



An
Bord
Pleanála

Inspector's Report

ABP-318471-23

Development

Change of use from retail to retail,
including alcohol sales.

Location

Circle K Manor Stone Service Station,
Off Junction 3 on M8 Motorway,
Tintore, Ballacolla, Co. Laois, R32
X8H7

Planning Authority

Laois County Council

Planning Authority Reg. Ref.

2360337

Applicant(s)

Ard Services Limited.

Type of Application

Permission.

Planning Authority Decision

Refused

Type of Appeal

First Party

Appellant(s)

Ard Services Limited.

Observer(s)

[Click here to enter text.](#)

Date of Site Inspection

25th of July 2024

Inspector

Caryn Coogan

1.0 Site Location and Description

- 1.1. The subject site is within a Circle K Service Station (Manor Stone) off Junction 3 on the M8 motorway at Tintore, Co. Laois.
- 1.2. The site is large triangular in shape with the main services located centrally on the site. The facilities on the site are consistent with 24hour motorway service stations. Along with fuel, there is a retail outlet, EV charging points. A food court, coffee, a takeaway restaurant, seating indoor and outdoor, toilets, food preparation areas, bin storage, service yards.
- 1.3. There is significant surface parking on the site.

2.0 Proposed Development

- 2.1. The proposed development is for the change of use from permitted retail use to retail use including the sale of alcohol for consumption off the premises (i.e. an off licence) within the overall permitted retail use, where the floor area for the off-licence use is **16sq.m.** and is ancillary to the primary retail use.

3.0 Planning Authority Decision

3.1. Decision

Laois Co. Co. refused the proposed change of use for one reason:

The proposed development would facilitate an expansion of the retail offering at the Manor Stone Service Station such that the retail floor space at this out-of-centre rural location would seriously undermine the approach to retail development in the Laois County Development Plan 2021-2027. In particular, the proposed development would if granted, undermine the vitality and viability of nearby settlements a (Ballacolla and Rathdowney). Furthermore, the proposed development would facilitate the reinforcement and enhancement of retail development at this out of centre rural location, to the detriment of the vitality and viability of nearby settlements of Ballacolla and Rathdowney contrary to the policies of the Laois County Development Plan 2021-2027. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

The proposed development would therefore be contrary to the principles of sustainable development and contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The site is 3km west of Ballacola, and 7km from Rathdowney. It is considered the proposal would undermine the competitiveness of the county's main centres. It would also undermine the approach to retail development in the Laois County Development Plan. It would undermine the vitality and viability of nearby settlements.

3.2.2. Other Technical Reports

- Area Engineer: No objections.

3.2.3. Conditions

- Where the PA have attached bespoke conditions, these conditions should be highlighted in this section, and in the assessment section of your report consideration should be given as to whether or not the condition should be included in any decision to grant by the Board. The reasons why the condition should or should not be included should also be set out in the inspectors assessment.

3.3. Prescribed Bodies

No objections.

3.4. Third Party Observations

No objections.

4.0 Planning History

4.1 *Application Reference 11331 (ABP Re: PL11.240297)*

Permission granted to alter boundaries of site which was originally granted planning permission under Ref. 08/682 and 07/1346, to demolish existing canteen/ workshop/ shed, move existing entrance on the R433 including realignment of the R433. And new HGV refuelling area and rest area, site signage and all associated site works.

4.2 *On the immediate adjoining site Application reference 22506*

Permission granted to diversify the grant of retention of planning reference 21/668 to include an off license in a portion of the farm shop. Condition No. 2 of the permission specified the off-licence should be limited to the sale of locally produced alcoholic beverages including bespoke craft beers and spirits.

5.0 Policy Context

5.1. National Policy

5.1.1 *Spatial Planning and National Guidelines for Planning Authorities 2012*

In preparation of their plans, planning authorities may consider policies for the provision for off-line motorway service area facilities with reference to the requirements and the advice included in the most up to date NRA guidance on the location and layout of the NRA's service areas and also similar type existing or planned privately promoted service facilities within existing towns/ settlements and located in the general environs of the relevant road corridor.

In addition, facilities proposed for the inclusion in service areas should be of a type that avoids the attraction of short, local trips, a class of traffic inconsistent with the primary intended role of motorways and other national roads and associated junctions in catering for strategic long distance inter-urban and inter-regional traffic. Furthermore, 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 the Retail Planning Guidelines 2005. The consequence of this would be to threaten the viability of businesses in cities, towns or other local centres.

