



An  
Bord  
Pleanála

## Inspector's Report

### ABP-321731-25

#### Development

Retention of existing jet wash and associated jet wash pump enclosure with 10,000 litre water storage tank. Permission is also sought to retain the existing opening hours of 24 hours

#### Location

Circle K Caherdavin, Ennis Road,  
Limerick

#### Planning Authority

Limerick City and County Council

#### Planning Authority Reg. Ref.

2461052

#### Applicant(s)

Ard Services Ltd

#### Type of Application

Retention

#### Planning Authority Decision

Refused

#### Type of Appeal

First Party

#### Appellant(s)

Ard Services Ltd

#### Observer(s)

Brian Meaney & Nessa Meaney

#### Date of Site Inspection

03<sup>rd</sup> March 2025

#### Inspector

Clare Clancy

## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	5
3.3. Prescribed Bodies .....	6
3.4. Third Party Observations .....	6
4.0 Planning History .....	6
5.0 Policy Context .....	7
5.1. Limerick Development Plan 2022-2028 .....	7
5.2. Natural Heritage Designations .....	10
6.0 EIA Screening .....	10
7.0 The Appeal .....	11
7.1. Grounds of Appeal .....	11
7.2. Planning Authority Response .....	13
7.3. Observations .....	13
8.0 Assessment .....	15
8.2. Principle of Development .....	16
8.3. Impact on Residential Amenity .....	16
8.4. Hours of Operation .....	19
8.5. Other Matters .....	20
9.0 AA Screening .....	21
10.0 Recommendation .....	22

11.0	Reasons and Considerations .....	22
12.0	Conditions .....	22
Appendix 1 – Form 1: EIA Pre-Screening, Form 2: EIA Preliminary Examination		

## **1.0 Site Location and Description**

- 1.1. The appeal site fronts onto the southern side of the Ennis Road (R445). It has an overall stated area of 0.436 ha and is located approx. 2 km to the northwest of Limerick city. The site comprises of a Circle K filling station that includes a retail/commercial building, a fuel forecourt, an automated drive-through car wash located to the western side of the main building, and an air/water/vacuum unit to the north. There is an external laundrette facility adjacent to the western elevation of the building, a bin store to the east, 2 no. public waste compactors and an external storage building to the rear. There is also a designated picnic area located in the northwestern corner of the site.
- 1.2. The existing jet wash area which is the subject of the appeal, is located to the rear of the retail unit, approx. 7.0 metres north of the rear boundary of the appeal site.
- 1.3. There are 2 no. existing vehicular accesses off the adjoining R445 which allow for two way traffic. There is car parking adjacent to the front of the retail unit, and to the east and west. The internal road enables access to the rear of the building, although it is not identified as a one-way traffic system.
- 1.4. There is an existing commercial premises adjoining the site to the east with residential units above. There are a number of existing dwellings adjoining the site to the northwest along the R445. The rear back gardens of a row of two-storey semi-detached dwellings (no.'s 21-29) on Cherry Avenue immediately adjoin the southern boundary of the site.
- 1.5. The rear boundary of the site is defined by a concrete post and timber fencing that is backed by trees and hedgerow.

## **2.0 Proposed Development**

- 2.1. Retention permission is sought for the following:
  - i. The existing jet wash and associated jet wash pump enclosure,
  - ii. The existing 10,000 litre above ground water storage tank at the rear of the existing retail service development,
  - iii. The existing opening hours of the service station currently operating on a 24 hour basis.

- 2.2. The appeal site relates to the overall service station site which has a stated area of 0.436 ha. The gross floor space of the existing commercial building is stated to be 296 m<sup>2</sup> and is single storey in scale.
- 2.3. The development to be retained which is the subject of the appeal is located to the rear of the retail building, approx. 7.0 m from the rear boundary of the site. It comprises of a jet wash unit with 2 hand-held power washers, jet wash power generation pump enclosure, a large water tank max height 2.8 m which lies on a concrete apron with an approx. width of 2.6 m, and a set down area with central drainage chamber.

