



An
Bord
Pleanála

Inspector's Report PL04.247048

Development	Demolish filling station and construct new filling station with shop, restaurant and car wash all at Glenview Motors Filling Station, Gurteenroe, Macroom, Co. Cork.
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	16/4081
Applicant(s)	Glenview Motors
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Appellant(s)	Cormac Harte
Observer(s)	None
Date of Site Inspection	18/10/2016
Inspector	A. Considine

1.0 Site Location and Description

- 1.1. The site the subject of this appeal is located to the west of the Macroom Town Centre on the Gurteenroe Road. Gurteenroe Road runs as New Street from the town centre towards the west and is essentially the N22, the main road to Killarney. The site is located to the south of the road within the development boundaries of the town of Macroom at the junction of Gurteenroe Road and Gurteenrow Lane and in an area which has a variety of uses evident. Existing uses in the vicinity of the site include residential, commercial and a nursing home - Carechoice Macroom, to the south.
- 1.2. The site has a stated area of 0.27ha and is currently occupied by the existing petrol station which includes a large two storey building which has a stated floor area of 789.83m² which houses a shop / deli / stores / offices as well as petrol pumps and associated canopy to the roadside area of the site. Car parking is also provided for within the boundaries of the subject site.

2.0 Proposed Development

- 2.1. Planning permission is sought for:
- the demolition of existing filling station comprising of petrol and diesel pumps, canopy, shop stores, car wash area and former vehicle test centre;
 - decommissioning of existing underground fuel storage tanks;
 - construction of new filling station comprising of the following: 8 no fuel pumps, canopy, shop outlet, delicatessen restaurant and seating area, food preparation area, stores, cold room, toilets, offices, canteen and meeting room, new underground fuel storage tanks and car wash area together with all ancillary pipework, car-parking, lighting, signage together with all ancillary site works,

all at Glenview Motors Filling Station, Gurteenroe, Macroom, Co. Cork.

- 2.2. The proposed development seeks to construct a new filling station on the site of the existing filling station. The proposed development will comprise a two storey height building with a stated floor area of 749.91m² and will include a restaurant seating area of 69.45m², shop outlet floor area of 158.28m², deli area of 79.31m² and till area of 19.74m².
- 2.3. The application included all of the relevant plans and particulars. The proposed building will rise to a stated height of 7.87m and will be finished with smooth plaster, polished stone cladding and full height glazing and the roof shall comprise roof cladding with a dark finish. The fuel pumps will be covered by a curved metal clad canopy. The quality of the drawings submitted is quite poor in terms of the print quality but the relevant details are identifiable.

3.0 **Planning Authority Decision**

3.1. **Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 21 no. conditions, standard in the main.

3.2. **Planning Authority Reports**

The initial report of the area planner can be summarised as follows:

- 3.2.1 The report considered the information submitted in support of the proposed development together with planning history of the subject and adjacent sites, as well as all consultations and submissions made in relation to the development. The assessment considered that given the zoning afforded to the subject site, that the proposed development was acceptable in principle. In terms of the Retail Planning Guidelines, the report acknowledges that the net proposed retail area is greater than the 100m² upper limit (being 146.7m²) but given the fact that there is an existing

shop on the site which is above 100m² and that the proposal is for a replacement, there is no requirement for the sequential approach arising.

- 3.2.2 In terms of the design, visual impact and residential amenity, the report concludes that the overall design is an improvement on the existing situation. A Noise Impact Assessment is required to demonstrate the impact of the car wash on noise levels in the area. In terms of sanitary services, access and traffic management, the report raises a concern in terms of parking and clarity on the issue of the provision of a petrol / oil interceptor. The report concludes that further information is required.
- 3.2.3 Following receipt of the response to the further information request, the Planning Officer reported that all relevant sections of Cork County Council have been satisfied with the response submitted. The report notes that the proposed development no longer includes the car wash proposal and concludes that the proposed development is acceptable, subject to compliance with conditions. The report recommends that permission be granted.
- 3.2.4 The Board will note that the SEP concurred with the report and assessment of the Executive Planner.