5.1.2 *Retail Planning Guidelines 2012 (Section 4.11.9)*

Retailing and Motor Fuel Stations:

Convenience shops are part of the normal ancillary services 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 the retail development in the development plan.

The floorspace in the shop should not exceed 100sq.m. where permission is sought for floorspace in excess of 100sq.m. the sequential approach to retail development shall apply.

5.1.3 **Local Planning Policy**

5.1.4 ***Laois County Development Plan***

RTP 7: Ensure that all retail development permitted is in accordance with the Retail Planning Guidelines for Planning Authorities. And the Laois County retail Strategy.

DM TC 3 PETROL FILLING STATIONS Applications for filling stations should have regard of the Retail Planning: Guidelines for Planning Authorities (DECLG, 2012) and the Spatial Planning and National Roads: Guidelines for Planning Authorities (NRA/TII, 2012) also take account of the following Criteria: (page 158).

10.1.3.1 Motorway Network

County Laois occupies a strategic location on the National Road network with the M7, M8, N80, N77, N78, traversing the county. The primary purpose of the national road network is to provide strategic transport links between main centres of population and employment. The M7 and the M8 have been identified as part of the Trans-European Transport Network (TEN-T). Section 2.8 of the DoECLG Spatial Planning and National Roads Guidelines which indicates the requirement for a forward planning approach to the provision of off-line motorway service areas at national road junctions and also addresses road-side service facilities on non-motorway national roads and their junctions.

5.2. **European site Designations**

None relevant.

5.3. EIA Screening

The development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended), and therefore is not subject to EIA requirements (See Form 1 Appendix 1).

6.0 The Appeal

6.1. Grounds of Appeal

A summary of the key and relevant issues raised on appeal is as follows:

- The key reason for refusal is the proposed off-licence use will seriously undermine the approach to retail development set out within the Laois County development Plan 2021-2027.
- It was concluded the off licence would detract from the nearby towns and villages which are located 3km and 7km from the motor service station.
- These conclusions are unjustified and based on mistaken and exaggerated planning rationale.
- The proposed development is a minor alteration to an existing retail outlet. The planning application was required because the definition of 'shop' in the Planning and Development Regulations 2001, as amended, specifically excludes off-licences.
- The motor service station provides for the sale of convenience goods. Under Annex 1 of the retail Planning Guidelines 2012, the sale of alcohol falls within the definition of convenience goods.
- There is no new retail floorspace proposed. The off-licence will utilise an area of the shop already used for the sale of convenience goods.
- The proposal does not facilitate the expansion of the retail offering as suggested by the Planning report. There is no increase in the net retailing floorspace.

- The planning authority stating and area of 16sq.m. would interfere with the vitality and viability of nearby towns and villages is an unreasonable and overstated viewpoint.
- The site is a commercial use as a Circle K motorway service area. The stations existing convenience store sells wine. The sale of alcohol is already established on the site in accordance with the statutory definition of a 'shop' set out in the Planning and Development Regulations 2001. The proposed change of use will not materially affect the retail operation currently undertaken on the site in anyway.
- It is now common practice for convenience food stores to sell alcohol as part of their product offering. There are several recent proposals for off-licences granted planning permission for development at Motorway Service Areas. Ref. 23/60316 Tipperary Co. Co. granted permission for a 12.5sq.m. off licence facility at Circle K, Cashel Motor Service station, M8 also. Ref. 23/4831 Permission granted by Cork Co. Co. at the Fermoy service station, Junction 14, M8, and Carlow and Kildare at service stations along the M7 and M9.
- There is a neighbouring farm shop within the blue line of the site boundary which was granted planning permission under reference 22/506 for the farm shop to include an off-licence. It is noted the conditions restricted the use of the off licence to the sale of locally produced beverages including bespoke craft beers and spirits. It is questionable whether this condition is enforceable as to what defines locally produced.
- The service station is located at a key interchange of the M8. Rathdowney is 7km to the west of the M* and has an off-licence in the local Supervalu. It is not reasonable to conclude the 16sq.m. proposed change of use would lead to any signifigant or detrimental diversion of trade away from the town.
- The principle use of the Motor service station will remain on site and the off-licence will be of limited scale and subsidiary to the main use.