### 3.0 Planning Authority Decision

#### 3.1. Decision

By Order dated 27<sup>th</sup> November 2024, Limerick City and County Council decided to refused permission for the following reason:

*The proposed development for retention of the 24 hour operation of the service station as well as the jet wash, pump enclosure and water storage tank is considered unacceptable by virtue of its nature, location and 24 hour operation which would seriously injure the residential amenities and depreciate the value of properties in the vicinity due to noise, light overspill, traffic and general disturbance particularly during nighttime hours. The applicants justification, based on low night-time traffic levels, fails to mitigate these adverse impacts, and the proposed development is therefore considered contrary to the proper planning and sustainable development of the area.*

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

One planning report dated 29<sup>th</sup> August 2024 forms the basis of the assessment and recommendation. The following is noted:

- The adjoining area is predominantly residential in character with some existing residential developments bounding the appeal site to the west and to the south.

- The issues highlighted in the third party submissions impacting on residential amenities as a result of operating as a 24 hour service, in terms of operational noises, traffic, light spillage.
- The applicant indicated that between the hours of 12 am and 7 am customer traffic accounted for less than 7 % of the total customers over a week, and concluded that the proposal to extend opening hours is unjustified based on traffic levels, and would impact on residential amenities, the general area which is predominantly residential.
- The proposed development would intensify the use of the site, adding further to the overall noise and general disturbances, given its location to the rear of existing residential properties.

#### 3.2.2. Other Technical Reports

- Roads Department (19<sup>th</sup> November 2024) – Concerns raised regarding the direction of internal traffic movements and sightline impediments (signage, vegetation) at the entrances to the site.

### 3.3. Prescribed Bodies

- Uisce Éireann – No objection subject to standard conditions relating to connection agreement and conditions relating to water, wastewater and surface water systems.

### 3.4. Third Party Observations

- 3.4.1. Four third party observations were received in regard to the proposed development. The issues raised are largely covered by the grounds of appeal.

## 4.0 Planning History

#### Appeal Site

- P.A. Ref. 03/515 – Permission granted for internal alterations to existing retail shop (27<sup>th</sup> May 2003).

- P.A. Ref. 08/45 – Permission granted for replacement of existing brush wash with conveyor car wash facility (06<sup>th</sup> May 2008).
  - Condition 4 restricted hours of operation between 07:00 am to 10:00 pm Monday to Saturday, on Sundays 10:00 am to 9:00 pm.
- P.A. Ref. 18/970 – Permission granted for pay-to-use portable compactor for dry recyclables and waste compactor for residual / food waste (20<sup>th</sup> November 2018).
- P.A. Ref. 19/349 – Permission granted for retention of external laundromat facility on forecourt (30<sup>th</sup> May 2019).
- P.A. Ref. 24/59, ABP Ref. 319631-24 – Permission granted for high power EVC points and associated infrastructure which is to be located at the southwestern corner of the site (18<sup>th</sup> December 2024).
  - Condition 3 relates to augmentation of planting along the southern boundary of the site.
  - Condition 4(d) relates to details for cowl positioning on proposed lighting to address minimisation of light overspill into neighbouring properties.
- P.A. Ref. 24/61014 – Permission granted for the installation of a 4,750 litre above ground self bunded fuel storage tank with integrated dispense and signage (05<sup>th</sup> December 2024).

### Enforcement History

DC-166-24 – Following on from a warning letter, an enforcement notice was issued on 06<sup>th</sup> September 2024 the terms of which require the 24 hour operation of the service station to cease, cease the use of car wash outside of permitted hours of operation, remove unauthorised handwash and overground tank, retain and maintain trees to southern boundary.

## **5.0 Policy Context**

### **5.1. Limerick Development Plan 2022-2028**

- **Land Use Zoning**

Zoning – Enterprise and Employment.

Objective: To provide for and improve general enterprise, employment, business and commercial activities.

- **Chapter 6 Environment, Heritage, Landscape and Green Infrastructure**

Section 6.3.12.3 Commercial and Industrial Noise

Seeks to manage noise arising from commercial and industrial uses which can impact on health and well-being of occupants of noise sensitive properties.

- Objective EH O22 Commercial and Industrial Noise

It is an objective of the Council to prevent members of the public being significantly adversely affected by environmental noise from commercial and industrial noise activities.

Section 6.3.13 Light Emission

Seeks to manage light emission through appropriate design and by ensuring developments are not making use of unnecessary lighting.

