



An
Bord
Pleanála

Inspector's Report

ABP-306838-20

Development	Retention of the existing extended commercial storage yard
Location	Knock , Lanesboro , Co. Longford
Planning Authority	Longford County Council
Planning Authority Reg. Ref.	19101
Applicant(s)	Michael and Nancy Casserly.
Type of Application	Retention.
Planning Authority Decision	To grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Michael & Mary Connaughton.
Observer(s)	None.
Date of Site Inspection	8 th July 2020
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

- 1.1. The 0.086ha appeal site lies to the south east of the village of Lanesborough in Knock, County Longford. It is situated to the north of the R392, the regional road from Lanesborough to Ballymahon and lies to the east of an existing filling station/retail shop and agri-store. To the north east and south west are residential dwellings (three and one respectively) and to the south east is woodland. The filling station, agri-store and residential property to the south west of the appeal site is lie within the applicant's landholding.
- 1.2. The appeal site is bounded to the north east and south west by a block wall. There is an undefined boundary along the north western side of the site, joining the yard are to the agri-store premises. Lanesborough Community College (a secondary school) lies to the west of the site and other residential property lie to the north west of the petrol filling station, including the appellant's property at no. 10 Knock, which directly adjoins the petrol filling station.

2.0 Proposed Development

- 2.1. The proposed development, as revised by way of further information received on the 13th November 2019 and clarification of further information received on the 22nd January 2020, comprises the retention of the existing extended commercial storage yard. It is proposed that the yard be re-surfaced with asphalt laid to direct by surface water to a central drain and flow from here via a silt trap and petrol interceptor to the existing storm sewer to the north of the site. The application drawings include details of drainage management for the adjoining site, hazardous area classifications, a parking and traffic management layout and swept path analysis for a fuel delivery truck, details of legal title, and servicing agreement for silt trap and petrol interceptor the outline of an Emergency Response Plan.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 11th February 2020, the planning authority decided to grant permission for the development subject to 9 no. conditions, including the following:

- C2 – The area of the site be used for the storage only of goods relating to the existing commercial use.
- C3 and C4 – Set out requirements for surface water, land and road drainage.
- C7 – Requires that the overall development be designed, retained and operated so that no deleterious emissions arise from the site to give rise to unreasonable nuisance.
- C9 – Development charge.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 23rd May 2019 – Refers to the proposed development, site notice in place at time of inspection ('retention of existing domestic garage'), planning history and submissions made. Under 'Planning Consideration and Recommendation' it refers to the 'construction of canopy over existing fuel pumps' which I assume to be a typographical error. The report recommends further information in respect of regularisation of the grain silo on the wider landholding (see photograph 6), details of drainage network throughout the site and current facility, compliance with conditions of the parent permission in respect of parking, traffic management and advertising (PA ref PL14/47), maintenance arrangements for silt traps and petrol interceptors, alternative surface for the storage yard that allows for effective collection of surface water, evidence of sealed area around the filling manhole, bunding of fuel tanks and contingency plans in the event of a spillage.
- 3rd December 2019 – Screens the proposed development for appropriate assessment. It concludes that development would not have potential for

significant effects on a European site given its nature and location relative to protected areas.

- 4th December 2019 – Refers to the response to further information and recommends a clarification of further information, proof of legal ownership of the overall landholding.
- 7th February 2020 – Recommends granting permission for the development subject to conditions.

3.2.2. Other Technical Reports

- None.

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

3.4.1. In the course of the planning application, the appellant makes two observations on the proposed development, raising the following issues:

- The proposed development is facilitated by unauthorised development of the adjoining site and the planning application should include details of the entire site (buildings, areas and usages and details of new agribusiness incorporated into activities in 2018).
- Most recent enforcement action placed on hold during the process of retention applications (PL17/13 and PL17/15), now withdrawn. Lack of clarity regarding status of enforcement notices. No response to information requested by planning authority and other public bodies on previous retention applications. Compliance of retention applications with Building Control requirements.
- Longford County Development plan has been varied to allow for the proposed development (variation no. 4, 2nd October 2017). European legislation requires meaningful public participation in decision making. Enforcement action is required to tackle breaches of planning control. The planning

authority should not have to negotiate with a company in contravention of the planning and development act.

