

Planning Committee Report LA01/2017/0162/F	25 th April 2018
PLANNING COMMITTEE	

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

<u>No:</u> LA01/2017/0162/F	<u>Ward:</u> Greystone
<u>App Type:</u> Full	
<u>Address:</u> Land adjacent to Broad Road petrol filling station and 25m North East of 57 Knockanbaan, Bovally, Limavady	
<u>Proposal:</u> Erection of hot food/café commercial unit	
<u>Con Area:</u> N/A	<u>Valid Date:</u> 13.02.2017
<u>Listed Building Grade:</u> N/A	
<u>Agent:</u> GM Design Associates Ltd, 22 Lodge Road, Coleraine, BT52 1NB	
<u>Applicant:</u> Nicholl Fuel Oils Ltd, 178 Clooney Road, Eglinton, BT47 3DY	
<u>Objections:</u> 6	<u>Petitions of Objection:</u> 1
<u>Support:</u> 0	<u>Petitions of Support:</u> 0

Drawings and additional information are available to view on the Planning Portal- 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 This site currently forms part of the parking area and ancillary space associated with a petrol filling station off Broad Road on the approach to Limavady from Coleraine. The south eastern part of the site has been covered in loose gravel.
- 2.2 The site is bound to the north by Broad Road and to the south by a residential development namely Knockanbann and Plantation View which are made up of one and a half storey, two storey detached and semi-detached dwellings. The southern boundary is defined with a 1m high wall with 1.8m high wire mesh fence on top. The gardens of the residential properties are enclosed by 2m high timber board fence and are positioned on a higher ground level than the application site. The site is bound to the east by a vacant site, the boundary of which is defined by hoardings.
- 2.3 This site is within Limavady settlement boundary as defined in the Northern Area Plan.

3 RELEVANT HISTORY

Part of this site was included within a previous housing approval in the early 1990's (B/1992/6039 and B/1993/6018). However the housing development was later amended by planning permission (B/2004/0220/F: Erection of 92 two storey dwellings and associated roadways and landscaping – Approved 16.04.2010). The boundary of the housing development runs along the southern boundary of the site.

The most relevant and recent planning history of the site are as follows:

B/1995/0389 Site for petrol filling station – Approved 08.05.1996

B/2004/0687/F Erection of petrol/service station with shop unit – Approved 29.03.2007

B/2007/0274/F Installation of ATM to front of approved service station – Approved 19.03.2008

B/2008/0390/F Amendment to existing approval (planning ref B/2004/0687/F) consisting of minor elevational and internal layout changes to petrol service station with shop unit – Approved 19.12.2008

B/2010/0084/F Retrospective application for amendment to previous approval B/2008/0390/F for mezzanine floor (for storage use only) and associated elevational and internal layout changes – Approved 18.05.2012

4 THE APPLICATION

- 4.1 Planning Permission is sought for the creation of a hot food/ café unit with parking.
- 4.2 The proposed unit is single storey, finished with brick on the walls and PVC membrane on the roof. It has a foot print of 130 square metres.

5 HABITAT REGULATIONS ASSESSMENT

- 5.1 The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

6 PUBLICITY & CONSULTATIONS

External

6.1 Neighbours: There have been seven representations made on this application. Six letters and one petition were submitted. Below is a summary of the issues raised in objection to the application:

