petrol station. The report also notes the restriction in terms of right turning movements into the site due to condition 4 of PA ref: 15/1028. This condition relates to the width of the carriageway and the extension of the central median to restrict right turning movements exiting the development.

The report further notes the incremental additions to development at this site and concludes that the proposed fast-food takeaway and restaurant is overdevelopment. The presence of an existing drive-thru is noted to the south of the site and within the proposed District Centre. It is considered that the proposed development does not demonstrate compliance with the Objective ECON 03 District Centre which seeks to promote improved pedestrian, accessibility, permeability and safety within any proposed development. A mobility management plan would highlight that cars are the primary mode of travel and significant trip generation would result.

As the primary use of the site was originally as a petrol station, this is considered the primary retail offering. Applications for retail uses not associated with motor fuel sales will not be considered unless a need for the outlet is demonstrated. It is concluded that the area is well served by takeaways. The report also considers that there is a proliferation of signage, including internally lit signs, proposed.

Further information is required in relation to the issues raised above.

Following receipt of the response to the FI request, the Planning Officer noted that the applicant has not omitted the proposed drive-thru element of the proposed

development. The POs report submits that the proposed drive through is an additional offering and that a grant of planning permission would set a very undesirable precedent. The report also concludes that the existing access arrangements is very problematic / congested an inefficient. While a re-organisation of the layout is welcome, an increase in car usage is not.

Noting that there is already a drive-thru within the district centre, with at least 4 fast food outlets at the Kilmurray Roundabout within 160m of the site, a grant of permission would be contrary to the policies of the City Development Plan and National Policy. The report concludes recommending refusal of permission. This Planning Report formed the basis of the Planning Authoritys decision to refuse permission.

3.2.2. **Other Technical Reports**

Fire Officer: No objections subject to compliance with Building Control regulations.

Roads, Traffic & Cleansing Services: Further information required in relation to a number of roads and traffic issues including, driver and pedestrian movement within the site, angle of pumps, access/exit and HGV parking. A Road Safety Audit for the entire site is required and the revised site layout plan shall include materials to be used.

A lighting design plan and details of SuDS are required to be submitted.

Following submission of the response to the FI request, the Section required that conditions be included in any grant of planning permission including the submission of a Construction Management and Delivery Plan for the construction of the development.

3.2.3. **Prescribed Bodies**

Irish Water: No Objection.

3.2.4. **Third Party Submissions**

None.

4.0 Planning History

4.1. There have been a number of applications for development at the subject site as follows:

PA ref: 20/107: Permission sought for the reconfiguration of the service station including relocation of fuel pumps, new canopy, public lighting and signage, revision to kerbs and internal vehicular circulation etc.

Further information was sought but not responded to, so the application was deemed withdrawn.

PA ref: 15/1028: Permission granted for the demolition of existing toilet to side of supermarket and replacing existing insulated cladding to front façade, extension and alterations to existing supermarket and deli area to include internal seating area, toilets, external seating area and remedial works to forecourt around extension.

ABP ref: ABP-13.243406 (PA ref: 14/259): Permission granted on appeal for the decommissioning of existing underground tanks and installation of new tanks.

ABP ref: ABP-13.242049 (PA ref: 13/169): Permission granted on appeal for the change of use of land from cabin and caravan sales and storage area to retail outlets, ancillary site works and 36 additional parking spaces. (Site occupies the south eastern area of the current appeal site.)

PA ref: P12/984: Permission granted for revised glazed porch, construction of ESB meter room etc, additional store area to the rear at first floor level and minor alterations to external elevations.

PA ref: P11/133: Permission granted for the construction of a 2-storey extension to rear a single storey extension to front of building etc.

There also have been a number of applications for smaller developments at the site.