- Objective EH O24 Light Pollution

It is an objective of the Council to ensure that the design of external lighting schemes minimise the incidence of light spillage or pollution in the immediate surrounding environment. In this regard, developers shall submit lighting elements as part of any design, with an emphasis on ensuring that any lighting is carefully directed, not excessive for its purpose and avoids light spill outside the development and where necessary will be wildlife friendly in design.

- **Chapter 11 Development Management Standards**

Section 11.6.3 Petrol Stations

Table DM7: Design Guidelines For Service Stations – the following points are relevant to this appeal:

Design

- Design approach should reflect an integrated design dealing with buildings, structures, advertising, lighting, overall layout etc. reflecting a high standard of design;



- In urban centres where the development would likely have an impact on the historic or architectural character of the area, the use of standard corporate design and signage may not be acceptable;
- Service stations are generally not encouraged in the retail core of urban areas or in rural areas;
- The application must demonstrate that noise, traffic, visual obstruction, fumes/odours do not detract unduly from residential amenity in the area;
- New petrol stations and refurbished existing stations shall ensure provision of Low Emission Vehicle Refuelling/Recharging Infrastructure.

#### Lighting

- All fixtures or fittings, including canopy lighting shall be provided in such a way so as not to cause a glare to road users, or unduly detract from the visual amenities of the area.

#### Surface Water

- Surface water from the development will be required to be contained within the site and piped to the public system. No surface water will be permitted to pond within the forecourt, adjoining the boundary walls or along the entrance/exit lanes.

#### Ancillary Services

- Services such as car wash/valeting services, minor servicing such as tyre changing and puncture repairs may be permitted, subject to not negatively impacting on residential amenity. They should be located on site to avoid any queueing of vehicles on the public road, or causing nuisance to residential amenity;
- No obstruction other than pump island shall be located within 15 m. of the road boundary;
- No structures, whether permanent or temporary shall interfere with the sight lines of drivers or obstruct pedestrians;
- A Discharge License may be required.

#### • Section 11.6.1.1 Commercial and Industrial Noise

Where there is the potential for environmental noise to be generated from a commercial or industrial facility (e.g. fans, machinery), it will be necessary to submit a Noise Assessment in accordance with BS 4142:2014+A1:2019, or any other relevant standards, guidance or best practise. The likelihood of adverse or significant adverse effects at noise sensitive receptors should be established and details submitted of any proposed noise mitigation measures. Any noise assessment should be prepared by a suitably qualified professional with sufficient expertise.

## **5.2. Natural Heritage Designations**

- Lower River Shannon SAC (Site Code: 002165) – approx. 1.5 km to the south of the appeal site.
- River Fergus Estuaries SPA (Site Code: 004077) – approx. 1.5 km to the south of the appeal site.

## **6.0 EIA Screening**

- 6.1.1. Refer to Form 1 in Appendix 1 (EIA Pre-Screening). Class 10(b)(iv) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for a development comprising urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.
- 6.1.2. Refer to Form 2 in Appendix 1 (EIA Preliminary Examination). Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), I have concluded that there is no real likelihood of significant effects on the environment arising. The proposed development does not exceed the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10) and I do not consider that any characteristics or locational aspect (Schedule 7) apply. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination (see Form 1 and Form 2 appended to report).

## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1. The first party grounds of appeal may be summarised as follows:

#### Principle of Development

- The key material planning consideration is the impact that the 24 hour operation of the service station on residential amenities adjoining the appeal site, in particular Cherry Avenue.
- Zoning – the site is zoned for commercial development.
- There is no development or zoning objective in the development plan that specifically restricts opening hours for service stations.

#### Traffic

- In relation to the issues raised with respect to sightlines and traffic movement within the site, the appellant is happy to accept a condition to address same.

#### Hours of Operation

- It is the intention to provide late night offering of convenience retail goods for key workers and people who would avail of the service during nighttime hours.
- The extent of custom during night-time hours is not significant or at a level which would have undue impact on the amenity of the area.
- The 24 hour opening does not extend to the ancillary services provided on site, only to the station shop and fuel filling facilities.
- A review of the planning history of the site indicates that there is no specific planning condition(s) in relation to the service stations opening hours.
- It is not the intention to operate the jet wash on a 24 hr basis. It is proposed to operate it in line with the permitted opening hours of the existing and permitted automated car wash between 07:00 am – 10:00 pm, and 10:00 am – 21:00 pm Sundays as per condition 4 of P.A. Ref. 08/45 (which relates to the existing automated car wash). The appellant is happy to accept a condition to address this matter.

