

<b>Planning Committee Report LA01/2015/0919/F</b>	<b>26<sup>th</sup> June 2019</b>
<b>PLANNING COMMITTEE</b>	

<b>Linkage to Council Strategy (2015-19)</b>	
<b>Strategic Theme</b>	Protecting and Enhancing our Environment and Assets
<b>Outcome</b>	Pro-active decision making which protects the natural features, characteristics and integrity of the Borough
<b>Lead Officer</b>	Development Management & Enforcement Manager
<b>Cost: (If applicable)</b>	N/a

<b><u>App No:</u></b>	<b>LA01/2015/0919/F</b>	<b><u>Ward:</u></b>	<b>Ballymoney North</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>50m South of 49 Knock Road Ballymoney.</b>		
<b><u>Proposal:</u></b>	<b>Proposed Unmanned Petrol Filling Station comprising Forecourt with Associated Fuel Pumps and Islands, Canopy, Small Ancillary Building and Site Works.</b>		
<b><u>Con Area:</u></b>	<b>N/A</b>	<b><u>Valid Date:</u></b>	<b>20.11.2015</b>
<b><u>Listed Building Grade:</u></b>	<b>N/A</b>	<b><u>Target Date:</u></b>	<b>02.02.2016</b>
<b>Applicant:</b>	<b>Nicholl Fuel Oils Ltd, 176 Clooney Road, Eglinton, BT47 3DY</b>		
<b>Agent:</b>	<b>Vision Design, 31 Rainey Street, Magherfelt, BT45 5DA</b>		
<b>Objections:</b>	<b>9</b>	<b>Petitions of Objection:</b>	<b>0</b>
<b>Support:</b>	<b>0</b>	<b>Petitions of Support:</b>	<b>0</b>

**Drawings and additional information are available to view on the Planning Portal- [www.planningni.gov.uk](http://www.planningni.gov.uk)**

## **1 RECOMMENDATION**

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **APPROVE** planning permission subject to the conditions set out in section 10.

## **2 SITE LOCATION & DESCRIPTION**

- 2.1 The site comprises an “L” shaped plot of land extending to approximately 0.18ha which is accessed off Knock Road and comprises two main elements. The front (roadside area) is comprised of a small concrete forecourt which previously incorporated three small fuel pumps. These have been removed and only the original base remains. The forecourt is set to the rear of the public footpath with separate vehicular entry and exit points and a low dashed wall defining the boundary. The remainder of the site comprises a large concrete yard enclosed within a 2.5m security fence. This part of the site previously incorporate a number of large fuel tanks to both the south-eastern corner and at the eastern end of the elongated section of the site. These tanks have been removed with only the original plinths and a very small store building remaining.
- 2.2 The site is adjacent a number of existing uses with a civic amenity premises opposite and a church car park along the northern and part of the eastern boundary. The majority (approximately 65 metres) of the site boundary abuts existing residential properties.
- 2.3 Commercial premises also exist within the wider context (to the south of the access at “The Warren”) becoming more frequent travelling in a southerly direction towards the town centre. To the north and east the character of the area is generally residential.
- 2.4 The adjacent residential properties comprise 2 ½ storey terraced dwellings finished in red brick and smooth render.

2.5 The site is located within the Ballymoney Town development limits as designated in the Northern Area Plan 2016 and is not zoned for any specific use.

### **3 RELEVANT HISTORY**

D/1993/0368/F - Erection of new office and storage building and associated equipment to extend fuel oil depot. Granted  
02.06.1994

D/1987/0071/F – Erection of 3 no. oil storage tanks. Granted  
16.04.1987.

### **4 THE APPLICATION**

4.1 Proposed Unmanned Petrol Filling Station comprising Forecourt with Associated Fuel Pumps and Islands, Canopy, Small Ancillary Building and Site Works (original submission proposed petrol filling station and supermarket).

The Proposal consists of 6 fuel pumps capable of servicing 12 vehicles with access taken from Market Street incorporating separate entry and exit points. The proposal also includes a canopy over the fuel pumps (6.4m in height), a tanker delivery area, two additional on-site car parking spaces, a small ancillary building (remote comms) extending to 2.5m x 3m x 3m and ancillary site works including acoustic fencing to existing residential properties extending to 2.4m in height.

