



An  
Bord  
Pleanála

## Inspector's Report

### Development

Enlargement of customer car parking area at the existing Applegreen Station by the removal of the boundary wall to the west to provide 16 no. parking spaces at Tullow Road, Carlow Town.

### Planning Authority

Carlow County Council

### Planning Authority Reg. Ref.

15/268

### Applicant

Petrogas Group Ltd

### Type of Application

Permission

### Planning Authority Decision

Grant

### Appellant

Topaz Energy Limited

### Type of Appeal

3<sup>rd</sup> Party v. Grant

### Observer(s)

None

### Inspector

Colin McBride

### Date of Site Inspection

26<sup>th</sup> September 2016

## **1.0 Site Location and Description**

1.1 The appeal site, which has a stated area of 0.216 hectares, is located on the northern side of the Tullow Road (N80) to the south east of the centre of Carlow Town. The site is occupied by an existing service station consisting of a single-storey shop unit, forecourt and canopy. Adjoining uses include a vehicle repair garage to the west, from which part of the site is taken (appears to be under the same landownership as the appeal site/existing services station). To the north is an undeveloped plot, to the east and north east are detached dwellings and to the north west is a pair of semi-detached dwellings part of the Millennium Court housing development.

## **2.0 Proposed Development**

2.1 Permission is sought for the enlargement of the customer parking area associated with an existing service station. The proposal entails removal of an existing boundary wall and extension of the site incorporating a section of land to the west. The section to be incorporated is currently part of the curtilage of an existing garage (vehicle repair). It is proposed to provide 16 no. parking bays. It proposed to provide new boundary treatment in the form of a 1.8m high wall along the northern and western boundary.

## **3.0 Planning Authority Decision**

### **3.1 Decision**

3.1.1 Permission granted subject to 9 conditions. The conditions are standard in nature.

### **3.2 Planning Authority Reports**

#### **3.2.1**

- (a) Environment (23/09/15): No objection.
- (b) Roads (22/09/15): No objection.
- (c) Irish Water (12/10/15): No objection.
- (d) Pat Harrington (27/10/15): Conditions required regarding disabled parking and footpaths.
- (e) Planning report (02/11/15): Further information required including clarification of the planning status of existing structures on site, details of

disabled parking and cycle facilities, proposals to demarcate footpath from the forecourt, landscaping proposals and details of advertising signage.

(f) Pat Harrington (11/05/16): No objection subject to conditions.

(g) Planning Report (30/05/16): The response to the further information request was considered satisfactory and a grant of permission was recommended subject to the conditions outlined above.

#### **4.0 Planning History**

4.1 04/5643: Permission granted for construction of second floor offices over existing shop.

4.2 01/4069: Permission granted to demolish existing shop building and construct a new shop building, carry out alterations to existing vehicle showrooms and ancillary works.

4.3 13/6596: Permission granted for an extension to the front of the existing workshop on the adjoining site.

#### **5.0 Development Plan**

5.1 Under the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area, 2012-2018, the site is zoned Residential 1 GZT No. R2.6 with a stated objective 'to enhance the amenity of developed residential communities'.

5.2 Under the zoning matrix car parks and service station are identified as being not permitted within this zoning.

In regards to non-conforming uses it is noted that "extensions to and improvement of premises accommodating these uses may be permitted where the proposed development would not seriously injure the amenities of the area or prejudice the proper planning and development of the area. The intensification of a non-conforming use will be considered with regard to zoning objectives as well as general planning considerations. Non-conforming uses which are small in scale and ancillary in nature to uses that are acceptable within a zoning category may be accepted without a material contravention".

5.3 Parking standards for garages/filling stations is 1 space per 50sqm gross floor area in the case of cars and the same in the case of bicycle parking.

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

6.1.1 A third party appeal has been lodged by Coakley O'Neill Town Planning Ltd on behalf of Topaz Energy Ltd. The grounds of appeal are as follows...

