



An  
Bord  
Pleanála

## Inspector's Report PL06S.246767

### Development

Extension incorporating server, seating area and toilets, elevation and internal changes, revisions to site layout, 5 No. carparking spaces, signage at Three rock Esso Service Station, Grange Road, Rathfarnham, Dublin 14

### Planning Authority

South Dublin Co. Co.

### Planning Authority Reg. Ref.

SD16A/0102

### Applicant(s)

Topaz Energy Ltd

### Type of Application

Permission

### Planning Authority Decision

Grant with Conditions

### Appellant(s)

Domenico and Jacqueline Gentile

### Observer(s)

Aishling, Ray & Caoimhe O Brien

### Date of Site Inspection

5<sup>th</sup> of September 2016

### Inspector

Caryn Coogan

## **1.0 Site Location and Description**

- 1.1 The site is an existing petrol filling station along Grange Road in South Rathfarnham. The site area is 0.237Ha addressing Grange Road along its eastern site boundary. There is an existing ESSO branded Service Station on the site. It is a long site sandwiched between two residential roads Grange Park and St. Endas park. The road frontage is circa 75metres long onto Grange Road with two entrances onto the site from Grange Road. There is also housing on the opposite side of Grange Road to the subject site, Barton Drive.
- 1.2 The subject site includes a petrol filling station, a shop with convenience shopping (On the Run shop), a canopy, a car wash along the northern site boundary and carparking to the south of the site.
- 1.3 There is a small pocket of shops to the south of the site, by the predominant land use is suburban housing.

## **2.0 Proposed Development**

The proposed development consists of rebranding and redevelopment of an Esso Filling station to reflect the new Topas ownership. It will consist of:

- The construction of a single storey extension to the existing station building incorporating a new server and eating area and toilets. The new extension is 145sq.m. single storey, with 89.9sq.m. convenience retail space and 2no. hot food deli/ restaurant counters with associated 80sq.m. seating area to allow for 34No. customers.
- Revisions to existing site layout to include 5No. new carparking spaces, signage, landscaping and circulation routes
- Elevation changes and internal changes to existing building.

## **1.0 Planning Authority Decision**

### **1.1. Decision**

On the 25<sup>th</sup> of May 2016, South Dublin Co.Co. granted planning permission for the proposed development subject to 9No. conditions. The most relevant site specific conditions are:

2. The permitted hours of operation of the single storey extension incorporating a new server, seating area and toilets shall be from 0700 to 2100 daily.

9. Development Contribution payable €7875

## 1.2. **Planning Authority Report**

- The proposal is acceptable under the provisions of the development plan. Policy S32 regarding ancillary uses at petrol stations states that the essential purpose is to provide fuels for vehicles, and the sale of goods may only be permitted as an ancillary small scale facility which would remain secondary to the petrol filling use, and would not affect adversely the local amenities. Planning permission, SD02A/0186 granted permission for a limited restaurant/ takeaway. An extension of the facility is acceptable in close proximity to a small parade of shops.
- No overshadowing or overbearing impact will occur onto adjoining properties. There will be a CCTV camera on the property to control anti-social behaviour. The hours of operation of the shop/ restaurant should be limited to 0700-2100.
- The proposed extension will blend in with the existing structure on site.

## 1.3. **Other Technical Reports**

1.4. No objections form Drainage Department.

1.5. No objections form roads department, additional parking is acceptable.

## 1.6. **Third Party Observations**

1.7. A number of residents in the area objected to the proposal citing the following concerns:

- Traffic congestion form 8.00-6pm especially with deliveries as there is nowhere to park
- This is a residential area
- Scale of restaurant is unacceptable as this is a quiet residential area

- Site notice is inconspicuous
- Anti-social behaviour
- Schools in the area and it will lead to childhood obesity
- Opening hours to 11pm is totally unacceptable
- Obtrusive signage

## 2.0 Planning History

There has been a service station use on the subject site for over fifty years. The relevant history is as follows:

### **SD02A/0186 (ABP 06S.201079)**

To demolish existing shop building, construct new shop building with eat-in restaurant and take away food area and ancillary illuminated signage. The Board granted the development subject to 10No. conditions which is appended to this report. The most relevant to the current case are as follows:

### **CONDITIONS**

2. The proposed deli/counter/restaurant hours of operation shall be from 0700 to 2100.

**Reason:** In the interest of the proper planning and sustainable development of the area.

3. The proposed “on the run” signage on the side (northern) elevation of the main building shall be omitted from the development.