3.3. Other Technical Reports

Internal Reports:

- 3.3.1 The Area Engineer raised no objection to the proposed development subject to compliance with conditions.
- 3.3.2 The Environment Section of Cork County Council raised concerns in terms of a number of details including the decommissioning of the existing fuel tanks as well as other information regarding environmental issues. The report concludes requesting that further information be sought before planning permission is considered.
- 3.3.3 The National Roads Development Office advised no comment.

External Reports

- 3.3.4 Irish Water has advised that further information is required in relation to existing water usage and proposed water usage.
- 3.3.5 TII (formerly NRA) has submitted a letter advising that the authority will rely on the planning authority to ensure national policy is implemented.
- 3.3.6 The HSE report makes a number of recommendations in relation to ventilation, sanitary accommodation, water supply, refuse storage, drainage, staff facilities and services.

3.4. **Third Party Observations**

One third party submission was made to Cork County Council in terms of the proposed development. The issues raised are summarised as follows:

- The proposal is contrary to planning policy contained in the Macroom LAP, Town Development Plan and the Retail Planning Guidelines
- Sequential test should be carried out.
- The proposal gives rise to road safety issues.
- Lack of clarity in terms of the nature of the proposed use, in particular the restaurant element.
- Parking and cycling access is raised as a concern. In addition, the proposal is in conflict with the current adjoining consent.
- The proposed scheme gives rise to concern in terms of conflict with adjoining uses particularly relating to ventilation procedures and projected waste accumulation associated with the restaurant and the adjacent nursing home.

4.0 Planning History

4.1. The following is the relevant planning history relating to the subject site:

ABP ref PL08.246133 (PA ref 15/6574): Planning permission was sought for the demolition of 2 no. dwelling houses for the provision of car-parking to serve adjoining filling station. Cork County Council granted permission for the demolition of 1 house subject to conditions. This decision was appealed by a third party (the current third party appellant) but the appeal was invalidated by the Board.

Other relevant applications:

ABP ref PL69.237668 (PA ref 09/54021): Permission sought for the construction of a petrol station at Misllstreet Road, Gurteenroe, Macroom, Co. Cork. Cork County Council granted permission and this decision was upheld by the Board on appeal, contrary to the recommendation of the reporting Inspector. This site is located approximately 2km to the south east of the Macroom town Centre, and in a semi-rural area.

ABP ref PL04.236967 (PA ref 10/4079): Permission sought to upgrade existing filling station at Kelleher's Filling Station, Coolcour, Macroom, Co. Cork. Cork County Council granted permission and this decision was overturned by the Board on appeal, contrary to the recommendation of the reporting Inspector. This site is located approximately 0.5km to the west of the subject site, and away from the town centre.

PA ref 11/4424: Planning permission was granted for the demolition of a former feed mill, construction of a new building for commercial vehicle repair and testing and alterations (primarily new roof) to existing adjoining animal feed warehouse / stores and change of use of part of warehouse / stores to ancillary accommodation to vehicle repair and testing building for Glenview Motors Ltd., at Former Macroom Mills Site, Ardnacrushy, Clondrohid.

This decision is considered relevant as the above proposed development was intended to replace the existing HGV test centre which was located to the rear of current appeal site.

5.0 Policy Context

5.1. Macroom Town Development Plan, 2009-2015 as varied 2013.

The subject site is located within the development boundaries of the town of Macroom and in an area zoned as Commercial in the Macroom Town Development Plan. The zoning matrix advises that petrol stations and shops are 'open for consideration' and 'permitted in principle' on such zoned lands.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third party appeal against the decision of Cork County Council to grant permission for the proposed development. The grounds of appeal can be summarised as follows:

- The proposal will have adverse traffic impacts and will be a traffic hazard on Gurteenroe Lane.
- The proposal will have an adverse retail impact, no sequential test has been applied, the Council has failed to consider what retail floor area was allowed under 33/91 and have unquestioningly accepted what was set out in the drawings as consented. Alternative sites for retail development are discussed.
- The proposal is contrary to what was consented on site under Macroom Town Council Ref 33/91.