- The proposed development is a material contravention of the residential zoning objective. The intensification of use is not in accordance with the proper planning and sustainable development of the area, will impact adversely on the amenities of adjoining residential properties, will result in intensification of unauthorised development and a substandard development that will have road/traffic safety implications.
- The increase in parking is in excess of that required for the use under Development Plan policy. It is considered that the proposal is a significant intensification of use and the level of car parking provision is a material contravention of the Development Plan parking standards.
- It is considered that the parking layout proposed is substandard including the proposed circulation and loading arrangements, and that such would have an adverse impact in regards turning movements/traffic safety.
- The appellants has raised concerns regarding the planning status of the structures on site noting that there is partial implementation of permissions and deviation from permitted development. It is noted that the development as constructed is not in accordance with permissions granted and the proposal would be an expansion of unauthorised development.

## **7.0 Responses**

7.1 Response by David Mulcahy Planning Consultants on behalf of Topaz Energy Ltd.

- It is noted that the proposal relates to a long established use/activity and that it would not have a material impact at this location. It is noted there has been no objection from adjoining landowners and the Roads Section of the Council had no objection.
- In relation to car parking the Development Plan does not indicate whether such are minimum or maximum standard. It is noted that the requirement for parking for urban service station is often different to that in rural areas. It is noted that the increased level of parking would be better in terms of traffic safety and turning movements and provide enhanced services for customers.

- The applicants have demonstrated that the traffic layout on site is satisfactory with a swept path analysis included in the information submitted, it is noted that the parking and overall traffic layout proposed is satisfactory.
- In regards to unauthorised development the applicant provided clarification of such to the Council in response to further information and such was considered acceptable.

## 8.0 Assessment

8.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development/Development Plan policy

Physical impact/adjoining amenity

Traffic impact

Other Issues

## 8.2 Principle of the proposed development/Development Plan Policy:

8.2.1 The appeal site is zoned residential with a stated objective 'to enhance the amenity of developed residential communities'. The proposal entails enlarging the curtilage of an existing service station by incorporating lands zoned for residential use and providing 16 no. additional car parking spaces. As noted above the proposed use is indicated as not being permitted within the residential zoning under the Development Plan zoning matrix. It is notable that the portion of land zoned for residential use being added to the existing service station is within the curtilage of an existing vehicle repair garage. In this regard the existing use of the site is a non-conforming use and the proposed use is an extension of the curtilage of an existing non-conforming use. As noted under the policy section above there are allowances for the extension of non-conforming uses in regards to zoning subject to the development being considered acceptable in the context of the amenities of adjoining properties. In this regard the principle of the proposed development, which is the provision of additional ancillary parking to serve a long established use/activity, would be acceptable subject to it having an acceptable impact in regards to the amenities of adjoining properties. This aspect of the proposal is to be examined in the following sections of this report.

8.2.2 There was suggestion in the first planning report that the proposal was a material contravention of car parking standards under the Development Plan due to the fact that the level of parking proposed is in excess of the standards set down (1 car space per 50sqm of gross floor space and 1 cycle space

50sqm of gross floor space). The appellant has included this as an argument in the appeal submission. In this regard I would note that such standards would be minimum standard (although not stated) and that the provision in excess of such standards would not represent a material contravention of Development Plan policy. All aspects regards traffic and parking layout are to be examined the following sections of this report.

### **8.3 Physical impact/adjoining amenity:**

8.3.1 In regards to overall physical impact, the proposal is for an additional parking area to serve the existing service station. The additional parking is on the western side of the service station building with adjoining uses including the vehicle repair garage to the west (site is taken from), a section of waste ground (appears to be part of the curtilage of the vehicle repair garage although this not clear). There is an existing detached dwelling to the north east and a pair of semi-detached dwellings to the north west (Millennium Court housing development). In regards to overall physical impact, the proposal does not entail the construction of any significant structures and consists of a surfaced parking area with new boundary walls along its northern and western limits. The proposal would therefore have no significant physical impact on the amenities of adjoining properties.