Pre-Planning:

The Planning Authority report notes that a pre-planning meeting was held where concerns were raised by the PA in relation to the expansion plans and the provision of a car-based drive thru.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The Board will note that the application the subject of this appeal was submitted under the previous Limerick City Development Plan 2010-2016 as extended, and the Castletroy Local Area Plan 2019 where the site was zoned retail / commercial / community and retail respectively. The proposed restaurant / fast food / takeaway use is open for consideration on such zoned lands.
- 5.1.2. The current applicable Limerick City & County Council Development Plan 2022-2028 is now the relevant policy document pertaining to the subject site. This Plan was adopted by the Elected Members of Limerick City & County Council on the 17th of June 2022 and the Plan came into effect on the 29th of July 2022, six weeks after the date of adoption.
- 5.1.3. The subject site is zoned as District Centre in the current CDP and is identified as Tier 2 Level 2 centre in terms of the Limerick Shannon Metropolitan Area Retail Hierarchy. The District Centre zoning objective and purpose is noted as follows:

Objective: To provide for a mixture of retail, residential, commercial, civic and other uses.'

Purpose: To facilitate a district level centre consisting of a compatible mix of uses complementary to the City Centre, having regard to the principles of compact growth, consolidation and densification. A diversity of uses for both day and evening may be considered. These areas require high levels of accessibility, including pedestrian, cyclists and public transport (where feasible).

Retail proposals which would undermine the vitality and viability of Limerick City Centre will not be permitted. The sequential approach to retail development set out in the Retail Planning Guidelines for Planning Authorities, 2012 will be strictly enforced. Any development shall comply with the Retail Strategy for the Limerick Shannon Metropolitan Area and County Limerick.

- 5.1.4. In the context of the proposed development, the Board will note that restaurants / cafés and takeaway are identified as being generally permitted on lands zoned District Centre.
- 5.1.5. Chapter 11 of the Plan deals with Development Management Standards. Section 11.6.2.2 relates to Takeaways/Restaurants/Kiosk/Popup (Container)Trading Units and notes that such premises are often of concern to people who live close by and indeed those living in the wider area, when noise and disturbance is generated by increased pedestrian and vehicular traffic drawn into an area. In order to maintain an appropriate mix of uses and protect night-time amenities in a particular area and to promote a healthier and more active lifestyle, it is an objective of Limerick City and County Council to prevent an excessive concentration of takeaways and to ensure that the intensity of any proposed takeaway is in keeping with both the scale of the building and the pattern of development in the area.

5.2. Natural Heritage Designations

- 5.2.1. The site is an urban brownfield site and is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon SAC (site code 002165) which is located approx. 1.3km to the north of the site, and the River Shannon and River Fergus Estuaries SPA (site code 004077) located approx. 5km to the west of the site. Slievefeilm to Silvermines Mountains SPA (site code: 004165) lies approximately 10km to the east of the site.

5.3. EIA Screening

- 5.3.1. The application was submitted to the Board after the 1st September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.
- 5.3.2. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere.

(In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

- 5.3.3. The proposed development comprises the construction of an extension to an existing service station to facilitate the provision of a drive-thru restaurant and the reconfiguration of the existing service station forecourt at the Maxol Service Station, Dublin Road, Castletroy, Limerick. The site is located in a built-up area and within an established service station which includes a number of retail units and as such, I consider that the area is more akin to ‘other parts of a built-up area’. The site extends to 0.84ha. In this regard, I am satisfied that the site is below the threshold of 2 ha for a ‘business district’ location, and substantially below the 10ha threshold for ‘other parts of a built-up area’. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.
- 5.3.4. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.
- 5.3.1. Having regard to:
- (a) the nature and scale of the development,
 - (b) the built nature and urban location of the site,
 - (c) the zoning afforded to the site and the availability of public services and infrastructure,
 - (d) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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

6.1.1. This is a first-party appeal, prepared by Tom Phillips + Associates Planning Consultants, against the decision of the Planning Authority to refuse planning permission for the development. The submission sets out the context of the planning application seeking to address:

- Current access and egress arrangements -
One of the key purposes of the proposed new site layout is to address the vehicular circulation issues that arose on site as a result of recent changes to the adjoining public road, and the construction of a median in 2019, paid for by Maxol, which extends from the Kilmurray Roundabout to a point to the east of the subject site. All vehicles leaving the subject appeal site must now travel westwards.
The alterations to the R445 have had a negative impact on the circulation of vehicles within the site and the proposed development includes the redesign of the internal circulation, particularly around the proposed rearranged pumps.
- Planning gain associated with the proposed development -
The design of the proposed development facilitates future improvements to the adjoining public road by altering the site boundary as required by the PA. It was considered that if the site size was to be reduced (to facilitate the setting back of the boundary) then the proposed layout should reflect all future planned upgrades across the site. The proposed development meets the long-term needs of the applicant and occupants of the site.
- Sites unique planning history compared to conventional petrol filling stations -
The subject site is not a standard service station and is a long-established commercial site with the retail use introduced in the 1980s and the petrol

station in the late 1990s.