- It is too close to the residential properties on Plantation View and Knockanbaan.
- The noise from externally mounted units (refrigeration, heating and air conditioning), traffic and customers loitering will have a detrimental impact on residents.
- Parking is insufficient at Tesco's to provide for additional visitors in particular additional large lorries.
- The odours from the proposed unit will have a high impact as identified in the agents report. The extractor fans will be 1m above the eaves and a 2m high fence will be erected. The odours will blow across to Plantation View and Knockanbaan.
- The proposed opening hours in relation to noise and odour seem excessive.
- It is not an exception to the Protected Routes Policy.
- How will the one way system at Tesco cope with the through traffic?
- There may be a fire risk in relation to a fish and chip shop beside petrol pumps and the risk this would have on residential properties.
- There is a metal shed in the garden of no.49 Plantation View. The occupant has safety and security concerns. The occupant has a security system fitted with security lights including a light on the rear of the property and is concerned that steam from the ventilation equipment on the proposed development would set off the security light and this would have cost implications and would also affect amenity if the light is on all evening. The occupant intends on fitting a gas cooker in the metal shed and the gas would be piped out of the shed on the rear boundary. There is concern that this may cause a danger to the chip shop and occupant. There is also concern that any clothes hung outside on the washing line would smell as a result of the proposed development.

Internal

- 6.2 Environmental Health Department: Requested further details in relation to Odours and Noise. Following receipt of a Noise Impact Assessment and an Odour Mitigation Report both received 9.01.2018 Environmental Health were further consulted. Environmental Health raised no objections subject to conditions relating to noise, odour, operating hours, was disposal and deliveries. As a result of further representations received, Environmental Health were re-consulted 7th March. Again Environmental Health raised no objection but provided some advice and recommended conditions.
- 6.3 Historic Environment Division: No objection.
- 6.4 Loughs Agency: No objection.
- 6.5 NI Water: No objection
- 6.6 DFI Roads: No objections subject to the provision of parking.

7 MATERIAL CONSIDERATIONS

- 7.1 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.
- 7.2 The development plan is: Northern Area Plan 2016 (NAP).
- 7.3 The Regional Development Strategy (RDS) is a material consideration.
- 7.4 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.

- 7.5 Due weight should be given to the relevant policies in the development plan.
- 7.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

8 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 3: Access, Movement and Parking

PPS 3: Access, Movement and Parking (Clarification to Policy AMP 3: Access to Protected Routes)

DCAN 4: Restaurants, Cafes and Fast Food Outlets

9 CONSIDERATIONS & ASSESSMENT

- 9.1 The main considerations in the determination of this application relates to the principle of the development, the impact on the amenity of neighbours, impact on the historic environment and the impact on road safety.

Principle of Development

- 9.2 The principle of development must be considered having regard to the Northern Area Plan, the SPPS and PPS policy and guidance documents before mentioned.
- 9.3 Paragraph 3.8 of the SPPS asserts a presumption in favour of development which accords with an up-to-date development plan unless the proposed development will cause demonstrable harm to interest of acknowledged importance.
- 9.4 This site is within Limavady settlement boundary which terminates along Broad Road to the north of the site. Part of the site falls within a housing designation LYH04. The extent of the zoning reflects the original planning permission (B/1992/6039 and B/1993/6018). However, the subsequent approval (B/2004/0220/F) which has now been built, did not

utilise the full allocation and as such there is now a solid boundary between the petrol filling station curtilage and the rear gardens of residential properties in Plantation View and Knockanbaan. The small loss of zoned housing land will not undermine the Northern Area Plan, as there is currently a surplus of housing provision in this area. In any case, recent planning history indicates that the site has been subject of planning permission for the adjacent petrol filling station. Therefore, the principle of development is considered to be acceptable in this location.

Impact on Amenity

- 9.5 There have been a number of concerns raised by residents in properties south of the application site.
- 9.6 In considering the application, the Council sought further information to understand the potential impact on neighbours. In particular the Council requested a Noise Impact Assessment and Odour Assessment.
- 9.7 The Noise Impact Assessment took background noise measurements at this site which included the noise generated by traffic travelling along Broad Road which abuts the site on its northern boundary and noise from visitors to the petrol filling station. The typical daytime background level was quite high (56dB) given the traffic noise on the Broad Road. The noise generating equipment on the proposed development include an extraction fan and inlet ducts for ventilation. The extraction fan would be housed within the building with an acoustic attenuator fitted if required. The details of the specific equipment to be installed is not currently known but the application has proposed that a maximum rating level for any future plant to be installed be adopted. The assessment proposes that noise levels will not exceed the prevailing daytime background level. Environmental Health were consulted on this application and were made aware of the objections received. Environmental Health which is the competent authority on these amenity issues did not raise any objection subject to conditions, one of which requires the noise levels to never exceed the existing background levels.
- 9.8 With regards odour, the agent has also submitted an odour mitigation report. As the applicant has not yet secured an