- The proposal is contrary to the precedent set up by 09/54021 (ABP ref PL69.237668) – the Amber consent which is still valid – which limits retail floorspace in this area in filling stations.
- Procedural issues raised in relation to re-advertising of the further information response, which is considered significant.
- Issues raised in relation to the condition requiring an investigation and assessment of the nature and extent of any contamination of the site from the existing underground fuel storage tank. Permission cannot be give where such mitigation measures are required in terms of AA.

6.2. **Planning Authority Response**

The Planning Authority has not responded to this appeal.

6.3. **Other Party Responses**

There are no other party responses to this appeal.

6.4. **Observations**

There are no observations noted in relation to this appeal.

7.0 **Assessment**

7.1. I consider the key issues in determining this appeal are as follows:

- The Principle of the proposed development
- Design & Visual Impact
- Roads & Traffic issues
- Other Issues
- Appropriate Assessment

7.2. Principle of the proposed development

7.2.1 Planning permission is sought to demolish the existing filling station and construct new filling station with shop, restaurant and car wash all at Glenview Motors Filling Station, Gurteenroe, Macroom, Co. Cork. The existing site has a stated area of 0.27ha and the existing structures on the site have an overall stated floor area of 789.83m², of which the existing shop has a stated floor area of 183.98m², comprising 146.79m² shop area, 13.5m² tills area and 23.69m² deli area. The existing buildings have a ridge height of 6.5m with a variety of finishes including painted plaster and metal cladding. The proposed development, following the demolition of the existing structures on the site, will include the construction of a filling station comprising

- 8 no fuel pumps
- Canopy
- Shop outlet, including deli restaurant and seating area, food prep area, stores cold room, toilets, offices, canteen and meeting room
- New underground fuel storage tanks
- Car wash area

7.2.2 The proposed development will comprise a two storey building with an overall height of approximately 7.8m in height and a stated floor area of 749.91m². The overall design provides for double height shop area with a stated floor area of 158.28m², with a further 19.74m² till area, 69.45m² deli seating area and 79.31m² deli area. To the rear of the proposed building at ground floor level, it is proposed to locate stores and cold room area, with wash up area associated with the deli, and toilets. The two storey element of the building provided to the rear of the structure will provide a store, first floor reception area, toilets and a training / canteen room.

7.2.3 The subject site is located within the development boundaries of the town of Macroom and is zoned 'Commercial / Retail in the plan. The provision of a petrol filling station is open for consideration and a shop is normally permitted in principle in

terms of the zoning afforded to the site. Given the existing level of development at the site, including a petrol filling station and shop with Deli counter, as well as the former Vehicle Test Centre and stores, I am satisfied that in principle, the development as proposed is acceptable and would accord with the zoning objectives afforded to the site.

7.3. Design & Visual Impact:

The proposed development has been described above and will replace the existing filling station on the site. The subject site is located on a main access road into the town of Macroom, on the N22 and on a site which could be considered as prominent. In terms of the visual impact of the proposed development, I am satisfied that if permitted, the development would be acceptable and would represent a positive inclusion to the streetscape. In terms of differences from the current situation, I would note that the proposed building is slightly larger and higher than the existing, but that the proposed fuel canopy will be significantly larger than the existing. The result will mean that the bulk of the structures will be recessed into the site, thereby reducing the overall bulk of the proposed building. I also note that the actual floor area of the proposed building is slightly smaller than the existing structure, and given the design proposed, the visual impact of the proposed development will be less than the existing. Overall I am satisfied that the development as proposed is acceptable and I have no objections to the design of the proposed building.

7.4. Roads & Traffic Issues:

The overall layout of the site proposes that car parking will be facilitated throughout the site while maintaining the right of way which affects the site. The existing access gate to the rear of the site, fronting onto Gurteenroe Terrace will be closed which will prevent vehicular access / egress along the Terrace. In this regard, all vehicular traffic visiting the site will be directed through the site from the N22.