The existing retail unit attached to the petrol station has a net retail sales area of 431m² which excludes the 85m² seating area. The Retail Guidelines, which came into effect after the subject site was established, would have restricted the retail unit to 100m² net retail area.

The proposed development needs to be considered in the context of the sites' evolution, mix of uses and zoning.

The proposed additional drive-thru restaurant use has been clearly identified on the statutory notices and appropriate assessments, demonstrating that the use can be accommodated on the site, have been carried out and submitted.

This does not represent overdevelopment of the site.

6.1.2. In terms of the grounds of appeal, these are summarised as follows:

- With regard to reason for refusal no. 1, it is submitted that
 - The site is zoned for retail in the Castletroy LAP and District Centre in the CDP and the existing retail unit attached to the station is significantly larger than would normally be permissible under the current Retail Guidelines.
 - The site is an appropriate location for the proposed development within an established commercial centre.
 - In terms of the reference to the heavily trafficked route, the site forms part of a wider commercial centre and is not an isolated petrol station.
 - It is not accepted that the proposal would be unacceptable for reasons relating to traffic and reference is made to the Traffic and Transportation Assessments submitted.
 - The traffic survey and queuing data from existing drive thrus were considered to representative of the proposed development and the analysis provided was robust.
 - In terms of compliance with Objective 11.6.2.2, it is submitted that in the absence of adjoining houses to the east, it is not considered that the scheme will have an impact on the environment of the local area.

- The is a mix of restaurants and more traditional takeaways in the locality as would be expected in a District Centre including a drive-thru to the south within the shopping centre lands, bar and restaurant in the hotel to the north and a selection of approximately 7 no. restaurant and / or take-aways to the west of Kilmurray Roundabout. The proposed development will not result in a concentration of restaurants or take-aways in the area.
 - The proposed development is consistent with the current and proposed zoning.
- Reason for refusal no 2;
- The proposed development includes significant improvements to the site layout that will rebalance circulation in favour of pedestrians and cyclists.
 - The scheme facilitates cycle lanes and bus lanes on the adjacent R445 and contributes to the realisation National Policy Objective 27.
 - The Road Safety Audit concluded that the proposed development was acceptable.
 - The RSA process allows for recommended measures to be accepted, or not, and alternative proposals to be identified which the Auditory can accept, or not. In this case, the Auditor accepted the alternative proposal put forwards to address the hazard raised in the RSA.
 - The proposed development is entirely consistent with National Policy Objective 27.

It is requested that the Board grant permission for the proposed development.

6.2. Planning Authority Response

None.

6.3. Observations

None.

7.0 Planning Assessment

7.1. Introduction

- 7.1.1. The first party has appealed against the decision of the Planning Authority to refuse planning permission for the proposed development which comprises the construction of an extension to an existing service station to facilitate the provision of a drive-thru restaurant and the reconfiguration of the existing service station forecourt at the Maxol Service Station, Dublin Road, Castletroy, Limerick.
- 7.1.2. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:
1. Principle of the development
 2. Roads & Traffic Issues
 3. Water Services & Flood Risk
 4. Other Issues

7.2. Principle of the development

- 7.2.1. The proposed development essentially includes 4 elements as follows:
- A. Alterations to the existing retail unit to provide for a drive-thru restaurant,
 - B. Additional signage and roof plant,
 - C. Reconfiguration of the service station forecourt including the number of fuel pumps, signs, parking spaces, vehicular and pedestrian circulation,
and
 - D. Retention for the electrical room (7.6m²).

- 7.2.2. In terms of the principle of the proposed development, the Board will note that the site lies approximately 4.5km to the east of Limerick City Centre and to the east of the Kilmurray Roundabout in Castletroy. The site fronts onto the Dublin Road and is

located immediately adjacent to the Castletroy Shopping Centre (which is located to the south). The site comprises a long-standing commercial space which includes the fuel station and large associated Centra store, as well as three smaller retail units.