- Need for traffic impact statement, road safety audit, signage details, drainage networks, storage yard surface details, spillage details and storage, petrol interceptors, silt traps, maintenance contracts etc. for current application and retention applications.
- Lack of clarity regarding the commercial uses associated with the proposed use of the site given the mix of uses on site, all of which have started on site since 2015 and which do not have the benefit of planning permission.
- Impact on adjoining residents from proximity to high risk site (petrol station), obstruction to entrance to property, impacts on sightlines, early and late deliveries/trading hours, articulated lorries reversing onto main road and parking and deliveries unloaded on main roadway. This development is out of scale in a residential area.
- Lack of confidence in future operation of the site given the manner in which the site has been operated to date.
- Beer retailers' licence refused on basis of lack of compliance with planning. Subsequently the application was withdrawn.
- Further information submitted is inadequate (see Appendix 2 of observer's submission dated 29th November 2019), including absence of grain silo from plans submitted (adjoining site), inadequate drainage details, traffic and management layout and compliance certificates. Further information is substantial and requires notification.
- Site is within the Aquifer Protection Buffer zone of the regionally important aquifer Aghamore and Borehole in Lanesborough. Site is less than 1km from European and national sites of conservation interest. More stringent requirements for planning in similar sensitive areas elsewhere.

3.4.2. Unspecified representations were also made by Cllr. Michael Carrigy.

4.0 Planning History

4.1.1. The following planning applications have been made in respect of the appeal site:

- PA ref. PL99/715 – **Permission granted** to James O’Flaherty for redevelopment of service station forecourt, new tanks and canopy.
- PA ref. PL00/235 – **Permission granted** to James O’Flaherty for retention of three no. grain stores.
- PA ref. PL00/352 – **Permission granted** to James O’Flaherty for two storey building, ground floor shop stores and first floor office, staff room, toilets and stores with external staircase to replace existing single stores building.
- PA ref. PL06/607 and PL14.224700– **Permission refused**, to Burke and Lynch Ltd, for carwash recycling facility, fresh water tank and grease trap for the following reasons (1) inadequate nature of the drawings lodged which did not comply with the Planning and Development Regulations, 2001 and precluded the Board from considering a grant of permission, and (2) lack of clarity regarding how the water to be used would be connected into the water drainage network.
- PA ref. PL07/455 and PL14.224700 – **Permission granted** by the Board to Burke and Lynch Ltd to retain dry car valet workshop in existing unit located to the rear of Burke’s Costcutter Petrol Station for a temporary period of 2 years.
- PA ref. PL10/29 – Application, made by Michael Casserly, for permission to construct a single storey extension to the rear of the existing shop unit, internal alterations, alterations to elevations, signage, removal of existing fuel pumps and installation of new fuel pumps with underground storage tanks, proposed canopy over pumps, car wash area and boundary fence, replacement of existing gantry sign, demolition of existing shed, connection to existing public foul sewer and surface water networks, **withdrawn**.
- PA ref. PL11/62 – Application, made by Mac Cass Ltd, for retention of partial use of existing shop as an off-licence, canopy over existing fuel pumps, and full permission for retention of existing front façade of existing shop as built, **deemed withdrawn**.
- PA ref. PL14/47 and PL14.243643 – Permission granted by the Board to Mac Cass Ltd for the construction of a canopy to service existing fuel dispensing pumps. Conditions include that the developer implement the traffic

management plan submitted to the planning authority, relocate a number of parking spaces, keep the vacant spots free for truck access and provide adequate on-site parking for customer and staff vehicles in line with the requirements of the County Development Plan.

- PA ref. PL17/13 – Application, made by Michael and Nancy Casserly for retention of existing storage yard, **withdrawn**.
- PA ref. PL17/50 - Application, made by Michael and Nancy Casserly for retention of existing car wash bay, **withdrawn**.

5.0 Policy Context

5.1. Longford County Development Plan 2015 – 2021

5.1.1. The appeal site lies within the development envelope of Lanesborough and is zoned Commercial/Residential, as per Variation No. 4. The purpose of the zoning is ‘*To primarily provide for residential development with a possible element of commercial/retail development*’.

5.2. The appeal site lies within the aquifer protection zone around the public supply borehole at Aghamore, Lanesborough. Policy WS9 aims to protect public drinking water supplies within the County (see attachments).

5.3. Natural Heritage Designations

5.3.1. The appeal site lies c.400m to the west of Lough Ree, which is designated as a Special Area of Conservation, proposed Natural Heritage Area (site code 000440) and Special Protection Area (site code 004064).

