



An  
Bord  
Pleanála

## Inspector's Report

**ABP-318250-23**

<b>Development</b>	Demolition of existing service station. Construction of new service station together with ancillary works.
<b>Location</b>	Texaco Clonkeen Service Station, Clonkeen Road, Deansgrange, Blackrock, Co. Dublin
<b>Planning Authority</b>	Dun Laoghaire-Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D22A/0708
<b>Applicant(s)</b>	Valero Energy (Ireland) Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Gareth McGuckin
<b>Observer(s)</b>	None

**Date of Site Inspection**

23<sup>rd</sup> February 2024

**Inspector**

John Duffy

## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	5
4.0 Planning History.....	11
5.0 Policy Context.....	13
6.0 The Appeal .....	17
7.0 Assessment .....	25
8.0 Recommendation.....	28
9.0 Conditions.....	29

## **1.0 Site Location and Description**

- 1.1. The subject site with a stated area of 0.241 ha, contains a Texaco self-service fuel filling station and a single storey garage and retail unit (132 sqm) operated under the Centra brand, located on the eastern side of Clonkeen Road approximately 240 metres north of the junction of Clonkeen Road with the N11.
- 1.2. The garage / retail unit is centrally located on the site and there is an existing car wash facility located to the rear of the unit near the south-eastern corner of the site. A large canopy in red, white and black livery covers the fuel filling area. Other than the southern site boundary which comprises a block built wall, much of the remaining site boundaries consist of a combination of wooden fencing, hedging and some trees. The site is accessed by two vehicular entrances from the western boundary. To the front of the site is a large totem sign near the public road.
- 1.3. The site adjoins the grounds of Clonkeen College to the east. There is an existing adjoining childcare facility to the north of the site. Two-storey residential development at Clonkeen Lawn adjoins the site to the south.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of the following:
  - Demolition of existing service station retail building, fuel dispensing pump island, car washes and removal of associated forecourt equipment.
  - Construction of a single storey service station building at the eastern part of the site with overall floor area of 361 sqm comprising convenience shop (100 sqm net retail floor space), hot food sales (52 sqm net floor space) and seating area (24 sqm net floor space) with ancillary office, cash room, storeroom, toilets, and staff welfare facilities.
  - Provision of building fascia signage.
  - Alterations to existing forecourt canopy; the canopy is being maintained in situ.

- Construction of all ancillary site features including new fuel fill points, 1 no. jet wash at the north-western part of the site, 1 no. brush wash proximate to the southern boundary, drainage, service bays and line marking.

The application is accompanied by:

- Planning Statement
- Drainage and Infrastructure Report

The Further Information submission is accompanied by:

- Planning Report / Response
- Construction Management Plan (CMP) which includes a demolition plan
- Construction Environmental Management Plan (CEMP)
- Operational Waste Management Plan (OWMP)
- Resource Waste Management Plan (RWMP)
- Letter (and associated drawing) from JA Gorman Consulting Engineers that rainwater harvesting system to be used in lieu of green roof provision
- Noise Impact Assessment (NIA)
- Public Lighting Report

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to grant permission subject to 12 conditions for all elements of the development as outlined under Section 2.1 of my report.

Noteworthy conditions are as follows:

C 2 (a): Revised details to be submitted for the agreement of the Planning Authority that show adequate pedestrian access and priority from the development to Clonkeen Road.

C 3 (a): The proposed relocated Brush Wash shall be omitted or the proposed 'Glazed Splash Screens' to the proposed relocated Brush Wash shall be extended further to

the east to the end of the indicated concrete surfacing, and 3m further to the west (and no closer to the shared boundary than the middle line of the said concrete area).

C 3 (b): The indicated 'Glazed Splash Screen' beside the south side of the proposed relocated Brush Wash and adjacent to the south boundary, shall be adjoined by / or replaced by a suitable boundary treatment sufficient to offer acoustic screening of at least 10 dB, as a solid contiguous barrier with a surface mass of min 10 kg/m<sup>2</sup> installed to a height of 3 metres, and to be opaque or transparent.

C 3 (c): The other services available on the proposed forecourt including bike wash, air compressor, and any vacuum, and related, shall not be operable outside of the stated Service Station operating hours stated in the Further Information cover letter (DM Planning Consulting Ltd. Letter dated 17th August 2023).