- 7.2.3. In terms of the zoning objective afforded to the site, the Board will note that the application the subject of this appeal was submitted under the previous Limerick City Development Plan 2010-2016 as extended, and the Castletroy Local Area Plan 2019 where the site was zoned retail / commercial / community and retail respectively. The proposed restaurant / fast food / takeaway use is open for consideration on such zoned lands. The current applicable Limerick City & County Council Development Plan 2022-2028 is the relevant policy document pertaining to the subject site. This Plan was adopted by the Elected Members of Limerick City & County Council on the 17th of June 2022 and the Plan came into effect on the 29th of July 2022, six weeks after the date of adoption.
- 7.2.4. The subject site is zoned as District Centre in the current CDP and is identified as Tier 2 Level 2 centre in terms of the Limerick Shannon Metropolitan Area Retail Hierarchy. The District Centre zoning objective seeks to provide for a mixture of retail, residential, commercial, civic and other uses. In the context of the proposed development, the Board will note that restaurants / cafés and takeaway are identified as being generally permitted on lands zoned District Centre.
- 7.2.5. Chapter 11 of the Plan deals with Development Management Standards and Section 11.6.2.2 relates to Takeaways/Restaurants noting that such premises are often of concern to people who live close by and indeed those living in the wider area, when noise and disturbance is generated by increased pedestrian and vehicular traffic drawn into an area. It is an objective of Limerick City and County Council to prevent an excessive concentration of takeaways and to ensure that the intensity of any proposed takeaway is in keeping with both the scale of the building and the pattern of development in the area.
- 7.2.6. In this context, the Board will note that while the Centra shop on the site has a deli counter, there is no fast-food outlet currently present in the immediate site. The above objective requires the control of such uses subject to a number of criteria which includes a consideration of the number and frequency of such facilities within 1km of the proposed development. Within the current identified Castletroy District

Centre, the subject site lies almost centrally in the context of the Kilmurray Roundabout. The main retail / shopping area lies to the south where the Castletroy Shopping Centre is located. This Centre advertises 8 food outlets, including McDonalds which has a drive-thru facility, located approximately 400m to the south of the subject site. To the west of the Kilmurray Roundabout, approximately 200m to the west of the subject site, there are a number of food outlets which include a variety of offerings including Chinese food, Indian food, Asian food and Pizza as well as more traditional fast-food. There are no drive-thru facilities in this area of the District Centre. I would also note that there is no secondary school which would be impacted by the development in the immediate vicinity of the site.

- 7.2.7. In principle, I am generally satisfied that the proposed development in this regard is acceptable, subject to all other planning considerations including issues relating to roads and traffic, and other considerations which I will address further below.

7.3. Roads & Traffic

- 7.3.1. The Board will note that the site is accessed off the Dublin Road, with two access points present. The site lies approximately 200m to the east of the Kilmurray Roundabout and the Dublin Road to the north of the site includes a central median which prevents right turn access to the site at the eastern entrance. Both access / egress points facility a left turn only when leaving the site, and all vehicles must turn towards the Kilmurray Roundabout. The site includes a parking area for 58 cars which serves the existing service station, shop / deli and retail stores present on the site.
- 7.3.2. The Board will note that Limerick City & County Council have road improvement plans for the R445 Kilmurray Road which includes widening of the Dublin Road adjacent to the site to include a new bus lane and cycle way in both directions. The existing access points to the subject site are to be retained as part of the proposed road improvements plans. The current application seeks to provide a right turn lane to the western entrance and a new dwarf wall will be constructed within the site and set back 10m from the existing central median on the Dublin Road, to facilitate the future LCCC road improvements.

7.3.3. I note the initial concerns raised by the PAs Roads section in terms of the proposed development and have had regard to the Traffic and Transportation Assessment and the Road Safety Audit, both dated March 2022, which seek to address the concerns raised. The final Roads report recommends a number of conditions be attached to a grant of planning permission, including the submission of a Construction Management and Delivery Plan for the development. The CMP is also required to include a site-specific traffic management plan, which I consider a reasonable request. While I acknowledge the Planning Officers concerns in terms of the proposed drive thru restaurant in principle, it would appear to me that the roads and traffic concerns raised have been addressed to the satisfaction of the Roads section of the PA. I would also note the proposal to address the internal circulation issues within the site, which are considered to be positive.