occupant for the proposed development the odour report has assumed the 'worst case scenario' i.e. that the proposed development would be occupied by a Fish and Chip takeaway business. The assessment for odour was compiled with reference to DEFRA Guidance on the control of odour and noise from the commercial kitchen exhaust systems, January 2005 as required by Environmental Health.

- 9.9 The assessment considered the types of cooked food that may be produced on site and the equipment that would be installed to deal with associated odour. The proposed extraction system would have to comply with industry standards. The report also advised that a cleaning and maintenance programme would be implemented.
- 9.10 The report considered prevailing winds (predominating from the south west and south east) and advised that the ducting had been designed to direct fumes away from neighbours. The duct would be fitted on the north eastern corner of the development.
- 9.11 Environmental Health which is the competent authority on such amenity issues did not raise any objection subject to conditions, one of which requires the odour abatement system be installed in accordance with the DOC 01 Odour Mitigation Report if the end user falls into the category of High Impact Risk. If the final end-user has a reduced odour impact, then Environmental Health would require the occupant to agree any reduction prior to the installation of any associated equipment. Environmental Health have also recommended that a maintenance and cleaning programme be adopted to maintain the system once installed.
- 9.12 As a result of the proposed odour abatement system and the existing background levels, the proposed development is not considered to cause unacceptable levels of noise or odour as concluded by Environmental Health.
- 9.13 The proposal would be 12m from the rear wall of the closest dwelling when measured from the rear wall of the proposed development. The extraction duct would be positioned on the side elevation and measure 16.5m from the closest dwelling.

- 9.14 The proposed development is positioned on a lower level and is single storey, therefore the visual impact from neighbouring properties is not considered detrimental.
- 9.15 The concerns in relation to health and safety in particular risk of fire with petrol pumps and proximity of gas pipes to be fitted at the residential property are noted. However, it is up to operators of such installations to comply with relevant health and safety regulations.
- 9.16 The impact of this proposal in terms of noise and odour has been given thorough consideration. Parking will be dealt with in paragraph 9.21. Having regard to the consultation response from Environmental Health, it is considered that the proposal will not harm the amenities of nearby residents. Separate legislation outside the remit of planning exists to investigate nuisance and protect amenity of residents. In addition food hygiene legislation would require the application to provide sufficient bins storage for waste associated with the proposal.

Historic Environment

- 9.17 The site is in close proximity to a Historic Park, Garden, Demesne as such the Historic Environment Division were consulted on the proposal. Historic Building made no comments in relation to the impact on Drenagh House as it is sufficiently removed to remain unaffected by the proposal. Historic Monument raised no objection either as it considered the proposal to comply with the SPPS and PPS6 in terms of archaeological requirements.
- 9.18 Therefore the proposal is not considered to have any impact on the historic environment and complies with the provisions of PPS6.

Road Safety

- 9.19 Broad Road (A37) running along the northern boundary of the site is a Protected Route. The proposal involves use of the existing access off Broad Road. Policy AMP3 of PPS3: Access, Movement and Parking (Clarification to Policy AMP 3: Access to Protected Routes) restricts the number of access points onto protected routes. In settlements it only permits development

involving direct access, or the intensification of the use of an existing access in exceptional circumstances including where access cannot reasonably be taken from an adjacent minor road. As there is no other minor road to serve this development, the proposal is considered an exception and would comply with the above policy.