8.3.2 The nature of the proposal is ancillary to the existing use on site, which would appear to be a long established use/activity. I would consider the provision of additional parking at this location to have no significant or adverse impact on the amenities of existing properties. In addition, the proposal entails no increase in the size of the service station in regards to retail floor space or the number of pumps and in this regard does not entail an intensification of use. The proposal is improvement of ancillary facilities on site and in this regard the proposal would be satisfactory in the context of amenities of adjoining properties. Notwithstanding such facts the nearest adjoining property to the west and north is a commercial operation and the proposal would have no significant or adverse impact on the operation of such. In regards to the dwellings to the north east and north west, the level of separation between such and the site/proposed development taken in conjunction with the nature of use and proposed boundary treatment, would mean the proposal would have no adverse impact on the residential amenities of such properties. As noted earlier the acceptability of the proposed development within the 'Residential' zoning objective is contingent on it being acceptable in regards to the amenities of adjoining properties. The proposal is acceptable in such regard and is therefore consistent with Development Plan zoning policy in relation to non-conforming uses.

### **8.4 Traffic impact:**

8.4.1 The appeal submission is critical of the layout of the site from the point of view of traffic safety. The applicant was requested to provide further information including a number of alterations to deal with traffic issues. The proposed/approved development includes the provision of 16 no. car parking spaces (including a disabled access parking bay) in addition to five existing car parking spaces. The proposal includes the provision of a loading bay to the front of the existing shop unit as well as defining the footpath area along the front of the site. The proposal also includes the provision of cycle parking on site and additional markings at the entrance to the site, which is to have one way entry and exit system.

8.4.2 Having inspected the site, I would note the existing service station is lacking in parking facilities or a layout that provides adequate space for vehicles on site. The proposed layout provides for ample levels of parking on site (in excess of Development Plan requirements) laid out in a manner that is clearly defined and useable. It is important to note that there is an existing service station on site and the current proposal entails a significant improvement of traffic layout of such. I do not accept the view of the appellants that the proposed development represents an intensification of the existing use as the proposal entails no increase in the number of pumps or the floor space of the shop building on site. The proposal entails an improvement of the ancillary car parking facilities on site and in turn an improved traffic layout. In this regard the proposal would be acceptable in relation to traffic safety and convenience.

## **8.5 Other Issues:**

8.5.1 One of the issues raised by the appellant is that the proposal represents expansion of unauthorised development. The appellant note that the permissions have been partially implemented as well as there being deviations from permission granted. The applicant was requested by way of further information to clarify the planning status of existing structures on site. It is notable that the Planning Authority, whose remit is enforcement are satisfied regarding the planning status of the existing development on site. In this regard I am satisfied that the proposal is acceptable in the context of the proper planning and sustainable development of the area.

8.5.2 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

9.1 I recommend a grant of permission subject to the following conditions.

## 10.0 Reasons and Considerations

10.1 Having regard to the provisions of the Carlow Town and Environs Development Plan 2012-2018 and the Joint Spatial Plan for the Greater Carlow Graiguecullen Urban Area, 2012-2018, the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in the context of the visual amenity of the area, the amenities of adjoining properties and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plan submitted on the 05<sup>th</sup> day of May, 2016, 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. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services and no surface water from the proposed development/site shall be allowed to discharge onto adjoining properties or the public road.

Reason: In the interest of public health.

3. Any damage to the public footpath as a result of the proposed development shall be made good to the satisfaction of the planning authority at the expense of the developer.

Reason: In the interest of amenity.

4. Details of the turning bays, radii, access widths, footpaths and kerbs shall be in accordance with the detailed requirements of the planning authority for such works.

**Reason:** In the interest of amenity and public safety.



5. With the exception of signage and advertising details permitted herewith, no additional advertising sign, structure, symbol, flag, emblem or logo be erected except those which are exempted development, without a prior approval of the planning authority.

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

6. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays, Bank or Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

7. The demolition and construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including measures to prevent spillage on the public road network, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of public safety and residential amenity.

8. 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 the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

Colin McBride  
29<sup>th</sup> September 2016