- The existing external laundrette kiosk and jet wash facility will not operate on a 24 hour basis.
- Similar service stations operate on a 24 hour basis in urban areas in cities such as Cork, Dublin, Galway, Waterford.
- The need to operate on a 24 hour basis will maximise commercial viability, provide additional employment.
- Disagree with planning authority that 7% volume of custom during nighttime hours is significant or detriment to adjoining residential amenities.
- The significance of the service station is acknowledged by the planning authority under P.A. Ref. 24/59, ABP Ref. 319631-24. That development is larger in scale and closer to the rear gardens of Cherry Avenue and the proposed development was not considered to impact negatively on residential amenity. The Board was satisfied that the extent of screening and planting to be retained and reinforced would ensure residential amenities would be maintained and a condition was included to this effect.

#### Light Spill

- This can be addressed by condition. Lighting cowls can be incorporated onto the light head which will have the effect of channelling light downwards further, and assisting in blocking light transfer to neighbouring properties.
- In order to address further the matter of light overspill, the appellant will commit to all non-essential lighting to the rear of the retail unit being turned off by 10:00 p.m. in line with the operating time of the automated car wash.
- If required, the appellant would accept a condition in relation to a light spill assessment to demonstrate that no undue light spill impacts adjoining properties.

Note: A drawing of a standard single head lighting column and images of existing lighting columns is included with appeal.

#### Operational Noise

- The area for washing is approx. 7.64 m from the rear boundary fence, and approx. 12.5 m from the gable of the nearest dwelling. This is sufficient separation distance within an urban context to ensure undue impacts do not arise.

- Jet car wash is a typical facility offered in service stations in the city many of which are located within residential or mixed use areas without undue impact on residential amenity.
- Noise impacts are addressed by noise impact assessment and limiting hours of operation where they remain closed early morning and late evening. Examples of precedent cases determined by the Board are provided. The appellant is happy to accept a condition in this regard.
- Precedent cases granted – the noise impact assessments undertaken demonstrated the level of operational noise at the nearest sensitive receptors (most often residential) is low impact.
- Other operational services raised in third party submissions – external laundrette available to use on a 24 hour basis. Appellant will accept condition regarding its use.

## 7.2. Planning Authority Response

None received.

## 7.3. Observations

One third party observation was received from Brian Meaney and Nessa Meaney on 14<sup>th</sup> February 2025 in response to the first party appeal. The substantive issues that are raised can be summarised as follows:

### Issues Raised As A Result of 24 Hour Operation

- The floodlights are being left on over the 24 hour period.
- Light Overspill – this occurs from existing external light stands, one which directly shines into house and bedrooms. This was raised with management of Circle k who advised that lights have to remain on due to the 24 hour operation of the service station.
- Regarding the proposal to add cowls to existing lighting, and the proposal to all non-essential lighting to the rear of the retail unit being turned off by 10:00 pm, if conditions are imposed, how will they be enforced.

- The issues with lighting is not confined to the rear, the lighting at the front of the premises causes the main problems (photos included).
- Deliveries – Prior to 24 hour operation, deliveries were made after 07:00 am. This has changed with deliveries occurring at night time which include large trucks, trucks with refrigeration, and drivers leaving engines running idle while making deliveries. This involves lights being turned on to facilitate deliveries and in some instances being left on.
- Laundrette – the existing kiosk gives rise to disturbance at night due to the 24 opening hours of operation. The bin / compactor is also available at night and is not regulated by planning conditions.
- External Diesel Tank – recently granted permission P.A. Ref. 24/61014 with no conditions included in relation to opening / operating hours. This will allow large vehicles, trucks, lorries, buses to get fuel over a 24 hour period giving rise to disturbances at night.
- EV Chargers – the Board upheld permission for an EV charging area under ABP Ref. 319631-24. At the time Ard Services did not have permission to operate on a 24 hour basis.
- The need for this 24 hour service station will not be required once the Connagh / Knocklisheen bypass is completed.