**Reason:** In the interest of visual amenity.

4. The proposed freestanding ID sign shall be reduced to 5.3 metres in height, so that it does not project above the forecourt canopy.

**Reason:** In the interest of visual amenity.

5. The proposed advertising material on the car wash shall be omitted. The car wash shall be restricted to use between the hours of 0830 to 2100 Monday to

Saturday and 0930 to 2100 on Sunday.

**Reason:** In the interest of residential amenity.

### 3.0 **Development Plan**

#### 3.1 **South County Dublin Development Plan 2016 - 2022**

The subject site is zoned Local Retail Centre (LC) which is

*To protect, improve and provide for future development of Local Centres.*

Petrol stations, restaurants, cafes and local and neighbourhood shops are permitted in principle.

### 4.0 **The Appeal**

#### 4.1. **Grounds of Appeal**

Domenico and Jacqueline Gentile, 1 Grange Park, Rathfarnham, Dublin 14 has taken this third party appeal. The following is a summary of the key issues raised in their grounds of appeal.

i) The planning application documents do not take into consideration the impacts on 1 Grange Park and 53 Grange Road.

ii) The site notice was not in general public view, it was stuck to the side of the white Esso/ On the Run sign.

iii) On page 101 of South Dublin Future Development 2016-2022 Chapter 5 Urban Centres and Retailing is states:

*R10 Objective 2: To restrict the opening of new fast food/ takeaway outlets in close proximity to schools so as to protect the health and wellbeing of school going children’.*

There are four schools within a five minute walk of the fast food outlet.

iv) Policy S25 : Design and Amenity designates the area of historic and architectural importance. St. Endas Park with the Pearse Museum is only a short distance away.

v) There is no need for the long trading hours to 11pm within a residential area, it will increase traffic, noise and anti-social behaviour.

vi) An eatery open to 11pm will encourage concert goers from Marley Park to hang around Granges Road.

vii) the 5No. carparking spaces at the rear of the car wash will lead to curtailed access to the car wash.

viii) What are the proposals for the boundary wall ? If it was heightened and railings put on top of it, this would prevent people from sitting on it and loitering.

## **4.2 Observation**

South Dublin Future Development 2016-2022 section 5.8 Fastfood Outlets/ Takeaways:

*R10 Objective 1: To prevent an excessive concentration of fast food outlets/ takeaways and ensure that the intensity of any proposed use is in keeping with both the scale of the relevant building and the pattern of development in the area.*

*R10 Objective 2: To restrict the opening of new fast food takeaway outlets in close proximity to schools so as to protect the health and well being of school going children.*

The following schools are within 300-600 metres:

- Loreto High School
- Gaelcholaiste An Pairsaigh
- St. Mary's National School
- Loreto Primary School

The development is in direct contradiction to the Department of Health's Consultation on the development of an Obesity Policy and Action Plan for Ireland.

The development will lead to additional congestion along the heavily trafficked Granges Road.

There are cars parked along double yellow lines along St. Enda's Drive. And this will increase resulting in safety concerns.

The existing service station layout already leads to groups hanging around the area late at night. The proposal would lead to an increase in footfall around the area, and general disturbance and noise.

According to media sources the proposed outlet would be a Eddie Rockets outlet, and it is questionable if this is sustainable given the closure of Eddie Rockets in the Nutgrove Shopping Centre.

Littering is also a concern.

#### **4.2. Planning Authority Response**

There was nothing further to add to the planning report on file.

#### **4.3 Applicant's Response**

There is a governing permission granted to the site for the principle of the development under PL06S.201079. The planning authority did a comprehensive assessment of the proposed development and granted planning permission for an extension to the previously permitted development on the site, including the sale of hot food for consumption off the premises.

The Board should note the existing use of the site has been established for a long time in close proximity to residential units. The station now forms part of a designated local retail centre and its improvement and future development is supported by the county development plan objectives. The new design and layout

will ensure a more efficient operation of the services. The single storey structure of 145sq.m. is not disproportionate to the size of the site and the nature of the development. The opening hours are in line with similar developments throughout the city. There are CCTV cameras that will monitoring all activities on the premises. Anti-social behaviour control is beyond the remit of planning it is a public order concern. The issue of injury to residential amenity should be dismissed by the Board.

