



An
Bord
Pleanála

Inspector's Report ABP-317427-23

Development

Permission for expanded vehicular parking, roof cover over customer sit-down area, retention of 7 open container storage sheds, prefabricated single storey wooden building, prefabricate wooden shed, wastewater treatment services to serve the prefabricated chalet style building and all associated ground hard core, paving and soft landscaping works.

Location

Easy Fuels, Bandarrig, Kilbride, Co. Wicklow.

Planning Authority

Wicklow County Council.

Planning Authority Reg. Ref.

23/332

Applicant

Easy Fuels Limited.

Type of Application

Permission & Retention Permission.

Planning Authority Decision

Refusal of Permission & Retention Permission.

Type of Appeal

First Part V Refusal of Permission & Retention Permission

Appellant	Easy Fuels Limited.
Observer(s)	None.
Date of Site Inspection	21 st June 2024
Inspector	Enda Duignan

1.0 Site Location and Description

1.1. The address of the appeal site is Easy Fuels, Bandarrig, Kilbride, Co. Wicklow. The site is located to the west of the M11, on the western side of the R772, c. 250m to the south of the junction of the R772 and the R754. The site has a stated area of c. 0.66ha. and is occupied by an existing service station. The site is served by 2 no. vehicular access points which are centrally located within the site's eastern roadside boundary. The northern portion of the site is occupied by the existing single storey service station building with the associated forecourt area comprising the fuel pumps and canopy which is located to its south. To the west and north-west of the service station are 7 no. open container storage sheds which the Applicant's notes are utilised for the storage and display of retail goods. Within the south-western corner of the site is a prefabricated single storey chalet type structure (c. 70sq.m.) which the Applicant notes is in use as security accommodation. There is also a wooden shed located adjacent to this structure. The lands to the east of the chalet type structure have been cleared and comprise a combination of hard surfacing and grass, within which seating and a number of picnic benches are located.

1.2. In terms of the site surrounds, there are 2 no. detached dwellings located to the north of the service station building. The village of Barndarrig is located c. 250m to the south-west of the site with the remainder of the lands within the site's surrounds predominantly in agricultural use.

2.0 Proposed Development

2.1. The Applicant is seeking retention permission for the following works which have been carried out on site:

- The construction of a total of 7 no. open container storage sheds (c. 99sq.m.) along the western site boundary. It is stated within the documentation on file that they are being utilised for storage and display of retail goods,
- The construction of a prefabricated single storey wooden building (c. 70sq.m.) for security accommodation and an associated wastewater treatment system. The structure is located within the south-western corner of site,
- The construction of a prefabricated wooden shed (c.13.5sq.m.) for storage use adjacent to western elevation of the prefabricated single storey wooden

building,

- The provision of a customer sit-down area including wooden benches for customer recreation and dining purposes (c. 60sq.m.) within the southern end of the site,
- The opening of a vehicular gateway with gate and hardcore surfaced driveway within the site to serve the chalet, and,
- All associated ground hardcore, paving and soft landscaping works.

2.2. The Applicant is also seeking planning permission for the erection of a roof cover (c. 60sq.m. over the customer sit-down area and the expansion of the vehicular parking area (c. 238sq.m.) to the south-eastern portion of the site into a former green-field area.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Wicklow County Council refused planning permission and retention permission for the following 4 no. reasons:

1. The proposed development would represent consolidation of un-authorised development on this site, having regard to the existing storage units on site for which no permission exists. The provision of such a form of development undermines the planning regulations and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to:
 - a. The existing storage accommodation in the shop building.
 - b. The scale, floor area, design and retail nature of the proposed storage development.
 - c. The location of the development in a rural area outside of a designated settlement Objective CPO 10.5 of the County Development Plan which requires the assessment of all relevant planning applications having regard to the 'Retail Planning Guidelines for Planning Authorities' and Retail Design Manual (DoECLG 2012) unless otherwise stated herewith.
 - d. Section 2.4.3 and Section 4.11.9 Retail Planning Guidelines for Planning Authorities (DoECLG, 2012) which states that:

- i. Petrol filling station shops floor space cap shall be 100 sqm net irrespective of location.
- ii. The floor space of the shop should not exceed 100 sq.m. net; where permission is sought for a floor space in excess of 100sq.m., 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.

It is considered that the development would be excessive in scale in terms of retail floorspace and ancillary parking and structures in this rural area, would not be justified, would contravene the objectives of County Development Plan 2022-2028 and provisions of the Retail Planning Guidelines for Planning Authorities (DoECLG, 2012) and would set an unfavourable precedent for similar development. The development would therefore be contrary to the proper planning and sustainable development of the area.

3. Insufficient evidence is available to justify the need for a security accommodation together with associated entrance and driveway on site to cater for the service station and, in the absence of such evidence, to permit this development would be contrary to proper planning and sustainable development and to the settlement strategy for the Rural Area as set out in Chapter 4 of the County Development Plan 2022-2028 which seeks to control development to ensure the protection of the environmental and ecological quality of the rural area and ensuring that the scenic value, heritage value, and/or environmental/ ecological / conservation quality of the area is protected.