#### Existing Jet Car Wash and Automated Car Wash

- The existing automated car wash is enclosed with doors which act as a noise buffer, the jet car wash is not enclosed, is fully open, and is much closer to residential property boundaries.
- Noise levels associated with the subject development and the automated car wash are very high. The automated car wash is operating outside of permitted hours (photos provided).
- If conditions are to be imposed, operation hours should be restricted for the jet car wash between 09:00 am – 21:00 pm, Sundays 10:00 am – 21:00 pm. The power to the unit will be required to be turned on/off at the appropriate times.

#### Precedent Cases

- Queries the precedent cases outlined in the appeal and their relevance to the subject appeal. All but one are located in Dublin.
- Decisions made by An Bord Pleanála to application appealed by Ard Services which were successful had very strict conditions imposed.

#### Planning History

- Conditions pertaining to other planning permissions related to the service station which are being ignored by Ard Services Ltd.
- In the last permitted application ABP Ref. 319631, both applications P.A. Ref. 24/61014 and 24/61052 were not referenced in the report of the Planning Inspector. Both applications were relevant and is not clear why they were not mentioned in this report.

## **8.0 Assessment**

- 8.1. Having regard to the description of development as stated in the public notices, the scope of this assessment relates to the retention of an existing jet wash, pump enclosure and a water storage tank, and retention of the current 24 hour opening hours of the service station which I note relates to the existing retail shop and fuel forecourt.

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/regional/national policies and guidance, I consider that the substantive issue in this appeal to be considered is the following:

- Principle of Development
- Impact on Residential Amenity
- Hours of Operation
- Other Matters

## **8.2. Principle of Development**

- 8.2.1. The appeal site comprises of an established fuel filling service station located on lands zoned 'Enterprise and Employment' under the Limerick City and County Development Plan 2022-2028. Having regard to the existing established service station use on the site, I consider that the development for which retention is being sought would be acceptable subject to compliance with all relevant planning criteria. The main issues under consideration is the amenity of adjacent residential property in the area and impact on same.

## **8.3. Impact on Residential Amenity**

- 8.3.1. The appeal site is bounded by residential uses to the east, south and northwest. The adjoining development to the east has a commercial unit at ground floor and residential apartments above. A number of existing dwellings along Cherry Avenue back onto the appeal site some within c. 7.0 m of the subject development. The southern boundary of the appeal site is defined by a c. 2.0 m high concrete post and timber fence which is a shared boundary between the appeal site and the adjoining dwellings to the south. The separation distance between the jet wash and the boundary of the closest residential property located to the south is approx. 7.6 m. There are mature trees along the boundary.
- 8.3.2. The subject matter of the appeal relates to the impact of the car wash on adjoining residential amenities. In this regard, the concerns raised in the reason for refusal relate to the impact of noise from the operation of the jet car wash, vehicle movements related to car wash activities and light spillage and also, the 24 hour operation of the service station which will enable such impacts to occur at any time.

### Noise

- 8.3.3. Car wash activities currently are carried out at the site which involve an automated drive-through car wash for which permission was granted under P.A. Ref. 08/45. Other activities and services are also offered within the site and I note that 2 no. waste compressors are located along the southern boundary of the site, to the rear of existing residential properties, and an external laundrette kiosk is located to the western side of the retail building.