7.3.4. In terms of the potential impact associated with the proposed new drive thru restaurant element on the site, the Board will note that the applicants Engineers confirm that the drive-thru will be associated with a fast-food provider. As part of the assessment, the TTA used specific traffic survey information from two similar drive thru establishments within existing Maxol sites – one in Kildare and one in Dublin. The trip rates were calculated based on the GFA of each restaurant with the following estimated AM, IP and PM peak hour traffic (PCUs) for the Castletroy drive thru, calculated using Trip rates from Worst Case Existing Maxol sites / TRICS:

AM Peak Hour	IP Peak Hour	PM Peak Hour
11	19	23

In the context of the percentage increase to existing traffic at both junctions to the site, the TTA advises that the total increase amounts to 0.4%, with the drive thru generating 107 trips per day. In the context of the total existing development traffic, the PM hour is estimated to a 5.7% increase. In terms of the potential impact of the proposed development on the existing road network, I am satisfied that adequate capacity exists to accommodate the development.

7.3.5. In terms of the western entrance, which will include the queuing lane on the R445, Section 6.2 of the TTA includes analysis which predicts that the junction, by Design Year 2038 will be operating well within the design threshold with the drive-thru in

operation. Queuing on the R445 is also considered to be negligible with a maximum queue length predicted of 0.5 PCU in the 2038 peak times. Queuing within the site for the Drive-thru restaurant is also considered in the TTA and the proposed layout for the development provides 41m of road. This will accommodate approximately 7 cars queuing. In the context of similar existing developments, it is considered that this is sufficient and surpasses the maximum surveyed queue length of 25m.

7.3.6. I also note the Road Safety Audit, prepared by CST Group Chartered Consulting Engineers which identified 4 issues, including a general problem relating to the rearranged forecourt and the ability to pass through the forecourt from the west to access the main car park to the east of the site. While a one-way system is recommended by the Audit team, it is noted that this cannot operate due to the configuration of the accesses, the central median and the existing buildings and retail operators. In response to this issue however, an amended site plan was presented with proposals to better inform and guide drivers approaching the forecourt. In terms of the other three issues raised in the RSA, I am generally satisfied that the applicants Engineers have adequately addressed same. I note no objection from the PAs Road section in this regard and consider this an appropriate response to the issue.

7.3.7. In the context of the wider site layout and having regard to the PAs second reason for refusal which cites non-compliance with National Policy Objective (NPO) 27 as detailed in the National Planning Framework, I would agree with the Planning Authority that the current internal road and parking layout is car-dominated, is not conducive to pedestrian safety and would be inconsistent with the provisions of the Design Manual for Roads and Streets guidelines. The established uses of the subject site – being primarily a fuel service station, is car centric. However, I would agree that the proposed amendments to the internal layout of the site will improve the permeability through the site for more vulnerable clients, particularly with the proposed pedestrian and cycle facilities proposed. NPO 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.

7.3.8. In terms of the PAs second reason for refusal, I would accept that the proposed use promotes the use of the car. The proposed development might therefore be

considered to enhance the car dominated nature of the site and is more likely to attract car-based trips, contrary to the thrust of National Policy Objective 27. However, having regard to the location of the subject site within the Castletroy District Centre zoned lands, and within an established commercial site, I consider that the proposed drive-thru restaurant development might reasonably be considered acceptable in this instance.

- 7.3.9. Having regard to the information available to me, and notwithstanding the car-centric nature of the current uses at the subject site, together with the proposed drive-thru use, due to the proposed changes to the internal layout of the site, I am generally satisfied that if permitted as proposed, the development can be accommodated, would not endanger public safety by reason of traffic hazard, would not cause an obstruction to pedestrians, cyclists and other vulnerable road users, and would not therefore be contrary to the proper planning and sustainable development of the area.

7.4. Water Services & Flood Risk

- 7.4.1. In terms of water services, the Board will note that the applicant submitted an Engineering Planning Report, prepared by Punch Consulting Engineers, in support of the proposed development. This report sought to address how the development will be catered for in terms of water and drainage infrastructure and was updated following a request for further information.
- 7.4.2. The Board will note that Irish Water raised no objections to the proposed development.