The Council's settlement strategy is to require new housing to locate on designated housing land within the boundaries of settlements, and to restrict rural housing to those with a housing need based on the core consideration of demonstrable functional social or economic need to live in the open countryside in accordance with the requirements set out in Table 6.3. No evidence is submitted to show that the resident of the accommodation comes within the scope of the housing need criteria as set out under Objective CPO 6.41 of the County Development Plan 2022-2028. The proliferation of non-essential housing in rural landscape areas erodes the landscape value of these areas

and seriously detracts from views of special amenity value.

4. No evidence is available that the:

- a. site is suitable for septic tank effluent percolation;
- b. existing wastewater treatment system and associated percolation area on site have been selected, sited and constructed in accordance with the Code of Practice Domestic Waste Water Treatment System (Population equivalent <10).

And, if found to be unsuitable and not to accord with the above standard, then this development would be prejudicial to public health.

3.2. Planning Authority Reports

3.2.1. Planning Report

3.2.1.1. The Wicklow County Council Planning Report forms the basis of the decision. The report on file provides a summary of the site's planning history and an overview of the policy that is applicable to a proposal of this nature. In terms of the assessment of the application, the following commentary of note was included by the Planning Authority:

- There are 2 no existing storage units, trash compound, paved area to the side/rear of shop for which no permission exists and are not included in the current application.
- The overall floor area of storage structure on site including the 2 unauthorised storage units would be c. 99 + c. 110 + c.19 = 228sq.m. These units are meant to serve a 40sq.m. shop.
- The proposed storage sheds along the west boundary and adjacent to the service station building appear like mini shops with their own shutters and signage and are not storage units.
- The security accommodation appears like a dwelling with its own gated access and private amenity.

3.2.1.2. In terms of their assessment, it was the Planning Authority's contention that the travelling vehicles on the N/M11 are adequately served by fuel stations and the development along the R722 and the surrounding settlements would not necessarily travel to the subject site for their main convenience shopping. In addition, it was their view that the need for the scale of storage proposed to serve the existing shop at this

rural fuel station was not justified.

3.2.1.3. With regard to the security accommodation and associated shed, the Planning Authority was not satisfied that security personnel need to live on site to protect the property. In light of rural housing objective CPO 6.41 of the County Development Plan, the need for the security accommodation, shed, access drive and entrance are not justified and are therefore not necessary.

3.2.1.4. When considering the customer sit down area and associated works, the Planning Authority refer to Condition No. 3 of PRR 90/822 which does not permit the sale or consumption of food on site. They go on to note that the proposed siting area and parking area would encourage this and result in the contravention of the condition. In addition, it is their view that the creation of large additional hard surface area and parking spaces is not considered justified/necessary at this location. Additional concerns were raised with respect to the disposal and treatment of wastewater from the chalet type structure. A refusal of permission and retention permission was therefore recommended for 4 no. reasons.

3.2.2. Other Technical Reports

Area Engineer: No objection.

Environment Section: Report received requesting additional information with respect to the following:

- The submission of proposals for the collection and disposal of surface water runoff from the following aspects of the proposed development: 1) the proposed car parking area, 2) the storage containers and the proposed roofed structure over the picnic area and 3) the chalet.
- The submission of a site suitability assessment report from a suitably qualified professional demonstrating the suitability of the site for a wastewater treatment system. In addition, a report demonstrating that the subject wastewater treatment system and associated percolation area have been selected, sited and constructed in accordance with the Code of Practice Domestic Waste Water Treatment System (Population equivalent ≤ 10).

Roads: No objection.

3.2.3. Prescribed Bodies

Irish Water: Report received stating no objection subject to compliance with conditions.

3.2.4. Third Party Observations

None.

4.0 Planning History

4.1. Appeal Site

4.1.1. The following planning history has been noted on the appeal site.

90/5751: Planning permission granted for the construction of a canopy over petrol pumps and forecourt alterations at JET Service Station, Kilbride.

98/8378: Planning permission granted for a new canopy and forecourt, new tank farm and car wash slab at Barndarrig Service Station.

98/8377: Planning permission refused by the Planning Authority for the construction of dormer type dwelling house, garage and septic tank.

I note that this dwelling was proposed to be located in generally the same position as the existing timber chalet for which retention permission is sought.

99/822: Planning permission granted for the demolition of the existing station and construction of replacement building, new illuminated signage & ancillary works at Barndarrig, Kilbride.

00/2645 (ABP Ref. 27.120496): Planning permission refused by the Planning Authority and the Board for a storage building, trash compound, paved area and ancillary works at Barndarrig, Kilbride.

- 4.1.2. The Planning Report on file indicates that there is history of planning enforcement on the site (UD File: 5606) in relation to allegations of unauthorised development.