### **5.0 PUBLICITY & CONSULTATIONS**

#### **5.1 External**

Neighbours: There are 9 No. objections to the proposal from 7 No. separate identified addresses. One of these objections has been received in relation to the amended proposal. The reasons for objecting are summarised below:

- Loss of light and proximity to existing neighbouring properties.
- Impact on residential amenity. Including fumes, disturbance as a result of noise and lights (during construction and operation), overlooking, proximity of bin storage.
- Impact on working from home.
- Impact on road safety.

- Lack of Transport Assessment Form, lack of autotracking submitted, accuracy of submitted information regarding traffic movements, Impact of narrowing of footpath on site, inadequate access arrangements.
- Requirement of third party lands to provide necessary access.
- Visual Impact including impact on the character of area / Overdevelopment of the site.
- Design
- Invasive Species on site (Japanese Knotweed).
- De-valuation of existing properties as a result of the proposal.

These issues are addressed in more detail in Part 8.0 of this report.

## 5.2 Internal

**DFI Roads:** Has no objection to the proposal subject to conditions.

**DAERA Regulation Unit:** Has no objection to the proposal subject to conditions.

**DAERA Water Management Unit:** Has no objection to the proposal subject to conditions and obtaining any relevant statutory permissions.

**NI Water:** Advises that there is available capacity and has as no objection to the proposal.

**Environmental Health:** Noise Impact Assessment submitted. Environmental Health has no objection subject to conditions.

## 6.0 MATERIAL CONSIDERATIONS

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

6.2 The development plan is:

- Northern Area Plan 2016 (NAP)

6.3 The Regional Development Strategy (RDS) is a material consideration.

6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.

6.5 Due weight should be given to the relevant policies in the development plan.

6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## **RELEVANT POLICIES & GUIDANCE**

The Regional Development Strategy 2030.

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

A Planning Strategy For Rural Northern Ireland.

Planning Policy Statement 3: Access, Movement and Parking

DCAN 15 - Vehicular Access Standards

Parking Standards

## **7.0 CONSIDERATIONS & ASSESSMENT**

7.1 Paragraph 6.91 of the SPPS states that all applications for economic development must be assessed in accordance with normal planning criteria relating to such considerations as access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise

satisfactory forms of development. The main considerations in the determination of this application relate to: principle of development; the design and layout; impact of the development on the character of the area; traffic and road safety and impact on the residential amenity of surrounding properties.

- 7.2 The principle of the type and scale of development proposed must be considered having regard to the SPPS and PPS policy documents specified above.

### **Principle of Development**

- 7.3 The site is located within Ballymoney Town settlement development limits as defined in the Northern Area Plan 2016 and is not zoned for any specific use. The site is bounded on two sides by existing residential development and is considered to be a brownfield site.
- 7.4 The site comprises a former fuel depot with a former refuelling area.
- 7.5 The application as originally submitted proposed a petrol filling station comprising a supermarket, ATM, petrol forecourt and associated canopy and parking. The application was subsequently amended on 5/12/2018 removing the supermarket and ATM element and proposing an un-manned petrol filling station comprising a forecourt with associated fuel pumps, islands, canopy, small ancillary building and site works.
- 7.6 The previous use on site incorporated a number of large fuel tanks to both the south-eastern corner and at the eastern end of the elongated section of the site. These tanks have been removed with only the original plinths and a very small store building remaining.
- 7.7 In terms of the impact on the town centre the SPPS is silent on the issue of petrol filling stations. The proposal will not compete with existing town centre uses and will not significantly impact on the viability and vitality of the town centre.
- 7.8 The current application relates to the provision of an un-manned petrol filling station. A mix of uses including commercial properties exist within the locality (extending towards the town centre) although the immediate context comprises a significant

number of residential properties. The proposal is unlikely to significantly impact on those other uses within the area and the principle of development is deemed to be acceptable.