Storm Water Drainage:

- 7.4.3. The report notes that the existing site is currently drained through a network of road gulleys, channel drains and manholes. There is an existing 1200mm diameter surface water drain which runs through the site from the southern end through to the north and to the Dublin Road.
- 7.4.4. In terms of surface water management, the report sets out the details of a proposed new surface water sewer network which is to be provided for the site and which will be entirely separate from the foul water sewer network. It is further proposed that surface water will be attenuated and restricted on-site, prior to connecting to the

existing drain on the Dublin Road. The attenuation tank will have a capacity of 73m³ and will be located under the car park. As per SuDS proposals, a flow control device is proposed to restrict the discharge flow to 2l/s and a petrol interceptor will be included as part of the system. It is further noted that a water recycling system for the proposed car wash area will be provided which will significantly reduce the quantity of water being used for this function. The plans also propose to provide additional landscaping areas where surface water landing in the area can drain to ground. It is noted that permeable paving nor rainwater harvesting have not been chosen as a proposed SuDS measure

- 7.4.5. In terms of the proposals before the Board, I note that the PAs Roads Senior Executive Technician noted that the proposed grass areas alone are not an acceptable way to address SuDS. The final report requires that a revised surface water disposal layout plan for the entire site be submitted for agreement within one month of grant of permission issuing. Having regard to the full details available to me, I would agree with the position of the Planning Authority and would recommend that the matter can be appropriately addressed by way of condition of a grant of planning permission.

Foul Water Drainage:

- 7.4.6. The report submits that all foul water generated within the proposed development will discharge to the existing foul sewer to the north of the site and which currently runs along the Dublin Road.
- 7.4.7. The Board will note that a Pre-Connection Enquiry application was submitted to Irish Water to confirm capacity in the receiving network. I note no objection to the development in terms of the proposed connections to the public services.

Potable Water:

- 7.4.8. The report notes that the existing watermain which serves the subject site is also located on the Dublin Road to the north of the site. It is proposed to connect to the existing watermain.
- 7.4.9. The Board will note that a Pre-Connection Enquiry application was submitted to Irish Water and having regard to the nominal size of the proposed extension, I note no objection to the development in terms of the proposed connections to the public services.

Flooding:

- 7.4.10. A site-specific Flood Risk Assessment was prepared by Punch Consulting Engineers for the subject site and was submitted with the application. The subject site is not located within an area which is at risk of coastal, fluvial or pluvial flooding events. The report notes that there is no historical evidence of flooding in the area of the site.
- 7.4.11. With regard to the flood risk assessments, the FRA notes that the proposed development is at low risk of flooding and the proposed development is deemed appropriate for the site. In this regard, I note the brownfield nature of the site, together with the proposed SUDs measures. It is concluded that as the location of the site within a Flood Zone C, the development is considered appropriate, and I would accept that a Stage 3 Risk Assessment is not applicable in this instance.
- 7.4.12. I have consulted the available OPW flood maps for the area of the subject site, and I note that they do not indicate that flooding has occurred on the site. Overall, I am generally satisfied that the proposed development is not identified as a vulnerable use with regard to flood risk, and as such, the proposed development can be considered appropriate at this location of Limerick City in the context of flood risk.

Conclusion

- 7.4.13. The Board will note the initial concerns raised by the Roads, Traffic and Cleansing / Central Services section of Limerick City & County Council in terms of surface water disposal and other details relating to the proposed SUDs measures. I am satisfied that the proposed development can be considered acceptable in terms of water services subject to the inclusion of conditions as requested in the report by the Roads, Traffic and Cleansing / Central Services section of Limerick City & County Council.

7.5. Other Issues

7.5.1. Visual Impacts

Having regard to the nominal scale of the works proposed, I am satisfied that there are no issues relating to visual impacts arising.

7.5.2. **Development Contribution**

The subject development is liable to pay development contribution under Section 48 of the Planning and Development Act 2000, as amended. A condition to this effect should be included in any grant of planning permission.

8.0 **Appropriate Assessment**

8.1. **Introduction**

- 8.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.
- 8.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. The applicant did not submit a Natura Impact Statement with the application but did include a paragraph on Appropriate Assessment Screening as part of the Planning Report. The applicant concludes that there is no direct pathway to any identified Natura 2000 sites identified within 15km of the site and that a Stage 2 AA is not required.
- 8.1.3. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.