5.4. EIA Screening

5.4.1. The proposed development comprises modest construction works to facilitate the commercial storage yard (e.g. resurfacing and drainage). The development is well below the threshold of any Class in Schedule 2, Part 5 of the Planning and Development Regulations 2001 (as amended), such as urban development. It is situated in an urban area and is not of a type which would be likely to give rise to the

use of significant natural resources or the production of significant waste or pollution. Consequently, there is therefore no real likelihood of significant effects on the environment or requirement for environmental impact assessment.

6.0 The Appeal

6.1. Grounds of Appeal

- Unauthorised developments on the site and failure to address.
- Intensification of use/change of use without applying for planning permission or building control.
- Site is not operated in a safe manner.
- Development is located within Aquifer Protection Buffer zone and Borehole and in proximity to national and European sites. Concerns raised previously by Inland Fisheries Ireland, under PA ref. PL17/13. Inadequate response to FI and insufficient information requested to evaluate application.
- Planning conditions not adhered to.

6.2. Applicant Response

- MaCass Ltd currently operate and manage a fuel filling station, convenience store and agricultural sales business adjacent to the appeal site. The applicant's motivation in extending the storage area yard was to improve site safety by increasing vehicular circulation space and to facilitate loading/unloading of materials. Both the shop and agricultural business have been in existence on the site in excess of 40 years. The operator confirms there have been no known health and safety related accidents or incidents on the site to date.
- Attached to the submission is a section 5 declaration in respect of the agricultural sales building, confirming it to be exempted development. The declaration refers to internal works, works to repair/replace the roof and a hard surface area and walls within and/or bounding the curtilage).

6.3. **Planning Authority Response**

- None.

6.4. **Observations/Further Responses**

- None.

7.0 **Assessment**

7.1. Having regard to the information on file and my inspection of the appeal site, the issues for this appeal relate to the following matters:

- Principle.
- Unauthorised development, intensification of use and adherence to conditions
- Traffic safety/Impact on amenity.
- Impact on water environment.

7.2. In the course of the planning application, the appellant also raises the following issues which I comment on briefly below.

- i. Safety of operation of the facility. Many of the matters raised by the appellant fall outside of the planning system and are addressed under the Building Control Act or by the Health and Safety Authority. They are, therefore, not addressed in this report.
- ii. Validation. This is a matter for the planning authority. However, the substantive matters raised by the appellant on page 26 of his assessment are addressed in this report.
- iii. Identification of all buildings/structures on the site. The planning application has been validated by the planning authority and section 22 of the Planning and Development Regulations, 2001 (as amended) does not require the details referred to by the appellant for land which adjoins the application site, albeit in the control of the applicant.

7.3. Principle

- 7.3.1. The proposed development is situated on land zoned for commercial/residential land uses. It adjoins an existing commercial operation which comprises a petrol filling station and associated shop/services and agricultural supplies (e.g. fuel, feed and supplies). The proposed development comprises an external yard area. At the time of site inspection the yard was in use for the storage of agri supplies. Having regard to the zoning of the appeal site and existing land uses, the proposed development would be acceptable in principle and consistent with both the policy context and adjoining land uses.

7.4. Unauthorised Development/Intensification of Use/Adherence to Conditions

- 7.4.1. In the course of the planning application and appeal, the appellant refers to unauthorised development which has taken place on site, intensification in the use of the site and the lack of implementation of conditions of previous permissions. All of these matters fall outside remit of the Board and are matters which are properly addressed by the planning authority under their enforcement powers. That said, it would be inappropriate to recommend a grant of permission if uses upon which the proposed development is predicated, are largely unauthorised.
- 7.4.2. From the information on file it would appear that planning permission has been granted for the petrol filling station and associated retail building/offices and that works to the agri supplies buildings have been deemed to be exempted development (see Section 5 Declaration attached to applicant's submission to the Board dated 6th April 2020). Whilst there are matters which require regularisation (e.g. grain silo on the agri-store site), having regard to the foregoing, I consider that there is therefore sufficient basis for the Board to consider the proposed development.

7.5. Traffic Safety/Impact on Amenity

- 7.5.1. The development is removed from the appellants property and separated from it by the existing petrol filling station and agri-store. Consequently impacts on residential amenity are unlikely to arise from the use or operation of the commercial yard. However, indirect impacts on amenity may arise as a consequence of the effect of the development on traffic movements in the vicinity of the site.