C 3 (d): Any column mounted floodlight or lamp standard on the south boundary shall not operate after the hours of 6pm

C 5: This permission does not relate to the removal of any existing underground fuel storage tanks, or for the installation of any underground, or overground fuel storage tanks.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The first report of the area planner notes the site's planning history, the policy context, reports received and third party submissions made in respect of the planning application. The principle of the proposed replacement fuel station development is considered acceptable. Notes the proposed relocation of the filling station building from the middle to the rear / east and narrower end of the site adjacent to school lands along with the relocation of the car wash from the east / south east boundary to closely adjacent to the southern site boundary. Notes also that the southern end of the existing canopy over the forecourt would be removed and not replaced, while the northern end and three pumps beneath would be retained. Differences between the current proposal and the previous application on the site are outlined including the reduced floor area of the proposed building (361 sqm compared with 421 sqm) and the additional southern boundary (Perspex) screening treatments beside the relocated car wash. It is considered also that the current application provides a greater rationale and

justification for the proposed development. Concerns are raised in connection with potential negative impact on the amenities of the adjacent property. Report considers that further information is necessary. Reference made to internal reports received and issues raised therein. The report recommends that five items be addressed by way of a further information request which is summarised as follows:

#### 1. Transportation:

- (i) Revised drawings and details to demonstrate a coherent and legible pedestrian route from the public footpath on Clonkeen Road to the proposed service station building and along the front boundary of the development.
- (ii) Revised drawings showing the required number and type of cycle parking spaces in accordance with the Council's standards for cycle parking.
- (iii) Provision of electric vehicle charging spaces in excess of minimum required as per Development Plan policy.
- (iv) Revised drawings and details to demonstrate provision of a pedestrian / cyclist permeability link between Clonkeen College site and Clonkeen Road via the proposed development.
- (v) Revised details / drawings to show provision of a minimum of one bicycle repair and maintenance station.
- (vi) Demonstrate how safe access for pedestrians / cyclists to the proposed retail element will be achieved in accordance with the NDA's 'Building for Everyone: A Universal Design Approach.'

#### 2. Drainage:

- (i) Demonstrate compliance with the Green Roof Policy of the Development Plan and submit cross section and dimensions.

#### 3. EHO matters:

- (i) Submission of detailed Construction Environmental Management Plan (CEMP) and Demolition Management Plan (DMP)

- (ii) A Noise Impact Assessment to allow for full assessment of potential noise impacts associated with the new Brush Wash, taking special consideration of sensitive noise receptors in this area.
- (iii) Hours of operation for the proposed Brush Wash and for the Service Station
- (iv) Delivery times for the proposed development.
- (v) An Operational Waste Management Plan (OWMP).

#### 4. Environmental Waste Management:

- (i) A Construction and Demolition Waste Management Plan
- (ii) A Construction Management Plan (CMP)
- (iii) For Noise Planning - Preparation of a report detailing selection of construction methodology, implementation of mitigation measures to minimise nuisance affecting adjoining properties and design of building services in the completed development, such as ventilation fans and ducting, to avoid creation of nuisance affecting adjoining properties.
- (iv) An OWMP

#### 5. Planning issues

- (i) Any potential alternative positions for the proposed new and proposed re-located Brush Wash, having regard to the location and configuration of the site, boundaries and boundary treatments, and notwithstanding any related responses to the other FI items requested.
- (ii) Location details of any new, relocated or retained 'Parcel Motel'.
- (iii) A revised 'Proposed Site Layout' / 'Site Layout Plan General Arrangement' plan drawing, that includes the outline of the adjacent dwelling house, No. 6, Clonkeen, and the shared boundary line.
- (iv) Any changes to the existing security and / or public type lamp standards, and signage lighting including any canopy signage lighting for the site, and brush / car wash, and details to address any potential issues of excessive lighting levels, and / or overspill of light into adjacent properties e.g., any residential / future residential properties to the south and east. These details should include Lux levels, and any cowling elements etc., and hours of lighting / operational use.



The area planner's second report assesses the further information responses received along with the internal reports relating to these responses, and reflects the decision to grant permission subject to 12 no. conditions as referred to in section 3.1 above.

### **3.2.2. Other Technical Reports**

- **EHO:** The first report recommends further information is sought in relation to several items i.e., CEMP and DMP required, Noise Impact Assessment in terms of potential impacts associated with new Brush Wash, hours of operation, delivery times and provision of an OWMP. The second report states that the relocation of the Brush Wash to the boundary of the adjoining dwelling will increase noise nuisance and is unacceptable.
- **Drainage Planning:** The first report notes that the applicant has not demonstrated compliance with the Green Roof Policy of the Development Plan and that this should be addressed. The second report notes no objection to the proposed development subject to a condition requiring the surface water run-off generated by the proposed development to be collected by a rainwater harvesting system.
- **Public Lighting:** No objection. The proposed street lighting scheme as submitted in the further information response with the inclusion of baffles is acceptable.
- **Environmental Enforcement Section:** The report recommends further information in connection with provision of a Construction and Demolition Waste Management Plan (CDWMP), Noise Planning, CMP and OWMP.
- **Transport Planning:** The first report recommends several items of further information are sought, namely details of pedestrian access to the proposed development, details of cycle parking and repair / maintenance station, details of charging points for EVs, and provision of a permeability link between the Clonkeen College site and Clonkeen Road via the proposed development. The second report recommended that Clarification of Further Information be requested in relation to some of these issues.