Consultations

- 8.1.4. With regard to consultations, the Board will note that no matters relating to AA were raised by any party to the appeal.

8.2. Screening for Appropriate Assessment

- 8.2.1. The site is an urban brownfield site and is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon SAC (site code 002165) which is located approx. 1.3km to the north of the site, and the River Shannon and River Fergus Estuaries SPA (site code 004077) located approx. 5km to the west of the site. I also note that Slievefeilm to Silvermines Mountains SPA (site code: 004165) is located approximately 10km to the east of the site
- 8.2.2. Having regard to the lack of any hydrological connection between the subject site and the above identified Natura 2000 sites, together with the brownfield nature of the subject site, I am generally satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in the River Shannon can be excluded given the distance to such sites and the nature and scale of the development. As such, I am satisfied that all 3 identified sites can be excluded as requiring further assessment.

8.3. In Combination / Cumulative Effects

- 8.3.1. Having regard to the location of the subject site, together with the nature of the proposed development, which comprises the construction of an extension to an existing service station to facilitate the provision of a drive-thru restaurant and the reconfiguration of the existing service station forecourt at the Maxol Service Station, Dublin Road, Castletroy, Limerick on a 'brown-field' site, I consider that any potential for in-combination effects on water quality in River Shannon can be excluded. In addition, I would note that all other projects within the Limerick area which may influence conditions in River Shannon via rivers and other surface water features are also subject to AA.

8.4. Conclusion on Stage 1 Screening:

- 8.4.1. I have considered the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information available, that the

proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European Sites identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

9.0 Recommendation

It is recommended that the Board **Grant** planning permission for the proposed development, subject to the stated conditions attached.

10.0 Reasons and Considerations

Having regard to the location of the subject site within a commercial site within the lands zoned for the Castletroy District Centre in the current Limerick City & County Council County Development Plan 2022, to the nature of the proposed works to facilitate the provision of a drive thru and the wider reconfiguration of the service station forecourt, 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. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 15th day of March 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The development shall not accommodate overnight parking of trucks or Heavy Goods Vehicles.

Reason: In the interest of proper planning and sustainable development of the area.

3. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1600 hours on Saturdays and not at all on Sundays, Bank or 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.

4. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: In the interest of orderly development.

5. 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, noise/vibration and traffic management measures and off-site disposal of construction/demolition waste.

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

6. Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with, the planning authority.
- (i) A revised surface water disposal layout plan that covers the entire site.
 - (ii) Full details of all SuDS elements, including cross section through the site SuDS features / elements.
 - (iii) Details of surface water calculations by way of simulation modelling Micro Drainage or Causeway in accordance with the requirements of the Planning Authority.

Reason: In the interest of the interest of the proper planning and sustainable development of the area.

7. All service cables associated with the proposed development (such as electrical and telecommunications) shall be located underground. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

8. Prior to commencement of development, full details of road signage, warning the public of the entrance and details of proposals for traffic management at the site entrances shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of traffic safety.

9. Prior to commencement of development, details of all roads, footpaths, pedestrian crossings, road markings and signage within the site shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of traffic safety.

10. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. All lighting used within the forecourt shall be directed and cowled so as not to interfere with passing traffic or the adjoining residential properties adjacent to the site. The agreed lighting system shall be fully implemented and operational, before the proposed development is operational.

Reason: In the interest of visual and residential amenity and traffic safety.

11. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following: -

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating within the site;
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

12. During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location with the vicinity, shall not exceed –
- (a) Leq, 1 hour value of 55dB(A) during the period 0800 to 2200 hours from Monday to Sunday inclusive.
 - (b) Leq, 15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10dB(A) above background levels at the boundary of the site.

All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics -Description and Measurement of Environment Noise.

Reason: To protect the amenities of properties in the vicinity of the site.

13. 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 public health and to protect the amenities of the area.

14. No additional advertising signs, symbols, flags, emblems or logos, other than those indicated on the plans submitted as they relate to the development, shall be erected externally on the building or anywhere on site whether or not such signs would constitute exempted development or not without a prior grant of planning permission.

Reason: In the interest of visual amenity and in the interest of the proper planning and sustainable development of the area.

15. 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.

A. Considine
Planning Inspector
19th January 2023