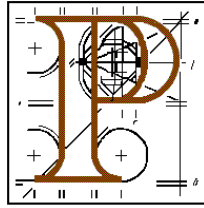


# An Bord Pleanála



## Inspector's Report

**Development:** Unmanned petrol station, signage, access & egress points on Cork Road, Knockgriffin, Midleton, Co. Cork.

### Planning Application

Planning Authority : Cork County Council  
Planning Authority Register Ref. : 15/6553  
Applicant : Emo Oil – T/A Great Gas  
Type of Application : Permission  
Planning Authority Decision : Grant permission

### Planning Appeal

Appellant(s) : Rory O'Hare  
: Topaz Energy Group Ltd.  
: Pat & Mary Fitzgerald  
Type of Appeal : 3<sup>rd</sup> Parties v Grant  
Observer(s) : Philip Jordan

**Date of Site Inspection** : 4<sup>th</sup> August 2016

Inspector : **Michael Dillon**

## **1.0 Site Location & Description**

- 1.1 The site, with a stated area of 0.08ha, is located within the town of Midleton in Co. Cork. The area comprises a mixture of residential and commercial uses. Access to the site is from the Cork Road – a busy Regional Road (R907) – which forms the principal link between the town and the N25 road to/from Cork City. The 50kph speed restriction applies in this area. There are public footpaths and public lighting is in place. There is a bus stop just to the east of the site. The site was formerly an hard-standing area for car-parking, associated with a builder’s providers’ yard and large hardware store to the north. It is currently vacant. Access to the aforementioned yard is currently from a retail park road to the north. The builders providers’ yard is surrounded by a 3.0m high palisade fence (painted green) – attached to which are some banner signs.
- 1.2 To the south, the site abuts the R907 – the boundary with which is a 1.2m high stone wall with two pedestrian access points. There is a timber lamp-post just inside the wall. There is a car-wash and drive-thru coffee shop facility on the opposite side of the road (formerly a filling station). To the west, the site abuts a short one-way street (running from south to north) – the boundary with which is some movable concrete bollards. This road links the R907 with the Midleton Retail Park. There is a single-storey house immediately to the west again with some screen planting between the road and the gable of the house. To the north, the site abuts the former builders providers’ yard – the boundary with which comprises 3.0m high palisade fencing. To the east, the site abuts a vacant, derelict piece of ground – the boundary with which is a 1.0m high concrete block wall with some mature coniferous screen planting on either side.

## **2.0 The Proposed Development**

- 2.1 Permission sought on 13<sup>th</sup> November 2016, for unmanned petrol filling station containing the following elements-
- Two petrol pumps (four pumping points).
  - Two underground storage tanks of 40,000 litres each.
  - One underground petrol interceptor storage tank of 10,000 litres.
  - 1.8m high concrete blast wall on northern boundary.
  - 5.4m high canopy with signage (illuminated).
  - Two entrance and exit points.
  - Monolith sign 6m high (illuminated).
  - Surface water outfall via petrol interceptor to soak pit in northwest corner of site.
- 2.1.1 The application is accompanied by a letter of consent from the landowner, Dairygold Ltd, to the making of the planning application.

2.2 Following a request for additional information, the following was received on 3<sup>rd</sup> March 2016-

- Site Suitability Assessment for the soakway.
- Details of petrol interceptor.
- Comments in relation to security at the facility: the site will be monitored by CCTV from a monitoring centre in Dublin. The company has a number of similar facilities in operation – the closest of which is at Kilcoolishal in Glounthaune.
- Low-level shrubs are proposed for the western boundary.

2.2.1 The submission is accompanied by the following documentation of note-

- Details of forecourt petrol interceptor.
- Safety Report (dated February 2016) from Safety Engineering & Environmental Consultants Ltd.
- Risk Assessment Register.
- Report from Envirologic (dated February 2016) in relation to drainage.

### **3.0 Development Plan & Other Guidance**

#### **3.1 Development Plan**

3.1.1 The relevant document is the Cork County Development Plan 2014. Chapter 7 deals with Town Centres.

3.1.2 Also of relevance is the Midleton Electoral Area Local Area Plan 2011 – under the umbrella of the County Plan. Within this LAP, the Midleton Environs section is of relevance. The site is zoned ‘Town Centre/Neighbourhood Centre’ use. The appeal site is part of a larger site which stretches to the northwest and north indicated as special objective ‘T-01’ – “Town centre development. Consideration will be given to the siting of a primary school on part of this site subject to proper planning and sustainable development considerations. Development proposals must provide for sufficient stormwater and surface water attenuation in this zone”.