### **3.2.3. Prescribed Bodies**

- None received.

### 3.2.4. Third Party Observations

Four submissions were received in connection with the planning application. Issues raised are similar to those in the third party grounds of appeal and in summary they include:

- Nuisance through noise and light pollution associated with development.
- Proximity of brush wash to adjoining dwelling and inaccurate elevation drawing submitted
- Brush wash is lit during the nighttime hours
- Increases in footfall and traffic will cause adverse impacts for the area
- Disruption and negative impacts on quality of life
- Negative impacts on residential amenity and enjoyment of rear garden of adjoining residential property
- Health impacts due to spray from car wash
- Increase in anti-social behaviour
- Absence of information in relation to the proposed service booths
- Depreciation in the value of nearby properties
- No information / reference made to SHD proposal at Clonkeen College
- Development too dense for the site
- Excessive retail provision
- Number of EV spaces insufficient and unknown whether they are fast-charging
- Absence of accessible EV spaces
- No footpaths to shop entrance
- No provision made for bike maintenance station
- Difficulties encountered in making online submissions

Two further third party submissions were received in connection with the further information provided by the applicant which was deemed to be significant by the planning authority. Issues raised are as follows:

- NIA notes that cumulative noise levels from site activity would be expected to be well in excess of the applicable threshold
- Concern in terms of opening / operational hours
- Impacts on health and well-being arising from proposed development
- Concerns relating to noise, disturbance and lighting
- Close proximity of brush wash to housing

## 4.0 Planning History

### Appeal site

**Planning Authority Reference No. D21A/0240** refers to a May 2021 decision to refuse permission for:

1. Demolition of existing service station retail building, fuel dispensing pump island, car wash and removal of associated forecourt equipment.
2. Construction of a single storey service station building with overall floor area of 421 sqm comprising of convenience shop (100 sqm net retail floor space), hot food sales (65 sqm net floor space) and seating area (32 sqm net floor space) with ancillary office, cash room, storeroom, toilets, and staff welfare facilities.
3. Provision of building fascia signage.
4. Alterations to existing forecourt canopy.
5. Construction of ancillary site features including new fuel fill points, 1 no. jet wash, 1 no. brush wash, drainage, service bay, parking bays and line marking.

Refusal reason:

1. Given the combined scale of the proposed convenience shop, hot food sales area and seating area, the proposed development has the potential to seriously injure the vitality and viability of existing main retail centres including the Deansgrange Neighbourhood Centre and Cornelscourt Neighbourhood Centre and the 'DC' zoned lands located to the south-west of the site. It is considered that overall scale of the proposed retail provision on site is considered to be excessive at this location and if granted would set a poor precedent for similar development which may adversely impact the role and function of existing retail centres across the county. In this regard,

the proposal is contrary to Section 4.11.9: 'Retailing and Motor Fuel Stations' of the 'Retail Planning, Guidelines for Planning Authorities, 2012', Policy RET3 (Retail Hierarchy) and Section 8.2.6.7 (Petrol Stations) of the Dún Laoghaire-Rathdown County Development Plan, 2016-2022. The proposed development would, therefore, be seriously injurious to the residential amenities of the area and would depreciate the value of the adjoining properties in the area and, if permitted, would set an undesirable precedent for similar development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

**An Bord Pleanála Referral Reference No. RL06D.RL3618** refers to a July 2018 decision that the use of a Parcel Motel Facility as a placement for deposit/temporary storage unit is development and is not exempted development.

**Planning Authority Reference No. D06A/1278** refers to an October 2006 decision to refuse permission for demolition of existing single storey shop building and construction of new two storey shop building (Gross floor area 290 sqm, nett retail area 100 sqm), demolition of existing forecourt canopy (area 315 sqm) and construction of new forecourt canopy (208 sqm) and associated site works.

Refusal reason:

There is a 375mm diameter public foul sewer traversing the subject site. The proposed building would be located over this sewer. The proposed development would therefore be prejudicial to public health. This is contrary to the proper planning and sustainable development of the area.

**Planning Authority Reference No. D97A/0728** refers to a November 1998 decision to grant permission for retention of the existing boundary wall and kerbing at the entrance.

**Adjoining site to the south**

**Planning Authority Reference No. D06A/1539** refers to a June 2007 decision to grant permission for a two storey detached house on a site to the side of 5 Clonkeen

Lawn, Blackrock, Co. Dublin. This application was the subject of an amendment application (Ref. D07A/1357) which was also granted permission.

### **Adjoining lands to the south-east**

**An Bord Pleanála Reference ABP-311329-23** refers to a Strategic Housing Development (SHD) application for 299 apartments, creche and associated site works which was granted permission in December 2021. This is presently the subject of Judicial Review proceedings.