- 8.3.4. The subject development is self-service and involves the use of a substantial water store, pump, 2 no. jet power hoses, as well as vehicle movements which give rise to noise emissions. It is not enclosed within a roofed structure. I note that a noise impact assessment was not submitted at application stage or as part of the appeal and it is difficult to review and assess the impact of such noise on residential amenity. Notwithstanding, such a car wash facility is typical of service stations, and the associated noise levels etc would be reasonable during day time operation. However, at night time or early morning, the noise impacts associated with its operation and other noise sources such as vehicles pulling in, stopping, starting, engines running idle, doors slamming, people loitering, would unduly impact on the adjacent residential amenities. Having regard to the location of the residential dwellings along Cherry Avenue which back onto the appeal site, and the limited separation distance between the subject development and the adjoining rear back gardens, the operation of the subject development during late evening / night time and early morning would be detrimental to the adjacent residential amenities.
- 8.3.5. The appellant submits that the subject car wash would be operated in line with the permitted hours of the adjoining automated driver-through car wash between 07:00 am – 10:00 pm, and 10:00 am – 21:00 pm Sundays which forms part of condition 4 of P.A. Ref. 08/45 and is willing to accept a condition similar to same. It is further indicated that existing screening and planting along the southern boundary of the site will be retained and reinforced to ensure residential amenities of properties to the south are maintained.
- 8.3.6. However, I am not satisfied, given the very close proximity of the existing jet wash facility to the boundaries of the residential dwellings immediately to the south, that such measures would adequately mitigate the noise impacts and disturbance impacts. The late opening time of 10 pm would be excessive and the operation of the car wash during night time hours and early mornings would give rise to noise disturbance and nuisance impacts and would seriously injure the adjacent residential amenities. However, I consider that the hours of operation for the use of the jet wash could be condition from 09:00 am – 21:00 pm Monday to Saturday and Sundays 10:00 – 21:00 pm and I recommend that in the event of a grant that the Board include such a condition. I note in the observations to the grounds of appeal that such a condition was highlighted. There is also scope to further lessen noise impact by the provision of a

noise barrier / screen to the rear of the jet wash and I recommend that such a barrier is provided in the event of a grant. Having regard to the foregoing, I consider that these measures will serve to lessen noise impact on the adjoining residential amenities to the south and that the retention of the jet wash would be acceptable on this basis.

#### Light Overspill

- 8.3.7. Concerns relating to the impact of light spillage on adjoining residential amenities is raised in the reason for refusal. To address the issues, the appellant submits that cowls can be incorporated onto existing light heads, and all non-essential lighting to the rear of the retail unit can be turned off by 10:00 p.m. in line with the operating time of the automated car wash. The appellant has also indicated that they are willing to accept a condition in relation to a light spill assessment.
- 8.3.8. Flood lighting of the site comprises 7 no. lighting columns in total which are 4.0 m in height and I note their location within the site. There is 1 no. lighting column located adjacent to the southern boundary of the site at the jet wash facility which has a double lamp head with one lamp head positioned in the direction of the car wash and the second in the direction of the rear of the retail building and automated drive-through car wash. There is double headed column located on the path between the car parking area and the automated drive-through car wash. One lamp head is positioned in the direction of the external laundrette and the other in the direction of the retail forecourt. The third column is located on the opposite side of the site between the bin store area and the waste compactors. One of the lamp heads is positioned in the direction of the bin store and the southeast facing elevation of the retail store. The second is positioned in the direction of the waste compacter area and an existing external storage shed.
- 8.3.9. I note the concerns raised by third party submissions to the application and in response to the appeal which submit that flood lighting from the site intrudes into adjoining properties at all hours of the night. In particular I note the photos included from the occupants of one of the adjoining dwellings.
- 8.3.10. No light spill assessment has been undertaken however the existing lighting within the site is not the subject of retention in this case. Notwithstanding, I acknowledge the concerns raised by third parties to the grounds of appeal and in relation to the planning application and I consider that the existing lighting which serves the jet wash facility

can be regulated by condition and its operation shall cease in accordance with the hours of operation for the use of the jet wash as referred to above Section 8.3.6.

- 8.3.11. I further note that the appellant has indicated to the Board that light spill could be addressed by condition with reference to the drawing accompanying the appeal. In the event of a decision to grant permission, I recommend that existing flood lighting within the overall site shall be fitted with cowls. This would be in accordance with Section 11.6.3 of the development plan, and objective EH O24 which would address impacts on existing residential amenities, and would be in accordance with proper planning and sustainable development.