#### **4.0 Planning History**

There is no mention made of any recent relevant planning history.

#### **5.0 The Planning Authority’s Decision**

By Order dated 23<sup>rd</sup> March 2016, Cork County Council issued a Notification of decision to grant planning permission subject to 23 no. conditions, the principal ones of which may be summarised as follows-

1. Development to be carried out in accordance with plans and particulars received on 13<sup>th</sup> November 2015 and 3<sup>rd</sup> March 2016.
- 7 & 8. Relate to drainage of the forecourt.
13. Relates to noise levels.
21. Relates to planting on the western boundary – requiring more robust/mature planting – to provide a visual and acoustic screen on this side of the site.

## **6.0 Grounds of Appeal**

- 6.1 There are three 3<sup>rd</sup> party appeals from-
  - John McCarthy & Partners, agent on behalf of Rory O’Hare, Maxol Filling Station, Mill Road, Co. Cork – received on 15<sup>th</sup> April 2016.
  - Patrick A. Cashman & Associates, agent on behalf of Patrick & Mary Fitzgerald, “Alana”, Cork Road, Midleton, received on 18<sup>th</sup> April 2016.
  - Topaz, Beech Hill, Clonskeagh, Dublin 4, received on 19<sup>th</sup> April 2016.
- 6.2 The issues of note can be summarised in bullet point format as follows-
  - Submitted documentation is inadequate. There is no contour map of the site. No drainage drawings have been submitted. The elevations of contiguous buildings have not been shown. The north point is not indicated on all drawings. Drainage drawings conflict with one another. There are no details of drainage outside of the area beneath the pump canopy. There is no overflow pipe from the surface water soakway trench into the surface water drainage network. The surface water drainage network has not been indicated in the vicinity of the site.
  - No flood risk assessment has been carried out, other than a desk examination. The area abuts a flood zone.
  - The development will result in a traffic hazard. There is a busy roundabout to the east and slip road to the west. The road is the main connection between the town and the N25. Traffic is frequently congested on this road. Sight distance is inadequate at the egress points. There is no space to accommodate queuing traffic, which will result in obstruction of traffic on the New Cork Road. There is no traffic impact assessment with the application.
  - No details of on-site parking have been submitted.
  - No sequential or justification testing was carried out for this development within a town centre setting. There are already two petrol stations on the same road – 250m and 500m to the west.

There are a further two filling stations serving the town. Four filling stations is more than adequate to serve the needs of a town with a population of 12,000 (in 2011). Cobh, a town of equal size, has only three filling stations. The filling station on the opposite side of the road has long closed. The other filling stations on the Cork Road are located out of the town, set amongst other commercial development and close to road junctions. The proposed development represents a low value use for a town centre site.

- The development does not promote pedestrian linkage between the Cork Road and the Midleton Retail Park to the north.
- Anti-social behaviour will occur around this facility. There is no similarity between this site and the existing unmanned filling station at Kilcoolishal, Glounthaune – as suggested by the applicant. Young drivers congregate in the forecourts of filling stations.
- Supervision is inadequate on a site where flammable fuel is stored.
- The residential amenity of adjacent houses will be affected. No lighting scheme has been submitted.
- The development conflicts with the zoning set out in the Midleton Local Area Plan 2011.
- The Fitzgerald house is located to the west of the appeal site. There is no landscaping detail for the western boundary of the site. There is no safeguard that contamination will not spread through the ground from this site.
- A solid wall with planting on either side should be provided on the western boundary of the site to attenuate noise.
- The area is plagued by road flooding.
- The site provides minimal employment for a town-centre use. A more intensive employment-generating use would be better for the town centre.

## **7.0 Observations**

There is one observation from P.J. Jordan & Associates, “Whitehall”, Cork Road, Midleton. The issues raised, where different to those raised in the 3<sup>rd</sup> party appeals, can be summarised in bullet point format as follows-

- The car-wash on the opposite side of the road causes queuing onto the road – particularly on Saturdays and on bank-holiday weekends.
- An EIS should have accompanied this application.

## **8.0 Response Submissions**

### **8.1 1<sup>st</sup> Party Response to Grounds of Appeal**

None received.

## **8.2 2<sup>nd</sup> Party Response to Grounds of Appeal**

None received.