6.2. Planning Authority Response

No further comment on appeal.

7.0 Assessment

- 7.1. Having considered the appeal file and inspected the site, I consider in the context of the existing and permitted scale and function of the existing facility at Manor Stone Motorway Services, the proposed change of use within the shop area to an off-licence (16sq.m.) is a minor proposal resulting in a modest change to the retail offer at the Motorway service station.
- 7.2. There were no objections received to the proposed development. I note a similar precedent has been granted planning permission along other M8 service stations by Cork Co. Co. and Tipperary Co. Co. The motor service station at Cashel along the M8 was granted planning permission for a change of use of 12.5sq.m. for an off-licence within the existing shop under planning reference 23/4831. In addition Cork Co. Co. granted planning permission for an off-licence within the existing shop at the motor service station in Fermoy under planning reference 23/60316. There are other similar precedents granted planning permission at Circle K motorway service stations in Carlow and Kildare. I conclude there is nothing inconsistent or unusual about the current proposal before the Board.
- 7.3. Under the Retail Planning Guidelines 2012, Section 4.11.9 it states convenience shops are part of normal ancillary services provided within motor fuel stations. In rural areas they have a very important function as the local shop or small supermarket. The floor space of the shop should not exceed 100sq.m.
- 7.4. The subject site is approximately 3km west of Ballacolla and 7km from Rathdowney. The planning authority believed the proposed development would undermine the existing competitiveness of the county's main centres, in particular the vitality and viability of Ballacolla and Rathdowney. In response to this the applicant has stated there is not new retail floorspace proposed. The proposed part off-licence will utilise an area already dedicated to the sale of convenience goods. It does not facilitate the expansion sale of retail goods as suggested by the planning authority in its assessment. The floor area is only 16sq.m. within an existing shop.

7.5. The customer catchment for the motorway service station are commuters on the national road network. The facility is 7km from Rathdowney which has an off licence in the local Super Valu. Customers are unlikely to travel from Rathdowney to use the facility. The existing store at Circle K on the subject site currently sell wine. The sale of alcohol is an established use on the appeal site. In my opinion, the proposed development would not significantly affect the retail operation on the site.

8.0 AA Screening

8.1. In accordance with Section 177U (4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that that the development sought under this application would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 is not required. This conclusion is based on:

- The location of this brownfield site alongside a motorway.
- The change of use is within an existing retail area and will not involve additional construction works.
- The lateral separation distance between the subject site and the nearest European site.
- The absence of meaningful pathway to any European site from the subject site which is located inside an existing shop.

9.0 Recommendation

I recommend that planning permission be granted for the proposed development.

10.0 Reasons and Considerations

Having regard to the planning history of the site, the existing use of the site as a motorway service station, and limited floor area associated with the proposed change of use, subject to the condition set out below, the proposed development

would not give rise to any unacceptable impacts on the existing vitality and viability of the existing retail outlets in surrounding towns and villages, and would be in keeping with the existing and permitted pattern of development in the area, and would therefore substantially accord with the proper planning and sustainable development of the area.

11.0 Conditions

The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars received by the planning authority on the 29th of 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.

Reason: In the interest of clarity.

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.

Caryn Coogan
Planning Inspector

30th of July 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

| | | | | |
|---|---|---|----------------------------------|---|
| An Bord Pleanála Case Reference | ABP 318471-23 | | | |
| Proposed Development Summary | Change of use from retail to retailing including alcohol sales | | | |
| Development Address | Circle K Manor Stone Service Station., Junction 3 MM8 Motorway, Ballacolla, Co. Laois. | | | |
| 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 | | |
| | | No X | 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) and does it equal or exceed any relevant quantity, area or limit where specified for that class? | | | | |
| Yes | | Class..... | EIA Mandatory EIAR required | |
| No | | | 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 | | N/A | | No EIAR or Preliminary Examination required |
| Yes | | Class/Threshold..... | | Proceed to Q.4 |

4. Has Schedule 7A information been submitted?

| | | |
|------------|--|---|
| No | | Preliminary Examination required |
| Yes | | Screening Determination required |

Inspector: **Caryn Coogan** Date: **30/07/2024**