5.0 Policy and Context

5.1. Wicklow County Development Plan (CDP), 2022-2028.

- 5.1.1. The Wicklow County Development Plan (CDP), 2022-2028 is the operative plan for the purposes of the appeal determination. The appeal site is located within a rural area of the County, outside the settlement boundary Barndarrig, which is identified as a Level 7 Village (Type 1) under the current Plan.
- 5.1.2. Given a building for human habitation forms part of this development, Policy Objective CPO 6.41 (Housing in the Open Countryside) is of direct relevance and seeks to “Facilitate residential development in the open countryside for those with a housing need based on the core consideration of demonstrable functional social or economic need to live in the open countryside in accordance with the requirements set out in Table 6.3. A housing need is defined as those who can demonstrate a clear need for new housing, for example:
- First time home owners;
 - Someone that previously owned a home and is no longer in possession of that home as it had to be disposed of following legal separation / divorce / repossession by a lending institution, the transfer of a home attached to a farm to a family member or the past sale of a home following emigration;
 - Someone that already owns / owned a home who requires a new purpose built specially adapted house due to a verified medical condition and who can show that their existing home cannot be adapted to meet their particular needs; and,
 - Other such circumstances that clearly demonstrate a bona fide need for a new dwelling in the open countryside notwithstanding previous / current ownership of a home as may be considered acceptable to the Planning Authority.
- 5.1.3. In terms of the Plan’s policy for retail development, the following objectives are noted:
- **CPO 10.1** To ensure the continued vibrancy and vitality of town and village centres, to direct new development and investment into towns and villages in the first instance and to particularly prioritise actions that enhance business,

retail, leisure, entertainment and cultural uses, as well as making town and villages centres an attractive place to live.

- **CPO 10.3** Support the vitality and viability of existing town and village centres and facilitate a competitive and healthy retail environment by ensuring that future growth in retail floorspace responds to the identified retail hierarchy and the guidance set out in the Retail Planning Guidelines for Planning Authorities (DoECLG, 2012).
- **CPO 10.4** To promote and facilitate the development of retail in a sustainable manner. Retail related development shall be located on suitably zoned land within settlement boundaries. There shall be a general presumption against the development of retail uses within the rural area, except as otherwise provided for by a particular objective of this plan.
- **CPO 10.5** To assess all planning applications having regard to the 'Retail Planning Guidelines for Planning Authorities' and Retail Design Manual (DoECLG 2012) unless otherwise stated herewith.
- **CPO 10.31** Proposals for retailing use at motor fuel stations shall be considered in accordance with the 'Retail Planning Guidelines for Planning Authorities' (DoECLG, 2012). Proposals for online and off line motorway service areas shall be considered in accordance with the Spatial Planning and National Roads Guidelines for Planning Authorities (DECLG, 2012) and the TII Policy on Service Areas (2014 or subsequent revisions).

Relevant Appendices

- Appendix 1: Development and Design Standards; and,
- Appendix 2: Single Rural Houses Design Guidelines.

5.1.4. Section 4.2 (Petrol stations) is relevant to the determination of the current case. In terms retail sales area, the following policy is noted:

- Convenience shops are part of the normal ancillary services provided within motor fuel stations. In rural areas, they can have a very important function as the local shop or small supermarket. However, such shops should remain on a scale appropriate to the location, and their development should only be permitted where the shopping element of the station would not seriously

undermine the approach to retail development in the development plan.

- The floorspace of the shop should not exceed 100m² net, where permission is sought for a floorspace in excess of 100m², 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 filling facilities) in the same location.

5.2. Retail Planning Guidelines for Planning Authorities and Retail Design Manual (DoECLG 2012)

5.3. Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021.

5.4. Natural Heritage Designations

- 5.4.1. The closest European site is the Buckroneys-Brittas Dunes and Fen SAC (Site Code: 000729) c. 4.4km to the site's south-east.

5.5. EIA Screening

- 5.5.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A First Party appeal has been prepared and submitted on behalf of the Applicant. The appeal submission provides details of the site and the subject proposal, an overview of the planning history of the site and commentary on the Planning Authority's decision and the Planner's Report on file. The submission also provides a summary of the planning policy that is relevant to the subject proposal. The grounds of appeal can be summarised as follows:

Refusal Reason No. 1

- 6.1.2. It is contended that the existing storage units are appropriate and represent a positive addition to the outdated service station. The site has adequate capacity for additional storage facilities, and it is contended that the development will not affect Barndarrig Village, given its small scale. Notwithstanding the Planning Authority's assertions, it is stated that the container storage sheds are not similar to mini shops and are utilised for the storage and display of retail goods which is typical of most service stations across Ireland. Given the limited number of service stations along the R772 or N/M11 from O'Mahony Bros in Arklow to the Maxol Service Station in Rathnew, it is deemed necessary to provide customers with a wide range of choice in products as there are no other service stations providing such products in the locality.