## **5.0 Policy Context**

### **5.1.1. Dun Laoghaire Rathdown Development Plan 2022 - 2028**

The Dun Laoghaire Rathdown Development Plan 2022 - 2028 is the current statutory plan for the area, including the subject site. The site is zoned Objective A, 'To provide residential development and improve residential amenity while protecting the existing residential amenities.'

### **5.1.2. Section 12.6.7 provides details on 'Service Stations'.**

Applications for service stations should take account of the following:

Retail sales area:

- The total area (net) devoted to ancillary - or convenience - retail sales, within a service station shall not exceed 100 sq.m. and shall be in scale with the overall size of the filling station. Should such a unit or a larger retail facility be proposed with a wide range of goods it will be treated as a shop and assessed accordingly (including a sequential test).

Location:

- Limited service station facilities ancillary to large food stores located in, or adjacent to Major Town Centres/District Centres, may be permitted where there is acceptable road access, and where it is considered there will be no negative impacts in terms of visual intrusion or the amenities of the adjoining area.

A workshop for minor servicing (e.g., tyre changing, puncture repairs, oil changing) or service station may only be permitted in circumstances where they would not adversely affect local amenities - particularly with regard to proximity to dwellings or adjoining residential areas. The Planning Authority will generally not permit such uses in or adjoining residential areas unless it can be clearly demonstrated that no significant damage to residential amenities will occur by reason of factors such as noise, visual obtrusion, safety considerations or fumes and smells.

#### Low Emission Fuel Infrastructure:

- Consideration should be given to the provision of low emission fuel infrastructure, including the provision of EV charging facilities, in development proposals for new and or refurbished service stations

#### Design:

- New service stations and refurbished existing stations will be required to have a high standard of design. In rural areas service stations will not be permitted where they will have a negative impact on surrounding views, prospects, and scenery or general amenities.
- New service stations and refurbished existing stations shall ensure provision of Low Emission Vehicle Refuelling/Recharging Infrastructure.
- The layout of new or redeveloped service stations shall permit safe access for delivery tankers (cab plus trailer) up to 15.5 metres in length. An adequate off - road area shall be provided for parking tankers safely without obstructing access to pumps while fuel is being delivered to service stations.
- For 50kph speed limit areas, a road frontage of not less than 21 metres is required for a new service station, and this frontage must be kept clear of any structure for a depth of not less than 4.6 metre from the street boundary of the site. This road frontage width shall increase to a minimum of 30 metres for 60/80kph speed limit areas.

- There shall be a minimum distance of 7 metres from the pump island to the road boundary.
- Only one entry and one exit point shall be permitted for vehicular traffic onto the public road, and exits onto dual carriageways shall be restricted to a single lane width. The access points shall be between 7 metres-9 metres wide, with a minimum junction radius of 10.7 metres. A one-way traffic routing system is preferred.
- Ramped entry treatments shall be provided at the vehicular entrance and exit, as per Council requirements, to provide for pedestrian/cyclist priority as appropriate.
- Pedestrian routes to and from retail areas shall be clearly defined.
- Short and long-term cycle parking and cycle facilities provision shall be in accordance with the requirements of the Council Cycling Policy Guidelines and Standards - with a minimum of 5 no. cycle parking spaces required.
- The location of air/water facilities and car wash facilities shall be carefully considered in relation to impact on adjoining properties. Details in respect of noise generation and hours of use shall be submitted as part of any application.
- The location of any other ancillary structure(s) within the forecourt – such as a parcel collection/ drop off structure – shall be clearly indicated and should not interfere with vehicular circulation or car/ cycle parking within the service station forecourt.
- Where it is proposed to provide a fully automated filling station, the proposed use/function of any existing and/or disused kiosk/shop unit on site shall be clearly demonstrated within any planning application.

- New service stations and refurbished existing service stations shall include at a minimum one bicycle repair and maintenance station, including bicycle wash and pump, which shall be maintained accordingly.

#### Signage:

- Signs should be limited and generally form part of the buildings or other structures.
- The use of high level signs, signs projecting over footpaths, 'fly' posters and bunting will not be permitted. Free standing signs shall be limited to one per service station and shall not project above the forecourt canopy and shall not impact on vehicular sightlines at the exit onto the public road.
- In visually sensitive locations, the use of standard 'corporate' designs and back-lit signage etc. for service stations may not be acceptable.

#### Lighting:

- Forecourt lighting including canopy and signage lighting should be limited to that which is necessary for the safe operation of a service station. The use of high level and powerful lighting should be avoided where possible and should not interfere with the amenities of adjoining premises or cause glare, hazard or confusion to public road users. All external lighting shall be cowled and diverted away from the public roadway to prevent a traffic hazard.

#### Hours of Operation:

- Consideration may also be given to the limiting of the hours of operation. Details in respect of opening hours shall be submitted as part of the planning application.

#### Discharge License:

- A discharge license may be required.