- 7.5.2. Access to the appeal site is via the forecourt of the existing petrol filling station. Sightlines to the south east, from the forecourt, are reduced due by an existing building that lies alongside the road c.20m to the south east. The site lies opposite a secondary school and the appellant provides evidence of congestion on the public road as a consequence of vehicle movements and deliveries to the petrol filling station/agri-development.
- 7.5.3. As stated, at the time of site inspection the subject yard contained agricultural supplies, stored generally around the perimeter of the site, with a small number of vehicles parked informally within the site. It would appear therefore that the proposed development principally supports the agri-supplies use on the wider landholding.
- 7.5.4. In response to the appeal, the applicant states that the applicant's motivation in extending the storage yard was to improve safety by increasing vehicular circulation space and to facilitate loading/unloading of materials. It is not clear whether this is in respect of the adjacent agri-stores building or the entire site. In this regard, Drawing no. P3324-C005 'Parking and Traffic Management Layout Swept Path Analysis' indicates parking arrangements for the wider landholding and an autotrack analysis of a fuel delivery truck accessing the site for unloading and exiting. The parking arrangements are largely as per the development granted permission under PL14.243643 (see attachments), however there would appear to be no evident arrangements for the management of vehicles making deliveries to the site (e.g. a demarcated loading/unloading area), as required by condition no. 3(a) of the permission granted.
- 7.5.5. Notwithstanding this, the details and drawings accompanying the planning application for the appeal site provide no information on the requirements or arrangements for delivery and parking for the agri-store, which as stated the proposed development would appear to serve. At the time of site inspection it was also apparent that parking spaces to the south of the agri-supply building were partially occupied by materials, preventing their use (see photograph 5).
- 7.5.6. Given the absence of this information, it is not clear what the totality of vehicle movements to and from the site (petrol station, agri-store and storage yard) will be or how these, and the associated parking, loading and turning requirements, will be

managed or organised within the landholding. There is a risk therefore that the proposed development, which in effect intensifies the use of the agri-store, will give rise to additional traffic movements and requirements for parking and loading/unloading. The consequence of this would be an increase in the risk of traffic hazard within the overall site and/or inappropriate use of the adjoining public road in close proximity to a secondary school. The Board may wish to seek further information in this regard, however, I consider that the use of the commercial storage yard forms an integral part of the other uses on site, notably the agri-store, and the nature of this development is ambiguous and arrangements for the management of traffic on the landholding and appeal site would be better clarified by way of a more comprehensive planning application.

7.6. Impact on water environment

- 7.6.1. The appeal site is situated c.400m to the west of Lough Ree which is designated as a SAC, pNHA and SPA. It also lies c.700m from Aghamore borehole and within the Aquifer Protection Zone.
- 7.6.2. The appellant refers to comments made previously by Inland Fisheries Ireland in respect of PA ref. 17/13. These comments refer to maintenance contracts in respect of silt traps and petrol interceptors throughout the site, surfacing of the storage yard that allows for effective collection of surface water and passage through a silt trap and petrol interceptor before discharge, provision of a sealed area around the filling manhole, bunding of fuel tanks, contingency plans and staff training in the event of a spillage. I note that the application for the proposed development has not been referred to IFI and the Board may wish to seek observations from the organisation.
- 7.6.3. Plans for the proposed development indicate that the yard will be surfaced in asphalt with surface water directed to a silt trap and bypass interceptor prior to discharge to an existing storm sewer line which serves the petrol station (Proposed Drainage Layout and Proposed Surface, Drawing no. P3324-C004). The sewer discharges into an existing outfall manhole to the rear of the site. In effect the development is designed to restrict flows of contaminated surface water from interacting with the ground and the silt trap and petrol interceptor will prevent sedimentation and pollution of outflows to the storm water sewer.

7.6.4. In response to the request for further information the applicant provides:

- A copy of the service agreement in respect of the maintenance of the silt trap and petrol interceptor,
- Clarification that there is no filling manhole on site (diesel and unleaded fuel are delivered to fuel tanks via overground offset fills, with the fill points located in surfaced or impermeable areas),
- Confirmation that existing overground diesel tanks have secondary containment of 110%, and
- Evidence of training in how to respond to an Emergency Event.

7.6.5. The applicant also appends an Emergency Response Plan in the event of a spillage. However, this document is incomplete on file (front page and contents page only) and is only available in this form on the planning authority's website. I also note that there are no details on the capacity of the existing storm sewer system within the site serving the petrol filling station, relative to actual/predicted flows, no reference to the agri diesel fuel pumps located to the south of the agri-supply building (photograph no. 5) and no information on the outfall of the storm water sewer, e.g. location or water quality, which would typically discharge to a river or other surface water body.