Refusal Reason No. 2

- 6.1.3. The appellant claims that the service station is in accordance with the objectives of the County Development Plan 2022-2028, particularly CPO1 Planning Guidelines for Planning Authorities (DoECLG,2012). It is noted that the storage units are ancillary to the existing service station and do not undermine the approach to retail development in the Plan. It is also highlighted that floorspace of the existing shop does not exceed 100sq.m. net.
- 6.1.4. The appellant notes that the forecourt is an area of critical importance to the success of a fuel and retail location. Storage containers are secure, robust and hard-wearing for the display of goods within the forecourt, and they are an ideal storage solution when space is limited, particularly considering that the existing retail shop is small and cannot store large quantities of goods, which are usually stored outside, such as coal, wood and oil etc.
- 6.1.5. Further to this, it is contended that the proposed ancillary parking and structures do not contravene the objectives of County Development Plan 2022-2028 and the provisions Retail Planning Guidelines for Planning Authorities (DoECLG,2012). The Applicant has proposed to provide additional parking spaces and circulation space for the creation of a safe and efficient system, which shall allow larger HGVs and buses to park, without impeding upon and causing traffic congestion to smaller cars within

the forecourt area.

- 6.1.6. In addition, the proposed expanded vehicular parking area and covered customer sit-down area over the existing wooden picnic benches are important elements of the overall offering for customers as it has become increasingly important that services provide appropriate outdoor facilities for customers, who can avail of a rest stop whilst being protected from weather conditions.
- 6.1.7. Considering that there are no other service stations for approximately 24km along the R772 or N/M11, it is argued that the site is essential for customers who have been driving for a long time to fill up their fuel tank or stop and rest, which is encouraged by the Road Safety Authority. It is highlighted again that additional parking spaces will enable this and further adds to the functionality of the site.

Refusal Reason No. 3

- 6.1.8. The submission notes that it is distinctly unhelpful for the Planning Authority to dismiss an otherwise appropriate application for security accommodation, whilst the service station is being actively targeted with armed robberies. It is noted that the prefabricated structure has operated as the service station's security compound. Currently, the service station does not operate 24/7, which causes the site to be deemed an easy target, since there is nobody within the service station to monitor robberies and vandalism etc. By providing security, theft is reduced significantly, and the service station becomes less of a security risk. The single storey structure is located within the south-western part of the site and it is noted that there are no overlooking/overbearing issues upon any adjacent dwellings.
- 6.1.9. It is confirmed within the submission that the Applicant also wishes to apply for the retention of the wooden barn style shed for a minimum of 3 no. years which is to be utilised as storage by the security staff. It is contended that the shed is acceptable as it will not have a detrimental impact on the amenities of the area. The submission also notes that the opening of a vehicular gateway and hardcore surfaced driveway was deemed necessary for security, in order for them to access the accommodation and to accommodate the need for security vehicles which are enclosed and guarded from

any potential burglars.

Refusal Reason No. 4

6.1.10. The submission indicates that the Applicant is seeking retention permission for a minimum of 3 no. years for the provision of wastewater treatment services, which are necessary the security personnel who will occupy the building. In terms of the treatment system's performance results, it is noted that the existing wastewater treatment plant performance has been tested by PIA - Prufinstitut fur Abwassertechnik GmbH and the treatment efficiency is deemed efficient, as outlined in the PIA performance results document appended to this Appeal report in Appendix A of the appeal submission.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. None.

6.4. Further Responses

6.4.1. None.

7.0 Assessment

Having examined the application details and all other documentation on file, including the reports of the Local Authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Retail Floor Space & Intensification of Use
- Habitable Accommodation
- Wastewater Treatment
- Appropriate Assessment

7.1. Retail Floor Space & Intensification of Use

- 7.1.1. The Applicant in this case is seeking permission to regularise various works carried out on site. One element of the works comprises the installation of a total of 7 no. steel storage containers. The containers are located within the forecourt of the service station and adjacent to the existing retail unit. The containers form an 'L' shape and it is contended that they are being utilised for the storage and display of retail goods. I note that there are 2 no. additional storage units to the north-west of the service station which do form part of this application. The Planning Authority have asserted that these do not benefit from planning consent. The 7 no. storage containers have a total floor area of c. 99sq.m., with a maximum height of c. 2.2m.
- 7.1.2. In terms of their assessment, regard was given by the Planning Authority to Objective CPO 10.31 of the current Plan which requires proposals for retailing use at motor fuel stations to be considered in accordance with the 'Retail Planning Guidelines for Planning Authorities' (DoECLG, 2012). In addition, reference is made to Section 4.2 (Petrol stations) of Appendix 1 of the Plan, where the policy notes that shops associated with petrol stations in rural areas should remain on a scale appropriate to the location, and their development should only be permitted where the shopping element of the station would not seriously undermine the approach to retail development in the development plan. It was the Planning Authority's view that travelling vehicles on the M11 are adequately served by fuel stations and the need for the scale of storage development proposed to serve the existing shop was not justified. It was therefore considered that the shopping element of the fuel station would seriously undermine the approach to retail development in the current Plan and would not accord with the sequential approach to retail development under the Retail Planning Guidelines for Planning Authorities (DoECLG, 2012) given its location in a rural area outside a designated settlement.
- 7.1.3. Within their appeal submission, the Applicant refutes the Planning Authority's claims that the storage containers are similar to mini shops. It is stated that they comprise 7 no. open container sheds for the storage and display of retail goods and like in most service stations, these forecourt storage units are used to stock coal, fuel, wood, oil etc. for customers, in a dry space, protected from adverse weather conditions. It is

argued that the storage units are ancillary to the existing service station and do not undermine the approach to retail development in the Plan. The submission goes on to note that the forecourt is an area of critical importance to the success of a fuel and retail location and the storage containers are secure, robust and hard-wearing for the display of goods within the forecourt. It is stated that they are an ideal storage solution when space is limited, particularly considering that the existing retail shop is small and cannot store large quantities of goods, which are usually stored outside.