Section 12.6.8 relates to Shopfronts, Signage, Advertising and Public Art

## 5.2. National Planning Policy

The following are considered to be of relevance to the proposed development:

- **Design Manual for Urban Roads and Streets (DMURS)**
- **Retail Planning, Guidelines for Planning Authorities 2012**

Section 2.4.3 Petrol filling station shops floorspace cap  
- 100 sqm net irrespective of location

## 5.3. EIA Screening

See completed Forms 1 and 2 below. Under Items 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 as amended, where 10 hectare-urban sites would be developed, the need for a mandatory EIA arises. The proposal is for the redevelopment of a 0.241 hectare site. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall below the relevant threshold, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

## 5.4. Natural Heritage Designations

- 5.4.1. The appeal site is not located within or in the vicinity of any European site. The South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA are the closest Natura 2000 sites located approximately 3 kms north of the proposed development.

## 6.0 The Appeal

- 6.1. A third party appeal has been submitted by Gareth McGuckin of No. 6 Clonkeen Lawn, which adjoins the appeal site to the south. The grounds of appeal may be summarised as follows:

Time limit

- The Planning Authority requested further information and the applicant had 6 months to provide it, which was extended by a further 3 months to 18<sup>th</sup> August 2023. The applicant's response was received on 22<sup>nd</sup> August 2023 and therefore the application should be seen as withdrawn with permission refused on this basis.

#### EHO Report

- The EHO report dated 6th September 2023 noted that the relocation of the Brush Wash to the boundary of the adjacent dwelling would significantly increase the likelihood of noise nuisance and is unacceptable. This was ignored and permission should not have been granted.

#### Relocation of Brush Wash

- Serious concern expressed that should the brush wash be relocated to the boundary with the appellant's property, its operation would give rise to vibrational / machinery noise on a continuous basis during the day and evening.
- The appellant's children's play area would be 1 metre from the side screen of the brush wash.
- Windows and finishes of the house would be affected.
- Concern in relation to dangerous chemicals from the spray wash impacting on health of family members.
- Applicant does not appear to have looked at alternative locations despite being requested to do so by the planning authority.

#### Noise and disturbance impacts

- In terms of the Noise Impact Assessment (NIA) undertaken the recording position in the baseline survey was taken from where the brush wash is proposed to be located, rather than where the brush wash currently stands. The recording position should have been 1 metre from the current brush wash, given the appellant's garden is less than 1 metre away from the proposed brush wash.
- The appellant's house was identified as noise sensitive location NSL03 in the NIA. Table 11 of the NIA shows the appellant's property as the most severely and significantly affected property by the operation of services on the site

causing nuisance noise generated by brush wash washing, brush wash drying, compressed air and vacuum.

- Table 12 shows that if granted the operational noise impact on the appellant's property would significantly breach the threshold prescribed for a residential property both in day time and evening hours. The primary source of noise is associated with services, particularly the brush wash, jet wash and compressed air.
- Noise and vibration from the machinery impacting on the ability to work from home

#### Lighting

- LED lights on the car wash are currently on all night and light up the children's bedroom in the appellant's property.
- Proposed high level flooding is inappropriate for the residential area.
- Two flood lights are proposed along the boundary wall proximate to bedrooms used by the appellant and his family. Despite use of casements there would be unbearable impacts in terms of brightness during the night which would adversely the household during night time. This is unacceptable and contrary to Section 12.6.7 relating to negative impacts from powerful lighting on residential amenities of adjoining premises.

#### Debris

- Spray from the car wash is felt while in the garden during the summer. Windows at the north and east of the house are constantly dirtied by spray and debris

#### Operating Hours

- The NIA states that all services should be limited to 08.00 to 1900 hours Monday to Friday and 10.00 to 18.00 hours at weekends. The applicant has however requested longer operational hours for the service station, brush wash and services which exceed those prescribed in the report.
- Operational hours for the services proposed next to the appellant's boundary such as the vacuum and compressed air are unclear

#### Other

- No information provided on the service booths and the operations to be undertaken there
- Proposed development should be scaled down and the brush wash sited well away from the residential boundary.

The following enclosures were received with the appeal:

- Receipt of submission / Acknowledgement addressed to the appellant
- Copy of appellant's submission dated 22<sup>nd</sup> October 2022 in respect of the application and associated photographs. Issues raised therein are summarised as follows:
  - Proposed relocation of brush wash will cause continuous nuisance and seriously impact on the family home and the health of the family
  - Intense noise, disturbance and spray from the existing brush wash which is located 7m from the house
  - No information given in relation to proposed activities in the service booths
  - SHD application permitted on adjoining lands will also hugely affect the house
  - An acoustic report was not carried out and submitted with the application
  - The proposed retail unit should be scaled down to facilitate relocation of the brush wash
- Copy of appellant's submission dated 31<sup>st</sup> August 2023 made in connection with the Further Information response received relating to D22A/0708. Issues raised therein are summarised as follows:
  - The recording for the NIA should have taken place from proximate to the existing brush wash, rather than from its proposed location
  - Table 11 of the NIA shows that the appellant's house is the most severely and significantly affected property by the proposed services at the petrol station.