9.20 The proposal involves the reconfiguration of existing 12 parking spaces along the front of the building to create of 10 spaces including one disabled parking space. It also involves the creation of 5 additional spaces along the western elevation of the building and 8 additional spaces along the eastern boundary of the site. In addition to the above, the proposal involves reconfiguring the existing 7 diagonally positioned parking spaces on the northern roadside boundary in order to create 10 replacement parking spaces.

9.21 DfI Roads who are the competent authority in these matters, were consulted on the application and raised no objection subject to the provision of parking being made prior to the business becoming operational. Having regard to the objections received and consultation response from DfI Roads, it is considered that the proposal would comply with Policy AMP3: Access to Protected Routes and Policy AMP 7: Car Parking and Servicing Arrangements of PPS3 Access, Movement and Parking.

10 CONCLUSION

10.1 Having regard to the development plan and other material considerations, the proposal is considered to comply with current planning policy. The principle of the development is satisfactory, it will not have an unacceptable effect on neighbouring amenity and it will have an acceptable relationship with the historic environment. Approval is recommended.

11 CONDITIONS

Regulatory Conditions:

1. As required by Section 61 of 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.

2. 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(s) 02 Rev 01 bearing date stamp 24th March 2017 to provide adequate facilities for parking, servicing and circulating 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.

3. The extraction systems to all kitchen areas shall be designed and operated in accordance with best practice and performance requirements as detailed within DEFRA Guidance, (2005) "Control of odour and noise from kitchen exhaust systems" and shall be installed and maintained to achieve the odour control criteria commensurate with those detailed as: "High Level of Odour Arrestment Plant Performance".

Reason: In the interests of amenity.

4. The odour abatement system installed within the premises will conform to those proposals contained within DOC01 Odour Mitigation Report if the end user falls into the category of High Impact Risk. If the final end-user has a reduced odour impact any reduction in the required remedial measures will be agreed in writing with this department prior to the installation of any associated equipment. A maintenance and cleaning programme shall be undertaken to maintain the system once installed.

Reason: In the interests of amenity.

5. Operational noise levels (inclusive of character corrections) must not exceed the background sound level as recorded in

Doc 02 – Noise Impact Assessment date received 09.01.2018.

Reason: In the interests of amenity.

6. The premises hereby approved shall only be in operation between the hours of 0700 and 2300 Monday to Saturday and 1000 - 2300 Sundays and bank holidays and at no other time unless otherwise agreed in writing with the Council.

Reason: In the interests of amenity.

7. Deliveries to and from the premises will only take place between the hours of 0700 and 2300 Monday to Saturday and 1000 - 2300 Sundays and bank holidays and at no other time unless otherwise agreed in writing with the Council

Reason: In the interests of amenity.

Informatives

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.
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.
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.
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 Planning Authority or other statutory authority.

5. Dfl Roads

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.

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 Infrastructure's 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 Transport NI Section Engineer whose address is Causeway Coast and Glens (West), County Hall, Castlerock Road, Coleraine. A monetary deposit will be required to cover works on the public road.

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.

6. Loughs Agency

The applicant should demonstrate best environmental practice when working close to watercourses. The potential for deleterious matter to enter a watercourse is of primary concern. Impacts on the aquatic environment such as a decrease in water quality can cause a significant impact upon various life history stages of fish species.

The applicant should also be aware that it is an offence under section 41 of the Foyle Fisheries Act (1952) to cause pollution which is detrimental to fisheries interests.

7. NI Water

The applicant is advised to contact NIW through its Customer Relations Centre on 08457 440088 or waterline@niwater.com,

upon receipt of this consultation to discuss any areas of concern. Application forms and guidance are also available via these means.

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 Customer Relations Centre on 08458 770002.

Details of existing water and sewerage services may be obtained by submitting a Records Request application RR1-A257/A258 available at www.niwater.com/servicesfordevelopers.asp