- 7.1.4. Objective CPO 10.4 of the current Plan indicates that retail related development shall be located on suitably zoned land within settlement boundaries and there shall be a general presumption against the development of retail uses within the rural area, except as otherwise provided for by a particular objective of the Plan. It is noted that there is no particular objective in this case that would support retail related development at this location. Although it is the Applicant's contention that the containers are only used for the storage and display of retail goods, in effect, the containers form an extension of the existing retail offering being provided on site. The only difference in this instance being that they are located outside the existing shop within the forecourt area. When inspecting the appeal site, I observed that it is possible to enter the containers, with a number also having canopies. For all intents and purposes, the containers function in the same as a normal retail unit would or if for example, the existing shop had been extended. Whilst I accept that items such as coal, gas etc. are often stored/displayed in the forecourt of service stations, these areas would typically be subsidiary in scale to the existing retail unit and would clearly be ancillary to its use. There is a distinct difference in this instance, with a wide variety of goods being sold from the 7 no. containers and their overall floor area being significantly greater than that of the existing retail unit. From examining aerial imagery and the site's planning history, it is evident that the attendant grounds of the service station have substantially increased over the last number of years. Whilst the site is now of a size that can accommodate structures of this scale, I share the concerns of the Planning Authority with respect to the intensification of use and the undesirable precedent the development may establish for similar development in rural locations. In my view, the development to be retained is contrary to the objectives of the current Plan and the provisions of the Retail Planning Guidelines for Planning Authorities

(DoECLG, 2012). For this reason, it is my recommendation that permission be refused to retain the existing structures on site.

7.1.5. As part of the application, the Applicant is seeking permission retain a customer sit-down area within the southern end of the site. In addition, planning permission is sought for the erection of a structure (c. 60sq.m.) which will essentially enclose a part of the customer sit-down area. Permission is also sought for the expansion of the vehicular parking area (c. 238sq.m.) into a former green-field area. This former green-field area has currently a gravel finish and from my observations on site, is currently in use as an informal car parking area. There was also several picnic benches and other seating located within both the gravel area and on the lawn area further to the west. From examining the proposed Site Layout Plan, the Applicant is proposing to provide a total of 12 no. designated car parking spaces. To the west of the car parking is the new structure which will enclose the customer sit down area. The enclosure will be of timber construction, with a pitched roof form and a maximum height of c. 4.2m. A combination of a tarmac and concrete finish is proposed within this portion of the site, with grass to be reinstated within the site's south-eastern corner. I note that a new gravel lane will also provide access to the staff chalet within the south-western corner of the site.

7.1.6. In their assessment, the Planning Authority referred to Condition 3 of Ref. 99/822. This stipulates that the shop shall not be used for the sale of hot or cold food for consumption on the premises. In addition, Condition No. 2 of this permission restricts the floor area of the shop to no more than 40sq.m. The Planning Authority go on to note that the proposed seating and parking area would encourage the sale and consumption of food on site and result in the contravention of Condition No. 3. They also note that the development would result in the creation of additional hard surfaced areas which are not considered to be justified/necessary at this location. I note that there is a report on file from an internal department which recommended further information with respect to the Applicant's proposals for the collection and disposal of surface water runoff. The appeal submission contends that the constructed elements consolidate the existing service station and represent a visual improvement to the landscape. Considering that there are no other service stations for a stretch of c. 24km

along the R772 or N/M111, it is contended that the site is essential for customers who have been driving for a long time so they can fill up their fuel tank or stop and rest. Furthermore, it is argued that the additional car parking spaces provide an area for larger HGVs and buses to park, without impeding upon and causing traffic congestion to smaller cars within the forecourt area.