7.6.6. Having regard to the foregoing, the proposed development is a relatively modest adjunct to an existing commercial development. Subject to the satisfactory implementation of the proposed arrangements for the drainage of the site, significant impacts on downstream waterbodies are unlikely to arise. However, the development is not a standalone one, it is integrated with the wider development of petrol filling station and agri-store and should be assessed in conjunction with comprehensive information on discharges arising from the site as a whole relative to the capacity and efficacy of the on-site system (pipework, silt traps, interceptors and outfall sewer) and further information on the discharge outfall of the stormwater system. If the Board are minded to grant permission for the development, they may wish to seek further information in this regard.

8.0 **Appropriate Assessment**

8.1.1. **Source-Pathway-Receptor.** The appeal site lies c.400m to the west of Lough Ree which is designated as a Special Area of Conservation (site code 000440) and

Special Protection Area (site code 004064). The development is potentially connected to this water body via discharges from site, as water bodies in the vicinity discharge to Lough Ree (see attachments). Possible pathways also exist via underground flow.

8.1.2. Qualifying interests of these sites are set out below.

European Site	Qualifying Interests
Lough Ree SAC	<ul style="list-style-type: none"> • Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation. • Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites). • Active raised bogs • Degraded raised bogs still capable of natural regeneration • Alkaline fens • Limestone pavements • Bog woodland • Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) • <i>Lutra lutra</i> (Otter)
Lough Ree SPA	<ul style="list-style-type: none"> • Little Grebe (<i>Tachybaptus ruficollis</i>) • Whooper Swan (<i>Cygnus cygnus</i>) • Wigeon (<i>Anas penelope</i>) • Teal (<i>Anas crecca</i>) • Mallard (<i>Anas platyrhynchos</i>) • Shoveler (<i>Anas clypeata</i>) • Tufted Duck (<i>Aythya fuligula</i>) • Common Scoter (<i>Melanitta nigra</i>) • Goldeneye (<i>Bucephala clangula</i>) • Coot (<i>Fulica atra</i>) • Golden Plover (<i>Pluvialis apricaria</i>) • Lapwing (<i>Vanellus vanellus</i>) • Common Tern (<i>Sterna hirundo</i>) • Wetland and Waterbirds

8.1.3. **Conservation objectives** for the European sites are:

- Lough Ree SAC – To restore the favourable conservation condition of qualifying habitats and species by reference to defined attributes and targets.
- Lough Ree SPA – To restore the favourable conservation condition of the bird species listed as Special Conservation Interest for the SPA.

8.1.4. **Potential Effects.** Discharges from the proposed development will be directed to the storm water sewer to the rear of the site. There will be no discharges to ground and therefore no risk to the underlying aquifer. Whilst discharges from the development itself are likely to be very modest these will arise in conjunction with flows from the agri-sales development and petrol filling station on the site (and other development within the urban area) and give rise to the risk of cumulative effects.

8.1.5. **Likelihood of significant effects.** On the basis of the information presented with the planning application it is not possible to determine the likelihood of significant effects on European sites. As stated, there is a lack of clarity, and scientific information, on the outfall and water quality of the storm water sewer into which the development will discharge, and the efficacy of the existing surface water management on the wider site, which the proposed development would integrate with. Further, provision of silt traps and petrol interceptors comprise mitigation measures and the development is likely to require a Natura Impact Statement.

8.1.6. **Screening conclusion.** On the basis of the information provided with the application and appeal, I am therefore of the opinion that the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site Nos. 000440 and 004064, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

9.0 **Recommendation**

9.1. I recommend that retention for the development be refused on the grounds of traffic safety and appropriate assessment.

10.0 Reasons and Considerations

1. The proposed development comprises part of a larger commercial development and would facilitate the intensification of this use and associated parking, loading and unloading requirements. It is considered that the arrangements for traffic management are ambiguous and inadequate to cater for the parking demand generated by the proposed development, thereby leading to conditions which would be prejudicial to public safety by reasons of traffic hazard within the site and on the public roads in the vicinity.
2. On the basis of the information provided with the application and appeal the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site Nos. 000440 and 004064, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

Deirdre MacGabhann
Planning Inspector

17th July 2020