### **Design and Layout and Impact on Character of the Area.**

- 7.9 The proposed site is located on an arterial route linking the town centre to the ring road and is located towards the outer limits of Ballymoney town in an area which comprises a variety of uses including, a civic amenity site, commercial use and ecclesiastical buildings but is dominated by residential properties.
- 7.10 The proposal respects the surrounding context in terms of proposed use and built form and when assessed against the existing site and development within the locality is appropriate to the surrounding character.
- 7.11 Policy DES2 Townscape of the Planning Strategy for Rural Northern Ireland requires development proposals in towns and villages to make a positive contribution to townscape. It also states that the main concern is to ensure that development proposals neither conflict with, nor detract from the character, amenity and design of an area.
- 7.12 The proposal is compatible with the surrounding uses and the principle of development is acceptable at this location subject to satisfactorily addressing all planning and environmental considerations.

### **Access, Traffic and Road Safety.**

- 7.13 The existing site fronts onto Market Street and currently incorporates two points of entry / exit. The current application proposes separate entry and exit points improved to the required standards servicing traffic associated with the proposal which will include customers and deliveries (two additional car parking spaces are provided for customers / staff).
- 7.14 The applicant has submitted a Transport Assessment Form (TAF) which outlines the estimated number of vehicle

movements associated with the development as well as the relevant parking and safety requirements including visibility which requires demolition of the existing low wall on site. DFI Roads has confirmed that visibility splays are achievable within the site and public footpath / verge and that no additional works on lands outside the applicants control are necessary to facilitate the necessary access requirements. The TAF indicates that the proposed development will not have a detrimental impact on the road network and that a detailed Transport Assessment is not necessary.

- 7.15 DFI Roads has been consulted in relation to the proposal and raise no objections subject to a number of proposed conditions.

### **Residential Amenity**

- 7.16 The submitted Transport Assessment Form provides an estimate of the number of likely trips per day to the site. Current published databases which provide guidance for likely trip generations to new developments do not include a database for automated PFS, rather those which attract a retail element. The TAF also includes trip rate information for an automated PFS in Limavady, which is more representative of this proposal. This facility attracts 222 trips per day.
- 7.17 A noise impact assessment has been submitted which outlines the background noise levels which are fairly high as a result of proximity to an already busy road. The assessment indicates that the operational noise from the proposed development is likely to have a low impact during both daytime and night-time periods and therefore will not adversely impact neighbouring properties.
- 7.18 Boundary treatments include an acoustic fence along the boundary adjacent existing residential properties comprising a boarded fence 2.4m in height with no gaps which will act to reduce the impact on neighbouring properties (including back gardens) from both noise and light intrusion as a result of car movements and will protect privacy.
- 7.19 The Environmental Health Department has been consulted and advise that they have no objections in relation to noise subject to conditions including restricting fuel deliveries to outside 23:00 - 7:00 hours.

- 7.20 In terms of the proposed built form, this is limited to the pumps and canopy and is unlikely to result in a significant loss of natural light or a feeling of over-dominance. Overall the proposal is unlikely to significantly impact on residential amenity.

### **Contaminated Land Report**

- 7.21 A Contaminated Land Risk Assessment report was submitted in support of the application. DAERA Regulation Unit have considered the report and any potential impacts on environmental sensitive receptors including ground water and surface water and any waste authorisations. DAERA regulation Unit has not raised any objection to the proposal subject to the imposition and satisfactory discharge of a number of proposed conditions.

## **8.0 Other Issues:**

The majority of objections received in relation to the proposal were done so on the basis of the original submission. Matters raised by objectors which are not previously covered are considered in the following section:

- Lack of Transport Assessment Form / Accuracy of information. The agent has subsequently submitted a Transport Assessment form and DFI Roads has not raised any issues.
- Invasive Species on site (Japanese Knotweed). It is not in contravention of legislation to have Japanese knotweed on site, although it is to allow it to spread onto surrounding land or inappropriately dispose of it. It is the responsibility of the landowner to prevent it spreading and to treat it prior to development which can be achieved through a proper treatment programme (which can require multiple applications of herbicide). Previous discussions with NIEA have not required the imposition of conditions but rather referral of the applicant to the relevant Standing Advice 7 – Invasive Alien Species which outlines the relevant legislation, information and mitigation measures as well as relevant informatives for any planning permission granted

on lands affected by such species. As such this does not preclude development.