7.1.7. As noted, the grounds of the service station have been extended to include a former field (south), within which the formalised customer car parking and seating areas are to be located. In essence, the development as whole is not dissimilar to what you would expect to see in an offline motorway service area, and it is the Applicant's contention that the service station will cater to those who utilise the M11. I note that Objective CPO 10.31 of the current Plan requires proposals for online and offline motorway service areas to be considered in accordance with the Spatial Planning and National Roads Guidelines for Planning Authorities (DECLG, 2012) and the TII Policy on Service Areas (2014 or subsequent revisions) (i.e. TII Service Area Policy 2023 (Motorway and Dual Carriageway Networks)). Section 3.2 (Offline Service Areas) of the TII Service Area Policy 2023 recognises that appropriately approved offline facilities can provide extensive services which fulfil certain criteria. A number of these criteria are listed as follows:

- Include an appropriate level of parking provision for cars and Heavy Commercial Vehicles (HCVs);
- Convenient to Motorway Junctions with National and Regional Roads: Be located close to Motorway junctions, i.e., within 500 meters from the top of the furthest off-ramp of the Motorway / dual carriageway junction;
- Remain open to the public on a 24 hours per day, 7 days per week basis;
- Permit commercial vehicles to park for longer periods, including overnight, thus allowing drivers to take breaks and rest periods; and,
- Provide safety and security equipment and appropriate facilities, including sanitary and driver welfare facilities alongside fuelling, recharging and ancillary facilities.

7.1.8. Under the guidelines, it is stated that facilities proposed for inclusion in all service areas should be of a type that avoids the attraction of short, local trips, a class of traffic

that is inconsistent with the primary intended role for National Roads and associated junctions in catering for strategic long-distance inter-urban and inter-regional traffic. Furthermore, Section 5.0 (Planning) of the TII Service Area Policy 2023 notes that to permit a service area to become a destination for local customers would be contrary to Government planning policy on retail and town centres as set out in Retail Planning Guidelines (Department of the Environment, Community and Local Government, 2012). In my view, the overall scale of the car parking and a customer area being provided as part of this development is excessive when considering the size of the existing service station and the conditions that both restrict the sale of hot or cold food, and which limit its overall floor area (i.e. Condition Nos. 2 & 3 of Ref. 99/822). In addition, it was noteworthy that there was not an available customer toilet when I inspected the appeal site. Therefore, there is an apparent mix match between the scale of recreation and parking facilities being provided when compared to permitted services on site. Further to this, it is the Applicant's contention that the service station will cater to motorists travelling significant distances along the M11. Although the service station is positioned proximate to the M11, I note that the site is a driving distance of c. 5km from the nearest junction on the M11 (Exit 19) when travelling in a northerly direction along the M11. When travelling in a southerly direction, the distance is even greater at c. 8km, as it is necessary to exit the M11 at Exit 18. Given the significant distances that motorists would be required to travel in each direction from the nearest exits on the M11, the service station in my view is likely to attract shorter, local trips. Therefore, I would agree with the Planning Authority's view, that the scale of the expansion of facilities within a rural area is not warranted and has not been adequately justified in this instance. The development is therefore contrary to the policy provisions of the current Plan and for this reason, it is my recommendation that permission and retention permission be refused.

7.2. Habitable Accommodation

- 7.2.1. As part of the Applicant's proposals, it is proposed to retain a staff chalet and shed which is located within the south-western corner of the site. The staff chalet has a single storey pitched roof form, a southern orientation with a paved patio area to its front. The appeal site has been extensively landscaped, and an earthen berm has been provided around the perimeter of the chalet which largely masks its view from

within the grounds of the service station itself and from the R772 to the east. The Applicant is proposing to provide a gravel driveway from the new car parking area which will lead to the existing gated driveway which serves the chalet. In response to Refusal Reason No. 3, it is confirmed within the appeal submission that the Applicant is seeking to retain the existing structures for a minimum period of 3 no. years in order to help deter armed robberies, which have been occurring on site due to it not operating 24/7. It is stated that the prefabricated structure has operated as the service stations security compound and by providing security with accommodation 24/7, the service station has become less of a security risk. The submission notes that the shed is ancillary to the chalet and is necessary for storage use of security staff living there, whilst monitoring the site. In addition, the submission notes that the opening of a vehicular gateway and hardcore surfaced driveway was deemed necessary for security, in order for them to access the accommodation.

- 7.2.2. In their assessment of the proposal, the Planning Authority was not convinced that security personnel would need to live on site to protect the property and it was commented that a security company could keep watch over the property remotely. In light this, the accommodation was considered a rural dwelling and therefore, the resident had not demonstrated that they qualify under the rural housing objective CPO 6.41 of the County Development Plan. In the Planning Authority's view, the need for the security accommodation, shed, driveway and entrance were not adequately justified, and a refusal of retention permission was recommended.
- 7.2.3. In terms of the Applicant's justification for the development, it has not been outlined why it is proposed to retain the structure for a temporary period only. Irrespective of this, one would reasonably assume in the case of security accommodation that it should be provided in such way that it would be perhaps be either connected to the service station or at least within a direct line of sight for practical/deterrent reasons. However, this is not the case in this instance as the chalet building has been nestled into the corner of the site and screened from view through a combination of landscaping and an earthen berm which almost entirely encloses the chalet. When inspecting the site, I observed that there were 2 no. vehicles parked in the chalet's driveway and the building itself had all the appearances of a traditional dwelling, albeit