- Table 12 shows that the operational noise impact on appellant's property would significantly breach the threshold prescribed for a residential property in day time and evening hours
  - Proposed operational hours exceed those set out in the NIA
  - It appears that the applicant has not considered alternative locations for the brush wash
  - Concerns in terms of the impact of proposed lighting adjoining the appellant's property and also its impact on road users
  - Proposal infringes the appellant's right to quiet enjoyment of the property
- Copy of letter from Planning Authority dated 28<sup>th</sup> April 2023 to J.A. Gorman Consulting Engineers confirming time extension for receipt of Further Information
  - Copy of EHO's report dated 6<sup>th</sup> September 2023
  - Copy (partial) of NIA prepared by Amplitude Acoustics dated 28<sup>th</sup> March 2023
  - Copy of Notification of Decision to Grant Permission
  - Copy of submission made in respect of SHD TA.06D.311329 dated 8<sup>th</sup> October 2021

## 6.2. **Applicant's Response**

DM Planning Consultants has, on behalf of the applicant, responded to the grounds of appeal. The response may be summarised as follows:

### Time limit

- In relation to the time limit for receipt of the further information as raised by the appellant, this is a procedural matter and is not within the remit of the Board. The response was accepted and the Council issued a decision. The Board is tasked with assessing matters relating to proper planning and development.

## EHO Report

- The EHO's recommendation is noted and acknowledged. The planning authority must take all recommendations from internal departments into consideration but does not have to abide by their recommendations.

### Relocation of car brush wash

- The gable end of the appellant's dwelling will be c 6.3 m from the proposed brush wash facility
- The NIA recommended the following additional mitigation measures for the brush wash facility:
  - Operational hours of all services (brush wash, jet wash, vacuum, air compressor) to be limited to 0800 to 19.00 hrs Monday to Friday and 10.00 to 18.00 hrs on weekends
  - Proposed screen to the brush wash to be increased in height to 3.5 m and to run the extent of the proposed concrete hardstand to boundary wall and be cantilevered over the brush wash so as to offer 10Db acoustic screening to the first floor window of the appellant's house
  - A solid screen to be also installed on the west side of the brush wash area to the height of the proposed brush wash
  - A low rpm brush wash with sound power level less than 80 Db LWA should be sourced
- Condition 3 of the permission also provides further noise and splash mitigation as follows:
  - Proposed brush wash to be omitted or the proposed glazed splash screens to be extended further to the east to the end of the indicated concrete surfacing and 3 m further to the west
  - Glazed splash screen adjacent to southern boundary to be adjoined by or replaced by a suitable boundary treatment sufficient to offer acoustic screening of at least 10Db to a height of 3 m

- The fine vapour spray from the brush wash is high pressure water only. There are no chemicals added to the process (E-mail in this regard from Clarke Auto Wash appended to the appeal response).
- The applicant has looked at alternative locations for the brush wash however options are restricted by site size, location of existing forecourt (to be maintained). Accommodating customer traffic and deliveries to the site limits options available.

#### Noise

- It is accepted that the appellant's property is identified in the NIA as a noise sensitive receptor.
- Conclusions of the NIA note that appropriate mitigation measures are required to be implemented to ensure noise impacts do not arise at the nearest noise sensitive locations
- The response contains extracts from the NIA relating to Measurement Position MP03, Impact of operational noise on NSL3 (No. 6 Clonkeen Lawn), Sections 7.21, 7.22 and 7.2.3 (Mechanical Plant, Services and Boundary Treatment respectively).

#### Lighting

- There will be no lighting on the relocated car wash once closing hours have passed and the applicant is happy to accept a condition to this effect.
- There are three lights to be erected along the southern site boundary, two of which are in line with the gable end of the appellant's dwelling. No floodlight is proposed to the rear of the appellant's boundary wall.
- Appellant asserts that the floodlights are proposed outside bedrooms of the appellant's house. The outdoor lighting plan demonstrates the proposed locations of the lights. Light fitting 10A is located broadly in line with the front elevation of the appellant's dwelling where there is no first floor level window.

Light fitting 11A is located in line with the blank gable end of the two storey return at the rear of the dwelling. Mitigation measures ensure there will be no adverse impact on No. 6 Clonkeen Lawn or other dwellings.

- Condition 3 (d) of the permission requires that no column mounted floodlight or lamp standard on the south boundary is to operate after the hours of 6 pm. This condition ensures no light impact on the appellant's property during darkness / sleeping times.

#### Debris

- The proposed 3.5 m high screen as recommended in the NIA will protect the appellant's dwelling from any spray.
- The relocated brush wash will not have a material impact on the appellant's dwelling when the proposed mitigation measures are taken into account.