- Requirement of Third Party Lands. DFI Roads has confirmed that visibility splays are achievable within the site and public footpath / verge and that no additional works on lands outside the applicants control are necessary to facilitate the necessary access requirements.
- Screening of adjacent church. The proposal is separated from the church by approximately 45m and is unlikely to have any significant visual impact.
- Impact on home working. Environmental Health has confirmed that unacceptable noise levels will not result due to the proposal.

## **9.0 CONCLUSION**

- 9.1 This proposal is considered acceptable in this location having regard to the Northern Area Plan 2016, and other material considerations, including the SPPS. The principle of development is acceptable in this area which is characterised by a mix of uses. It is acceptable in terms of design and appearance and will have no significant harm in terms of residential amenity and road safety. Approval recommended.

## **10 Conditions:**

- 10.1 As required by Section 61 the Planning Act (Northern Ireland) 2011 the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

- 10.2 No development shall commence until the vehicular access, including visibility splays and any forward sight distance is provided in accordance with Drawing No. 03E bearing the date stamp 5 December 2018. The area within the visibility splays and

any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

- 10.3 The access gradient to the development hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

- 10.4 The development hereby permitted shall not become operational until hard surfaced areas have been constructed and permanently marked in accordance with the approved Drawing No. 03E bearing the date stamp 5 December 2018 to provide for parking and servicing within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

Reason: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.

- 10.5 If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11). In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

10.6 After completing the remediation works under Condition 5 and prior to occupation of the development, a Verification Report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The Verification Report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

10.7 Fuel deliveries shall not be permitted to/from the premises between 23:00 and 07:00 hours and at no time on Sundays.

Reason: In the interest of residential amenity.

10.8 Car washing facilities shall not be permitted to operate within the proposed development.

Reason: In the interest of residential amenity.

10.9 All planting comprised in the approved details of drawing No 03E date stamped 05-DEC-2018 shall be carried out during the first planting season following the commencement of the development and any shrubs which, within a period of five years from the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other similar size and species.

Reason: In the interest of visual and residential amenity.

## **11.0 Informatives**

11.1 This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

- 11.2 This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
- 11.3 This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
- 11.4 This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
- 11.5 Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.
- 11.6 Notwithstanding the terms and conditions of the Causeway Coast and Glens Borough Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructures consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DFI Roads Section Engineer whose address is Jobs & Benefits Office, 37 - 45 John Street, Ballymoney, BT53 6DT. A monetary deposit will be required to cover works on the public road.
- 11.7 The development shall not be commenced until a Certificate issued by a Chartered Structural Engineer certifying that the structure has been designed in accordance with the relevant standards and guidance, has been submitted to and accepted by Department for Infrastructure Roads. The certificate should state; "I/We certify all reasonable professional skill and care has been used in the design & check of the above named structure in accordance with the following design standards and advice notes"

- 11.8 All construction plant and materials shall be stored within the curtilage of the site. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.
- 11.9 The purpose of the Conditions 5 and 6 is to ensure that any site risk assessment and remediation work is undertaken to a standard that enables safe development and end-use of the site such that it would not be determined as contaminated land under the forthcoming Contaminated Land legislation i.e. Part 3 of the Waste and Contaminated Land Order (NI) 1997. It remains the responsibility of the developer to undertake and demonstrate that the works have been effective in managing all risks.
- 11.10 The applicant should note discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges to the Aquatic Environment and may be required for Site Drainage during the construction stages of the development. The applicant should refer to Standing Advice Discharges to the Water Environment.
- 11.11 The applicant is advised that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment.
- 11.12 Noise and vibration can be the cause of serious disturbance and inconvenience to anyone exposed to it and in certain circumstances noise and vibration can be a hazard to health.” In relation to any preparatory/construction works on site (demolition, ground works, excavation and construction), it is advised that the applicant should minimise disturbance to noise sensitive receptors, by restricting noise emissions at source, employing quiet plant and equipment, restricting hours of working and ensuring noise emissions are within the noise thresholds detailed within Table E. 1 of BS 5228: 2009 (Category B).

11.13 If during the course of developing the site the developer uncovers a pipe not previously evident NIW should be notified immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the pipe. Notify NIW Waterline on 08457 440088.

11.14 You should refer to any other general advice and guidance provided by consultees in the process of this planning application by reviewing all responses on the Planning Portal at <http://epicpublic.planningni.gov.uk/publicaccess/>.