#### **8.4. Hours of Operation**

- 8.4.1. Permission is sought to retain the current 24 hour opening hours of the existing service station. I note that the appellant has clarified that this relates to the use of the existing retail unit and the fuel filling facilities, to provide a convenience retail service and will not extend to the ancillary services provided on site, only to the station shop and fuel filling facilities.
- 8.4.2. It is noted that there are additional external public services available within the appeal site, i.e. laundrette kiosk, 2 x large waste compressors and an automated drive-through car wash. Of the aforementioned, I note from a review of the planning history, that the hours of operation of the automated car wash are limited by condition relating to P.A. Ref. 08/45. The others are not. I note that the Board granted permission for 8 no. EV charging bays in the southwestern corner of the site, ABP Ref. 319631 refers and that no condition was imposed in relation to the hours of operation / use of the EV charging station.
- 8.4.3. In its reason for refusal, the planning authority considered that the current 24 hour operation would unduly impact on residential amenity. This conclusion was formed in tandem with the operation of the existing jet wash vis a vis noise, traffic and lighting issues associated with same. The third party observations to the application and grounds of appeal have highlighted that the 24 hour operation would enable the ancillary uses to also operate at anytime.
- 8.4.4. The appellant states that no conditions restricting the hours of operation of the service station are attached to the previous planning permissions relating to the permitted

uses of the site, and on that basis the established and permitted use of the site could be operated for a 24 hour period. In relation to the existing jet wash, the appellant states that it is not the intention to operate it on a 24 hour basis but to operate it in line with the adjoining automated drive-through car wash the hours for which are regulated under condition 4 of P.A. Ref. 08/45. It is also proposed to turn off all non-essential external lighting to the rear of the retail building at the same time as the automated car wash. It has not been indicated by the appellant what lights are essential / non-essential and it is unclear if this includes for the permitted EV Charging point.

8.4.5. Having regard to the details on the file, there is nothing before me that would indicate that the opening hours of the existing service station are the subject of a condition attached to a previous permission regulating the opening and closing hours, including the current 24 hour operation. I note that the hours of operation of the automated drive-through car wash are regulated by condition and can be enforced by the planning authority. I note that the Board did not impose a condition in regard to hours of operation for the EV charging station, but did include a condition in relation to lighting.

8.4.6. In principle I would have no objection to the provision of a 24 hour fuel filling and retail service. The main issues of concern arising from a 24 hour operation of the service station is the impact to existing residential amenities in terms of noise, general disturbances and light overspill from overall site operations, given the location of adjoining residential development. In noting that the hours of operation for the existing automated drive-through car wash are limited to that prescribed under condition 4 of P.A. Ref. 08/45 and are enforceable by the planning authority, the hours of operation for the other ancillary services i.e. laundrette kiosk and waste compressors are not. However, I consider that the operation of these facilities are beyond the scope of this assessment, having regard to what is proposed to be retained and described in the public notices. In this regard, I consider that the proposal to retain the 24 hour operation of the existing retail unit and fuel filling services is acceptable in this case.

## **8.5. Other Matters**

### Unauthorised Development

8.5.1. Issues associated with existing operations and unauthorised development as raised in the third party observation are noted, in particular non-compliance with planning

conditions associated with other permissions relating to the overall site. I would note that enforcement is a function of the local authority and that any matters associated with compliance with previous permissions or otherwise on site are a matter for the planning authority. Enforcement is outside of the scope of the Board's functions.

#### Precedent

- 8.5.2. In regard to car wash facilities, precedent cases granted permission by the Board are outlined in the appeal submission. It is stated that concerns relating to noise were addressed by noise impact assessment and appropriate opening and closing hours. It is further stated that in securing permission for their own various car washes, noise impact assessments were undertaken which demonstrated that the level of operational noise arising from the jet wash to the nearest sensitive receptors was low and would not adversely affect neighbouring properties.
- 8.5.3. I note the points raised by the appellant however I consider that the appeal should be assessed on its own merits and on a site-specific basis, having regard to local planning policy and other relevant planning considerations.

## **9.0 AA Screening**

- 9.1.1. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.
- 9.1.2. The subject site is located approx. 1.5 km to the north of the SAC: 002165 Lower River Shannon SAC. The SPA: 004077 River Shannon and River Fergus Estuaries SPA lies approx. 1.5 km to the southwest of the appeal site.
- 9.1.3. Retention permission is sought for an existing jet car wash, 10,000 litre above ground water storage tank. Retention permission is also sought for the current 24 hour operation of the service station.
- 9.1.4. No conservation concerns were raised in the planning appeal.
- 9.1.5. Having considered the nature, scale and location of the proposed development 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:

- The location and nature of the service station comprising of an existing retail development and other associated facilities, in a serviced urban area and on zoned lands.
- Location-distance from the nearest European Sites and lack of connections, and,
- Taking into account the AA Screening determination by the planning authority.