of a prefabricated construction. Although the service station does not operate 24/7, I would share the Planning Authority's view where doubts were cast over need for security personnel to reside at the property. Further to this, I do not consider the construction of a standalone dwelling to accommodate security personnel is warranted or justified, given it has resulted in the encroachment of the development into a former greenfield site in what is a rural location. Objective CPO 6.41 of the current Plan is clear, insofar that it seeks to facilitate residential development in the open countryside for those with a housing need based on the core consideration of demonstrable functional social or economic need to live in the open countryside in accordance with the requirements set out in Table 6.3. I note that in this instance, a housing need has not been established nor has an economic need or social need been demonstrated. As per Section 6.3.8 of the current CDP, Wicklow's rural areas are considered to be 'areas under urban influence' due to their location within the catchment of Dublin, Bray, Greystones, Wicklow-Rathnew and Arklow. To permit the development sought under this application would result in a haphazard and unsustainable form of development, it would contribute to the encroachment of random rural development in the area, and it would militate against the preservation of the rural environment that is sensitive to change. For these reasons the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area. This is reason in itself for the development sought under this application to be refused.

7.3. Wastewater Treatment

- 7.3.1. The Planning Authority in their assessment of the planning application have indicated that no evidence had been submitted to show the site is suitable for a septic tank and effluent percolation nor had the wastewater treatment and associated percolation area been selected, sited and constructed in accordance with the EPA Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021. In the absence of this information, the application was ultimately refused by the Planning Authority. As part of the appeal submission, it is noted that the existing wastewater treatment plant performance has been tested by PIA - Prufinstitut für Abwassertechnik GmbH and the treatment efficiency is deemed efficient, as outlined in the PIA performance results document as included in Appendix A of the appeal submission.

7.3.2. As per objective CPO 13.16 of the current Plan, permission will be considered for private wastewater treatment plants for single rural houses where:

- the specific ground conditions have been shown to be suitable for the construction of a treatment plant and any associated percolation area;
- the system will not give rise to unacceptable adverse impacts on ground waters / aquifers and the type of treatment proposed has been drawn up in accordance with the appropriate groundwater protection response set out in the Wicklow Groundwater Protection Scheme (2003);
- the proposed method of treatment and disposal complies with Wicklow County Council's 'Policy for Wastewater Treatment & Disposal Systems for Single Houses (PE ≤ 10)' and the Environmental Protection Agency "Waste Water Treatment Manuals"; and
- in all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitively demonstrate that the proposed development will not have an adverse impact on water quality standards and requirements set out in EU and national legislation and guidance documents.

In this case, the current proposal seeks to regularise the existing habitable accommodation that is reliant on a domestic wastewater treatment system. However, no documentary evidence has been submitted to demonstrate compliance with Objective CPO 13.16 of the Plan. In this regard, I am not satisfied that the existing septic tank and percolation area is suitable to cater for the level of development proposed. The proposed development would therefore be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area. For this reason, the development to be retained should be refused permission.

7.4. Appropriate Assessment

7.4.1. The closest European site is the Buckroney-Brittas Dunes and Fen SAC (Site Code: 000729) c. 4.4km to the site's south-east. Having regard to the nature and scale of the proposed development and the development to be retained, and to the nature of the receiving environment, removed from and with no direct hydrological or ecological pathway to any European site, no appropriate assessment issues arise and it is not considered that the proposed development or the development to be retained would

be likely to have a significant effect individually or in combination with other plans or projects on a European site. The requirement to proceed to Stage 2 of the Appropriate Assessment process and the requirement to prepare a Natura Impact Statement (NIS) is not required.

8.0 Recommendation

I recommend that the planning application be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. Objective CPO 10.4 of the Wicklow County Development Plan, 2020-2028 (Plan) requires retail related development to be located on suitably zoned land within settlement boundaries and there is a general presumption against the development of retail uses within the rural area, except as otherwise provided for by a particular objective of the Plan. In terms of 'Retailing & Motor Fuel Stations', Objective CPO 10.31 requires proposals for retailing use at motor fuel stations to be considered in accordance with the 'Retail Planning Guidelines for Planning Authorities' (DoE CLG, 2012). Furthermore, Section 4.2 (Petrol stations) of Appendix 1 of the Plan notes that shops associated with petrol stations in rural areas should remain on a scale appropriate to the location, and their development should only be permitted where the shopping element of the station would not seriously undermine the approach to retail development in the Plan. Having regard to:
 - a. The use and overall scale of the 7 no. storage containers, which essentially form an extension of the existing retail offering being provided on site and function in the same as a normal retail unit.
 - b. The scale of the storage containers relative to the existing service station shop;
 - c. The conditions of a previous permission on site which limit the existing service station shop's floor area, and which restricts the sale of hot or cold food on the premises (Condition Nos. 2 & 3 of Ref. 99/822);
 - d. The scale of the proposed car parking, customer set down area and

associated structures and its encroachment into a former greenfield area; and,

- e. The driving distance of the service station from the nearest exits on the M11.

It is considered that the proposed development and development to be retained would encourage short, local trips and would become a destination for local customers, would be excessive in scale in terms of retail floorspace and ancillary parking and structures at a rural location and would set an undesirable precedent for similar development in rural areas. In this regard, the proposed development and the development to be retained is considered to be contrary to the aforementioned objectives of the Wicklow County Development Plan, 2020-2028 and the provisions of the Retail Planning Guidelines for Planning Authorities (DoECLG, 2012) and would therefore be contrary to the proper planning and sustainable development of the area.