#### Operating hours

- Applicant prepared to accept a condition restricting the use of the brush wash, jet wash, vacuum and air compressor from 08.00 to 19.00 hrs during the week and 10.00 to 18.00 hrs at weekends in accordance with the NIA. The fuel and service station would operate from 0.600 - 21.00 hrs during the week, from 07.00 - 20.00 hrs on Saturdays and from 08.00 – 20.00 hrs on Sundays.

#### Other

- The service bays contain normal services such as air and water and vacuum.
- The car wash element is an integral part of the business in terms of income generation and providing a service for customers.
- It is in the applicant's interest to ensure all mitigation measures are abided by.
- Provision of brush wash service adjoining a residential dwelling is not unusual in urban areas (5 such examples of service stations in Dublin provided along with photographs).



Appendix / Enclosure: An email from Mr. Vincent Clarke of Clarke Auto Wash is attached to the appeal submission

### **6.3. Planning Authority Response**

The planning authority considers that the appeal grounds do not raise any new matter which would justify a change of attitude to the proposed development.

### **6.4. Observations**

None received.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Land-use and nature of the proposed development
- Impact on Residential Amenity
- Procedural issue
- Appropriate Assessment

### **7.2. Land-use and nature of the proposed development**

7.2.1. The application is for the redevelopment and enlargement of an existing service station. 'Service Station,' 'Service Garage,' 'Tea Room / Café' and 'Shop Neighbourhood' are all listed within the 'Open for Consideration' category of the 'A' zoning objective. Having regard to the existing and established service station use on the site I consider that the proposed development would be acceptable subject to compliance with all relevant planning criteria. The main issue under consideration is how the proposed development may impact on residential amenity.

### **7.3. Impact on Residential Amenity**

- 7.3.1. The appeal site is bounded by residential uses to the south. No. 6 Clonkeen Lawn, a two storey detached property lies within 6m of the boundary with the appeal site which comprises a block wall.
- 7.3.2. A significant issue of concern raised in the third-party appeal is the relocation of the brush wash from the south-eastern boundary to the southern boundary of the site, adjoining the private open space / side garden associated with No. 6 Clonkeen Lawn, which is identified as one of the nearest noise sensitive locations (NSL03) to the development site in the NIA.
- 7.3.3. The baseline environmental noise survey that informed the NIA was conducted on a Monday between the 14.51 and 21.55 hours. It is evident from Figure 3 under Section 5.1.1 of the NIA that none of the three measurement locations include a location beside / adjoining the existing brush wash. The noise survey states that the brush wash was the dominant intermittent noise source at location MP02 which is at the north-eastern site boundary.
- 7.3.4. Section 6.3 of the NIA identifies several potential noise generating activities occurring on the site while Table 11 sets out estimated operational noise levels at Noise Sensitive Locations (NSL), with NSL03 being most affected. The primary source of noise is noted as being associated with services, particularly the brush wash, the jet wash and compressed air. In this regard the EHO's report relating to the further information received, specifically the NIA which includes a number of proposed mitigation measures as detailed above, considered the proposal to relocate the brush wash to the boundary of the adjacent residential dwelling would significantly increase the likelihood of noise nuisance and is unacceptable. I concur with the concern raised in the EHO's report.
- 7.3.5. I note the proposed measures to mitigate noise and disturbance impacts arising from the relocated brush wash as set out in the NIA and detailed in condition 3 of the planning authority's decision. However, I am not satisfied, given the very close proximity of the proposed brush wash facility to the appellant's property that such measures would adequately address the noise nuisance and disturbance impacts from the brush wash facility. I consider that the noise and associated activity from the

operation of the brush wash would give rise to disturbance and nuisance impacts and would seriously injure the adjacent residential amenities.

7.3.6. Proposed mitigation measures include the provision of a screen 3.5m in height along the southern site boundary as well as an acoustic screen to be 3m in height. While such features do appear to reduce noise levels and spray escape to some degree, they do not contribute to the visual amenities of the area.

7.3.7. To conclude, I recommend inclusion of a condition requiring the omission of the brush wash facility should the Board be minded to grant permission for the proposed development.

7.3.8. The issue of floodlighting at the southern boundary of the site was raised as a concern in terms of impact on residential amenity. Two luminaries 5m in height are proposed along that boundary as indicated in the outdoor lighting plan provided as part of the further information response. Section 2 of the report notes that shields are proposed behind all column mounted floodlights at the site boundary to avoid backlighting into adjacent properties. Furthermore, asymmetric floodlights are proposed for light fittings close to the boundary in order to avoid obtrusive light and light spillage into adjacent properties. I note condition 3 (d) of the planning authority's decision requires that any column mounted floodlight or lamp standard on the south boundary shall not operate after the hours of 6pm. Should the Board be minded to grant permission I recommend inclusion of a similarly worded condition in this regard in the interest of residential amenity.