In response to Policy R10 Objective 2, the proposed development is not a fast food. It is a new servery within an existing service station, and under the development plan restaurants and cafes are acceptable within designated local centres. It was acceptable in principle by the Board previously on the site. It is not a stand alone takeaway, and the board should dismiss this issue of the appeal.

The proposal is not beside any protected structure. It is a brownfield site within an established suburban location. There will be no impact on any architectural conservation area.

The permitted hours of operation on the premises is 7am -9pm, and the applicant is only proposing to extend these hours of opening by two hours resulting in the premises been opened up until 11pm, this is normal throughout the city.

The carparking areas will into interfere with the operation of the car wash. The Roads section deemed the development acceptable in terms of traffic safety and car parking provision.

The provision of a higher boundary wall and railings would undermine sightlines and activity between the local shops and the development.

## 5.0 **Assessment**

5.1 The site is located within a suburban area of Rathfarnham. It is a service station positioned long Grange Road which includes a small shop and deli. The site is flanked on two sides by residential roads with a small parade of local shops to the



south west of the site. Under the provisions of the newly adopted South Dublin County Development Plan 2016-2022, the subject site is zoned **Local Retail Centre**. The underlying objective '*To protect, improve and provide for future development of Local Centres*'. The proposed development involves a refurbishment of the service station to reflect the new company logo *Topaz*. New cladding and signage will be erected onto the existing forecourt canopy. The site layout is also altered to include new parking spaces and designated entry/ exit points onto Grange Road. The most significant alteration is the addition of a new extension onto the southern elevation of the existing retail unit associated with the service station. The proposed extension is 145sq.m. and is single storey which will contain a new food counter, toilets and a seating area. The seating area is 80sq.m. and will allow for seating of up to 34No. customers. There will be consumption of hot food on and off the premises.

5.2 A service station use has existed at the subject site for decades. In 2003, the Board granted permission for a new shop with an eat-in restaurant and take away food area at the Rock Service Station under appeal reference number, PL06S.201079. The Board imposed a condition that the deli/ counter/ restaurant hours shall operate from 0700 to 2100. The planning authority has permitted the current proposal for an extension to the retail area to provide a restaurant/ takeaway with a seating area, on the basis the principle of the development has been permitted previously on the site, by it and the Board in 2002-2003. The planning authority again reflected the conditions of the Board's original decision on the current proposal by including Condition No. 2 restricting the hours of operation from 0700-2100hrs. The applicant has applied for extended opening hours from 0700 to 2300hrs.

5.3 The concerns regarding impacting negatively on existing residential amenities are unsubstantiated by the third party submissions to the Board. The service station has existed in harmony with the wider suburban areas for a considerable length of time and provides a necessary service to the general population of the area. There are CCTV cameras in operation throughout the premises and it is not in the interests of

the management to allow anti-social behaviour on the premises. The subject site is very exposed to passive surveillance from surrounding residential homes. There is no overshadowing, overlooking associated with the development into the contiguous homes. The existing and proposed development will not create an overbearing building envelop on the subject site, as the road frontage is extensive (75metres), and the development is proportionate in scale to the subject site and surrounding residential units. I consider the existing boundary treatment to be acceptable and low walls is regularly associated with filling stations to provide adequate sightlines. I would dismiss the third party request to heighten boundary walls and provide a railing.

5.4 The Roads Department had no concerns regarding the traffic implications and car parking provision. My concern is the on-street parking of delivery trucks which I witnessed along Grange Road during my site inspection. A large truck mounted the footpath fronting the site during my inspection. It caused congestion along the main road, blocked sightlines for cars exiting the subject site, and it was a danger to pedestrian safety. The Board if considering granting the proposed development may require the applicant to consult with the local authority for the provision of bollards between the edge of the public footpath and the low roadside boundary wall along Grange Road.

5.5 The overall design, specification and design of the proposed development is acceptable and it will not detract from the visual amenities of the area. There is a small Centra store and a pharmacy adjacent to the development along St. Enda's Drive.

5.6 The crux of this appeal lies in the proposed extension to provide a seated eatery to cater for 34No. persons within the proposed extension. The third party objections raised grave concerns regarding the proximity of the development to a number of schools. It is claimed in an observation by local residents there are four schools

within 600metres of the site. I did note Loreto High School, along Grange Road within 300metres of the site, and Loreto Primary School. There is another secondary school, a Gaelscoil within close proximity of the site. The applicant has not stated the market or intended population the proposed new servery is to cater for. It has stated there will be hot food sold on and off the premises.