- 2. Having regard to the totality of the documentation on file, the location of the chalet relative to the existing service station within the south-western corner of the site and the existing landscaping treatments which screen the chalet from view from the service station and the public road, the Board is not satisfied that it is necessary for security personnel to permanently reside at the property. Further to this, it is not considered that the construction of a standalone dwelling to accommodate security personnel is warranted or justified in this instance, given it has resulted in the encroachment of development into a former greenfield site in what is a rural location. In this regard, it is noted that the proliferation of non-essential housing in rural landscape areas erodes the landscape value of these areas. The Board is not satisfied that the occupants of the chalet have a demonstrable economic or social need to live to reside in this rural area and they do not come within the scope of the housing need criteria as set out under Objectives CPO 6.41 of the Wicklow County Development Plan, 2020-2028. The development to be retained would result in a haphazard and unsustainable form of development in a rural area, it would contribute to the encroachment of random rural development in the area and

would militate against the preservation of the rural environment that is sensitive to change. For this reason, the development to be retained would be contrary to the proper planning and sustainable development of the area.

3. Objective CPO 13.16 of the Wicklow County Development Plan, 2020-2028 notes that permission will be considered for private wastewater treatment plants for single rural houses where:

- the specific ground conditions have been shown to be suitable for the construction of a treatment plant and any associated percolation area;
- the system will not give rise to unacceptable adverse impacts on ground waters / aquifers and the type of treatment proposed has been drawn up in accordance with the appropriate groundwater protection response set out in the Wicklow Groundwater Protection Scheme (2003);
- the proposed method of treatment and disposal complies with Wicklow County Council's 'Policy for Wastewater Treatment & Disposal Systems for Single Houses (PE ≤ 10)' and the Environmental Protection Agency "Waste Water Treatment Manuals"; and
- in all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitively demonstrate that the proposed development will not have an adverse impact on water quality standards and requirements set out in EU and national legislation and guidance documents.

In the absence of sufficient documentary evidence to demonstrate compliance with Objective CPO 13.16 of the Plan, the Applicant has failed demonstrate that the existing septic tank and percolation area is suitable to cater for the level of development proposed. The development to be retained would therefore be prejudicial to public health and would be contrary to the proper planning and sustainable development of this area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an

improper or inappropriate way.

Enda Duignan

Planning Inspector

28/06/2024

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317427-23		
Proposed Development Summary	Permission for expanded vehicular parking, roof cover over customer sit-down area, retention of 7 open container storage sheds, prefabricated single storey wooden building, prefabricate wooden shed, wastewater treatment services to serve the prefabricated chalet style building and all associated ground hard core, paving and soft landscaping works.		
Development Address	Easy Fuels, Bandarrig, Kilbride, Co. Wicklow.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	Yes
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
	Threshold	Comment (if relevant)	Conclusion
No			No EIAR or Preliminary

				Examination required
Yes	X	500 residential units	Class 10(b)(i)	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: 28th June 2024

Form 2
EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-317427-23	
Proposed Development Summary	Permission for expanded vehicular parking, roof cover over customer sit-down area, retention of 7 open container storage sheds, prefabricated single storey wooden building, prefabricate wooden shed, wastewater treatment services to serve the prefabricated chalet style building and all associated ground hard core, paving and soft landscaping works.	
Development Address	Easy Fuels, Bandarrig, Kilbride, Co. Wicklow.	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
•	Examination	Yes/No/ Uncertain
<ul style="list-style-type: none"> • Nature of the Development • Is the nature of the proposed development exceptional in the context of the existing environment? • Will the development result in the production of any significant waste, emissions or pollutants? 	No. The proposed development includes the construction of a dwelling which they Applicant contends is to be utilised by security personnel associated with the service station. I note there are many examples of rural dwellings within the surrounds of the site.	No
<ul style="list-style-type: none"> • Size of the Development • Is the size of the proposed 		No

<p>development exceptional in the context of the existing environment?</p> <ul style="list-style-type: none"> Are there significant cumulative considerations having regard to other existing and/or permitted projects? 		No
<ul style="list-style-type: none"> Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area? 	<p>No designations apply to the subject site.</p> <p>The chalet is reliant on a domestic wastewater treatment system. A reason for refusal has been included as the Applicant has failed to submit adequate information to demonstrate that the existing septic tank and percolation area is suitable to cater for the level of development proposed. Notwithstanding this, the site is not located in an environmentally sensitive area and in the event of a grant of permission, a condition could be included which requires the installation of a wastewater treatment which accorded with EPA Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021</p>	<p>No</p> <p>No</p>
<ul style="list-style-type: none"> Conclusion 		

<ul style="list-style-type: none"> • There is no real likelihood of significant effects on the environment. • EIA not required. 		
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Inspector: _____

Date: 28th June 2024

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)