7.3.9. In terms of operational hours for the jet wash, vacuum and air compressor I recommend a condition restricting use from 08.00 to 19.00 hours during the week and 10.00 to 18.00 hours at the weekend. Operational hours for the petrol station and fuel pumps should be from 06.00 - 21.00 hrs during the week and from 07.00 - 20.00 hrs on Saturdays, Sundays and on Bank Holidays

#### **7.4. Procedural issue**

7.4.1. I note the issue raised by the appellant in connection with receipt of the further information response from the applicant. This is a procedural matter and I note the further information was considered acceptable by the planning authority. The above

assessment represents my de novo consideration of all planning issues material to the proposed development.

## **7.5. Appropriate Assessment**

7.5.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located in an urban area on the eastern side of Clonkeen Road in Deansgrange, approximately 240 metres north of the junction of the Clonkeen Road with the N11.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- Small scale and nature of the development
- Location-distance from nearest European site and lack of connections
- Taking into account the determination by the Planning Authority

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **8.0 Recommendation**

8.1. It is considered that the proposed development would be in accordance with the A land-use zoning objective that applies to this site as set out in the Dun Laoghaire Rathdown County Development Plan 2022 – 2028, and, subject to the removal of the proposed brush wash and compliance with the conditions set out below, would not seriously injure the residential amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 9.0 Conditions

1.	<p>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 received by the planning authority on the 22<sup>nd</sup> August 2023, 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed Brush Wash located adjoining the southern site boundary shall be omitted from the development.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
3.	<p>(a) The premises shall not operate outside the periods 0600 hours to 2100 hours during the week and 0700 hours to 2000 hours at the weekend and on bank holidays.</p> <p>(b) The jet wash, all air compressors and all vacuums shall not operate outside the periods 0800 hours to 1900 hours during the week and 1000 hours to 1800 hours at the weekend and on bank holidays.</p> <p>(c) All column mounted floodlights or lamp standards at or proximate to the southern boundary shall not operate after 1800 hours.</p> <p><b>Reason:</b> In the interests of residential amenity and the proper planning and sustainable development of the area.</p>

4.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
5.	<p>Prior to commencement of development, revised details and drawings for the following shall be submitted to and agreed in writing with the planning authority:</p> <p>(a) Adequate pedestrian access and priority from the proposed development to the Clonkeen Road</p> <p>(b) Provision of an additional EV charging point within the site or alternatively the remaining non-EV charging spaces shall be provided with ducting to facilitate and accommodate any future charging infrastructure.</p> <p>(c) A minimum of one EV charging space shall be suitable for use by persons with disabilities.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area.</p>
6.	<p>Details of the materials, colours and textures of all the external finishes to the proposed service station retail building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of the visual amenities of the area.</p>
7.	<p>All measures as set out in the Resource Waste Management Plan, the Construction Management Plan, the Construction and Environmental Management Plan and the Demolition and Operational Waste Management Plans shall be implemented.</p> <p><b>Reason:</b> In the interest of the proper planning and sustainable development of the area</p>

8.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between the hours of 0700 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>
9.	<p>That all necessary measures 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.</p> <p><b>Reason:</b> To protect the amenities of the area.</p>
10.	<p>All service cables associated with the proposed development shall be run underground within the site.</p> <p><b>Reason:</b> In the interest of orderly development and the visual amenities of the area.</p>
11.	<p>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.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
12.	<p>All lighting used within the site curtilage shall be directed and cowled so as not to interfere with passing traffic or the adjoining residential properties.</p> <p><b>Reason:</b> In the interest of residential amenity and traffic safety.</p>
13.	<p>No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>

I confirm that the report represents my professional planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

---

John Duffy  
Planning Inspector  
20<sup>th</sup> June 2024



## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-318250-23		
<b>Proposed Development Summary</b>	Demolition of existing service station. Construction of new service station together with ancillary works.		
<b>Development Address</b>	Texaco Clonkeen Service Station, Clonkeen Road, Deansgrange, Blackrock, Co. Dublin		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class	EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	X	10(b)(iv) of Part 2 of Schedule 5	Proceed to Q.4

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

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP- 318250-23	
<b>Proposed Development Summary</b>	Demolition of existing service station. Construction of new service station together with ancillary works.	
<b>Development Address</b>	Texaco Clonkeen Service Station, Clonkeen Road, Deansgrange, Blackrock, Co. Dublin	
<p><b>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.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is zoned A – Residential. The proposed development is not exceptional in the context of existing environment.</p> <p>Construction waste can be managed through standard Waste Management Planning. Localised construction impacts will be temporary.</p>	No
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>No. The total site area within the red line boundary is 0.241 ha</p> <p>No.</p>	No

<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>No. The nearest European sites are the South Dublin Bay SAC and the South Dublin Bay and River Tolka Estuary SPA located approximately 3 kms north of the proposed development.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>	<p>No</p>
<p style="text-align: center;"><b>Conclusion</b></p>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>		

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)