## **8.3 3<sup>rd</sup> Party Responses to Other 3<sup>rd</sup> Party Appeals**

### **8.3.1 First 3<sup>rd</sup> Party Response**

The response of John McCarthy & Partners, agent on behalf of Rory O'Hare, received on 17<sup>th</sup> May 2016, supports the other two appeals, and largely restates the original grounds of appeal.

### **8.3.2 Second 3<sup>rd</sup> Party Response**

None received.

### **8.3.3 Third 3<sup>rd</sup> Party Response**

None received.

## **9.0 Assessment**

The principal issues relating to this appeal are: the principle of development, traffic, surface water disposal, and residential amenity.

### **9.1 Principle of Development**

9.1.1 The site is zoned Town Centre/Neighbourhood Centre use in the Midleton Electoral Area LAP 2011. The Cork County Development Plan 2014, states in relation to Town Centres, under section 7.2.5 as follows- "In order to maintain the attractive characteristics of our town centres, applications for new development/changes of use within the town centre will need to ensure proposals will not detract from the amenity, vitality and character of the area..." The objectors have pointed out that the proposed use will not result in any significant employment – and this is self-evident – just one part-time position being created. I would be concerned that a development of this nature, within this zoning, would do nothing to promote the 'vitality' of the town centre, and would, in fact, detract from it. Whilst this site could not be compared to the Main Street of the town, it has nonetheless been zoned for Town Centre uses in the Plan. The Midleton Retail Park to the north of the site forms part of the same zoning. This development will do nothing to promote the life and vitality of the road – particularly where it is proposed for 24-hour trading. A grant of permission would set an undesirable precedent for other similar-type developments. The proposed development would detract from the vibrancy of the town centre and would be contrary to the proper planning and sustainable development of the area.

- 9.1.2 The special development objective to allow for the provision of a primary school somewhere within the 'T-01' zoned lands is not particularly relevant to this part of the zoning, as the appeal site would be too small to facilitate any such school development.

## **9.2 Traffic**

The R907 is a busy Regional Route. The 50kph speed restriction applies in this area. There are footpaths, and there is public lighting in the area. Sight distance at the proposed entrance/egress points are acceptable within a town centre setting – on a straight stretch of road. There is no reason why the development should result in traffic queuing out onto the road – as would be the case with any other filling station on the same road. The fact that there is a car-wash facility on the opposite side of the road, which may result in queuing at weekends, is not a relevant consideration. Obstruction of the carriageway is a matter for the Garda. Similarly, the presence of congestion on an urban road is not a reason for refusing planning permission. Congestion within built-up areas is a fact of life (particularly at peak times). The proposed development will not in any way hinder pedestrian linkage between the Cork Road and the Midleton Retail Park to the north. The Engineering Section of the Council had no objection to the proposal on traffic safety grounds. There will be no need for on-site parking, as there are no services provided other than the sale of motor fuel. The proposed development will not constitute a traffic hazard or result in obstruction to road users.

## **9.3 Drainage**

- 9.3.1 It is proposed to dispose of surface water within the site to a soakway. The existing site is almost entirely covered with hardcore/tarmac. Full details of the soil on site was provided by way of additional information (mostly made ground). The primary subsoil is glacial till. The bedrock is Waulsortian limestone. The bedrock aquifer is classified as Regionally Important (karstified). The groundwater vulnerability is classified as 'High'. There are no abstraction wells in the immediate vicinity. Two trial holes were stated to have been opened on the site on 9<sup>th</sup> February 2016. Infiltration tests showed compliance with BRE Digest 365. Attenuation design calculations based on annual rainfall, hard-stand area to be served, and 1-in-100 year six-hour rainfall event were carried out for this site (resulting in a requirement for 47.0m<sup>3</sup> capacity). Green-field run-off was calculated at 11.2m<sup>3</sup> for a similar event – resulting in the requirement for 36.0m<sup>3</sup> on-site storage. Discharge is proposed to an infiltration trench which measures 28m in length, 1.5m in width and 2.2m in depth. At 0.5m below ground level, an overflow pipe will be fitted to connect to the public surface water sewer network. However, I note that the location of this sewer connection has not been indicated on drawings

submitted. Notwithstanding this, the Environment Section of the Council was satisfied that there was a surface water sewer in the area which could accommodate such an overflow. All potentially contaminated stormwater will pass through a Class 1 full retention forecourt separator. The unit has the capacity to contain up to 10,000 litres of pollutant arising from spillage for a fuel delivery tanker. The interceptor can also retain silt. Roof run-off from the canopy will not be passed through the separator. Underground fuel storage tanks will be double-skinned to prevent leaks. There will be no foul effluent discharge from the site. I would be satisfied that, if properly constructed and maintained, the system to be put in place will ensure that there will be no contamination of ground or surface water.