I consider the third appellants concerns on this issue to be valid given the proximity of a number of schools from the subject site, and the scale of the new servery. The newly adopted county development plan includes an objective :

*R10 Objective 2: To restrict the opening of new fast food/ takeaway outlets in close proximity to schools so as to protect the health and wellbeing of school-going children.*

The applicant has stated on appeal the proposal is not a takeaway. Furthermore, there has been no information on the type of restaurant will be located within the new extension. The applicant refers to the development within the proposed extension as an additional 'servery', and states under the development plan objectives, restaurants and cafes are acceptable within designated Local Centres. Furthermore the applicant argues the Board has accepted the principle of a restaurant with hot food for consumption off the premises under a previous decision.

5.7 I have examined PL06S.201079, and it is my opinion, the Board accepted the principle of a restaurant within the filling station due to the limited area of the proposed food facility and it was considered to be of a different character to a stand alone takeaway/ restaurant, which is not the case in this instance. The description given in the accompanying inspectors report on PL06S. 201079 was as follows:

*A food preparation area is proposed immediately adjoining the retail area, in the north-western sector of this part of the building. This is indicated, on the submitted drawings as "food area". It would consist of a food counter, a small informal seated*

*area and an adjoining payment console. Two water closets are proposed in the southeastern corner of the building. The remainder of the floor space is indicated as storage, with a small office in the north-eastern corner of the building. The floor space breakdown indicated on the submitted drawing indicates 98 square metres of retail shop, 28 square metres of food (prepared) area, 58 square metres of storage, with the remaining floor space given over to office and water closets. The proposed retail shop would account for 46% of the floor space, food area 13% and the storage area 28%.*

The current proposal represents a significant intensification of use relating to the restaurant/ servery element. The new extension includes a preparation counter, a new serving counter, lobby, Female toilets, Males toilets, handicapped WC, and a 80.72sq.m. seating area to cater for 34No. persons. In my opinion, this is a disproportionate level of restaurant use for the sale of hot food on and off the premises within a filling station and within close proximity to schools. The proposed extension incorporates a standalone restaurant/ takeaway/ servery. The proposed extension could in fact be leased out to a corporation such as Burger King or Mc Donalds, or the applicant may provide a similar service at this location, which would be contrary to the ethos and underlying principle of *R10 Objective 2: To restrict the opening of new fast food/ takeaway outlets in close proximity to schools so as to protect the health and wellbeing of school-going children.* I recommend the Board permit the proposed development, however the new extension should be omitted from the permitted development scheme. It is not an acceptable argument to state that these facilities are the norm throughout Dublin, and the opening hours up to 23:00Hours are the norm throughout Dublin. Each site and case is different and that should not form the basis for granting planning permission in this instance given the number and proximity of schools within walking distance of the site, the lack of information relating to the type of food to be served and the anticipated clients, and the scale of the development relative to the established fillings station use on the subject site. Furthermore, it is not acceptable to state that the Board accepted the principle of the development on the site, when in fact, the development permitted in 2003 was of a much smaller scale, and it was clearly a subordinate landuse to the retailing use within the permitted shop area.

## 6.0 Recommendation

6.0 I recommend a split decision. The Board should refuse the single storey extension incorporating a new server, seating area and toilets, and granted the remainder of the development proposal

### Reasons and Considerations/ Reasons

Having regard to the scale and nature of the proposed single storey extension incorporating a new server, seating, area and toilets, it is considered the proposal does not reflect the original small scale development permitted by the Board under PL06S.201079 and it would conflict with a specific objective in the South Dublin County Development Plan 2016-22 which is to restrict the opening of new fast food/ takeaway outlets in close proximity to schools so as to protect the health and wellbeing of school-going children. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

The Board shall grant planning permission for elevation and internal changes to the existing building, a revised site layout to include 5No. parking spaces, signage, landscaping, new circulation routes and all associated site and development works.

### CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. (a) The applicant shall submit to and agree with in writing revised drawings excluding the proposed extension to the south of the existing of the existing retail unit.

- (b) The applicant shall submit and agree in writing with the planning authority proposals to prevent onstreet parking of vehicles and delivery trucks along the roadside boundary of Grange Road.

**Reason:** In the interest of clarity and traffic safety.

3. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

4. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay rubble or other debris on adjoining roads during the course of the works.

**Reason:** In the interest of residential amenity.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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**Caryn Coogan**  
**Planning Inspector**

**14<sup>th</sup> October 2016**

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