9.1.6. 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.

9.1.7. Likely significant effects are excluded and therefore appropriate assessment (stage 2) (under Section 177V of the Planning and Development Act 2000 as amended) is not required.

## 10.0 Recommendation

I recommend that Retention Permission is Granted for the subject development.

## 11.0 Reasons and Considerations

Having regard to the zoning objective of the site and the established use, it is considered that subject to compliance with the conditions set out below, the development proposed to be retained would be in accordance with the provisions of the Limerick City and County Development Plan 2022-2028, would not unduly impact on the current levels of adjoining residential amenities and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 Conditions

1.	The development shall be carried out and retained in accordance with the plans and particulars lodged with the planning application on the 23 <sup>rd</sup> October 2024 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
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	<p>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 jet wash shall only operate between 09:00 and 21:00 hours Monday to Saturday, and between 10:00 hours and 21:00 on Sundays.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
3.	<p>The developer shall provide a noise reduction barrier/ screen between the jet wash facility and the southern boundary of the site. Details shall be submitted to the Planning Authority for written agreement within three months of the date of this Order.</p> <p><b>Reason:</b> To protect the residential amenities of property within the vicinity.</p>
4.	<p>The existing floodlights within the site shall be fitted with cowls to ensure light overspill into neighbouring properties is minimised. Details shall be submitted to the planning authority for written agreement within three months of the date of this Order.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity.</p>
5.	<p>The existing lighting column located at the jet wash facility, shall only operate between the hours of 09:00 and 21:00 hours Monday to Saturday, and between 10:00 hours and 21:00 on Sundays.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity.</p>
6.	<p>The attenuation and 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>
7.	<p>The developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.</p> <p><b>Reason:</b> In the interest of public health and to ensure adequate waste/wastewater facilities.</p>

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Clare Clancy  
Planning Inspector

15<sup>th</sup> April 2025



# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b>	321317-25		
<b>Case Reference</b>			
<b>Proposed Development Summary</b>	Retention of existing jet wash and associated jet wash pump enclosure with 10,000 litre water storage tank. Permission is also sought to retain the existing opening hours of 24 hours		
<b>Development Address</b>	Circle K Caherdavin, Ennis Road, Limerick		
<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>	<input checked="" type="checkbox"/>
		<b>No</b>	Tick if relevant. No further action required
<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)?</b>			
<b>Yes</b>	<input checked="" type="checkbox"/>	Class 10(b)(iv), of Part 2 of Schedule 5	Proceed to Q3.
<b>No</b>	<input type="checkbox"/>		Tick if relevant. No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>	<input type="checkbox"/>	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
<b>No</b>	<input checked="" type="checkbox"/>		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	<p>Class 10(b)(iv) – Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.            (“business district” means a district within a city or town in which the predominant land use is retail or commercial use).</p> <p>The appeal site is located in Limerick city centre. It comprises of an established commercial / retail use and a site with a stated area of 0.436 ha.</p>	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

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

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

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	<b>ABP-321731-25</b>
<b>Proposed Development Summary</b>	Retention of existing jet wash and associated jet wash pump enclosure with 10,000 litre water storage tank. Permission to retain the existing opening hours of 24 hours
<b>Development Address</b>	Circle K Caherdavin, Ennis Road, Limerick
<p><b>The Board carried 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> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The subject development comprises the retention of an existing jet car wash facility, and water storage tank located to the rear of the existing retail store. It is proposed to retain the 24 hour operation of the service station.</p> <p>The development comes forward as a standalone project, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risk to human health.</p>
<b>Location of development</b>	The development is situated in an urban area off the adjoining R445 Ennis Road surrounded by

(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	other commercial / retail and residential land uses.  The site is not located within or immediately adjacent to any designated site. The subject development would use the public water and wastewater services of Uisce Éireann upon which its effects would be marginal.  It is considered that the proposed development would not be likely to have a significant effect individually or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.	
<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the nature of the subject development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in Section 171A of the Act.	
<b>Conclusion</b>		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	<b>Yes or No</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.	<b>Yes</b>
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	-
There is a real likelihood of significant effects on the environment.	EIAR required.	-

**Inspector:**

**Date:**

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

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

(only where Schedule 7A information or EIAR required)