- 9.3.2 OPW floodmaps show no instance of flooding on this site. Reference by objectors to surface water ponding on the R907 in the vicinity of the site cannot be attributed to the proposed development.

#### **9.4 Residential Amenity**

The site is currently vacant. There is a public road between the site and the closest house to the west. There is some level of screening between this house and the carriageway of the public road. There are two windows in the gable elevation of the single-storey house (one of which is a bathroom window). These windows are currently located directly opposite the builders providers' yard. It is up to the owners/occupiers of the house to secure their own privacy. The site is separated from the house by a public road. I would see no requirement for screening or landscaping in such circumstances. The applicant indicates that there will be some low-level shrubs on the western boundary. The Council considers that more robust screening is needed on this boundary. Again, because it abuts a public road, I would not consider this necessary. Condition 13 of the Notification of decision to grant planning permission relates to noise. In the context of a town centre site, which is located on a busy Regional Route, I would consider such to be unnecessary in planning terms. The street is already provided with public lighting. I do not see that lighting from a 24-hour garage could be seen to detract from residential amenity – particular regard being had to the setting of the site within the town centre. With regard to claims of anti-social behaviour, this is not a relevant planning consideration, but rather a matter for the Garda. If anti-social congregation is to take place at a filling station, it would be more likely to occur at one which was unmanned. However, there will be no vending machines or other goods sold which might encourage motorists to congregate. I would acknowledge the comments of the objectors when it is stated that the situation of this site and the one operated by the same company at Kilcoolishal, Glounthaune are very different. The development is to be monitored by CCTV, which may help to discourage any anti-social behaviour.



## **9.5 Other Issues**

### **9.5.1 Financial Contribution**

The Notification of decision to grant planning permission did not include a condition requiring payment of a development contribution. I note that there are no buildings to be constructed. The Development Contribution Scheme for Cork County does not make any provision for development contributions for developments of this class. Neither is there any reference to a Supplementary Development Contribution for the Cork Suburban Rail Project – a development of this nature would not benefit in any way from the Midleton rail link.

### **9.5.2 Environmental Impact Assessment**

An EIS would not be required for a development of this nature within a built-up area, and there are no issues of environmental impact which would trigger the need to consider sub-threshold EIA.

### **9.5.3 Appropriate Assessment**

Screening for AA was carried out by CCC. The site is located within a built-up area. It is not proposed to connect the development to the water supply or drainage network. The site is not located either within or immediately abutting any European site. The closest site is the Great Island Channel SAC (Site code 001058) – some 570m distant. The site is not connected to this SAC by any watercourse – the closest watercourse is 300m approximately. The site is of limited area. Comprehensive plans have been submitted to deal with surface water drainage or accidental spillage of hydrocarbons on site. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, 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 no. 001058, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment is not, therefore, required.

### **9.5.4 Retail Impact Assessment**

The proposed development constitutes a minor retail function. Retail Impact is required for large-scale retail developments. There is no need for any sequential or justification testing. The fact that there are two other filling stations on this same road, and four altogether within the town, is not a relevant planning consideration.

### **9.5.5 Inadequate Documentation**

The documentation submitted with this application is adequate in order to assess the proposal. There is no need for a contour map for this small, flat site within a built-up area. There is no need for drawings showing

elevations of contiguous buildings, as there are none on any boundary. The house to the west is separated from the site by a public road.

#### 9.5.6 Visual Impact

The proposed development will not detract from the visual amenity of the area. The existing site is currently vacant. There are other vacant/derelict sites in the immediate area. The use proposed is not so very different from the car-wash use which exists on the opposite side of the road.

### **10.0 Recommendation**

I recommend that permission be refused for the Reasons and Considerations set out below.

## **REASONS AND CONSIDERATIONS**

1. Having regard to the unmanned nature of the petrol filling station proposed, it is considered that the use would detract from the vitality of the town centre, where it is an objective of the Cork County Development Plan to promote, amongst other things, the vitality of town centres. The development would contravene materially the development objective to promote the vitality of town centres. The proposed development would set an undesirable precedent for other similar-type developments within the town centre area, which would be contrary to the proper planning and sustainable development of the area.

---

**Michael Dillon,  
Inspectorate**

**5<sup>th</sup> August 2016.**