The third party submits that the proposed intensification of use on the site would give rise to a traffic hazard. While I accept that the petrol station accesses onto a busy public road, there were no obvious issues arising in terms of access or egress. I also note the comments of the Area Engineer in terms of roads and transportation where it is considered that the development will improve the turning circles and access arrangements to the fuel pumps. In addition, the development will provide definition to the openings into the site which serve to improve and regulate access and egress to and from the site. Having carried out a site inspection, I am satisfied that the development is acceptable in terms of traffic. I am further satisfied that car parking as proposed is acceptable and in accordance with the requirements of the Macroom Electoral Area LAP, 2nd Edition, 2013.

7.5. **Other issues:**

Residential Amenity:

The proposed development site affects a number of residential properties, particularly to the east of the site. There is an existing right of way through the site which provides access to an existing house to the south of the site. The proposed development does not affect the existing right of way and will have little or no impacts on these properties, having regard to the existing filling station which currently operates from the site. I am satisfied that the development will not impact on the existing residential amenities of other properties in the area.

Retail Impact:

The third party appellant has submitted that the proposed development contravenes the Retail Planning Guidelines which places a cap of 100m² on retail floorspace associated with petrol stations. It is submitted that a sequential test / impact assessment should have been carried out with regard to the proposed development. The appellant refers to ABP decision PL69.237668 which included a condition restricting the floor area comprising the retail, café and food dispensing area to

100m² to curtail the impact of edge of centre retailing on town centre activity. While I accept this comparison, I would suggest that it is not like for like.

In the cited ABP decision, the Board will note that that was a proposal for a new petrol station on a site further outside of Macroom, and on a site which had an industrial zoning afforded to it. Given that the current proposal provides for the redevelopment of an existing petrol filling station, on lands zoned commercial / retail and where such uses are open for consideration, with shops normally acceptable in principle, I consider that the same planning circumstances do not apply. It is also to be noted that the existing petrol station, to be redeveloped should permission be forthcoming, has an existing retail floor area which exceeds the 100m² cap, at 146.79m². The development as proposed will provide for a retail floor area of 158.28m², with the additional floor area proposed being occupied by a larger deli area and the provision of a seating area to service the deli.

I acknowledge that the appellant considers that a sequential test is required for the proposed development, and again, reference is made to the ABP decision in relation PL69.237668. The Board will note that the subject site is located on lands with the provision of a shop is normally permitted in principle. The proposed development, therefore, is considered to adequately comply with the zoning objective of the site, and therefore, the policy requirements of the relevant development plan. The Retail Planning Guidelines state that 'where the location of a proposed retail development submitted on a planning application has demonstrated to the satisfaction of the planning authority that it complies with the policies and objectives of a development plan and/or relevant retail strategy to support city and town centre, additional supporting background studies such as a demonstration of compliance with the sequential approach, below, or additional retail impact studies **are not required.**' Overall, I have considered the detail of the appeal, together with the requirements of the guidelines, and the details of the proposed re-development of the site, and I am satisfied that the development is acceptable.

Car Wash element:

The Board will note that the proposal to provide a car wash in association with the redeveloped filling station has been omitted following the submission of the response to the further information request. The applicant has noted that given the alterations to the site layout, the car wash is now to be located outside the submitted red line site boundary. It is acknowledged that a new planning application will be required for the car wash element of the proposed development.

Procedural Issues:

The third party has submitted that the Planning Authority should have requested the applicant to re-advertise following the submission of the response to the further information request given the changes to the development. I am satisfied that no member of the public was disadvantaged in this instance.

Development Contributions:

The Board will note that no development contributions are applicable in this instance given that the proposed development relates to the replacement of an existing filling station on the site and the floor area of the proposed development is smaller than the existing buildings on the site. I am satisfied that this matter is not an issue which would contribute to a recommendation for refusal in this regard.

7.6. Appropriate Assessment:

Given the location of the subject site within the development boundaries of the town of Macroom, together with the existing level of development on the site and the proposal seeking to replace the existing filling station with a new filling station, 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.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations/ Reasons

Having regard to the provisions of the current Cork County Development Plan, 2015-2021, and the Macroom Electoral Area Local Area Plan, 2nd Edition, 2015, the existing established use of the site as a filling station with associated shop, the pattern of existing and permitted development in the vicinity and having regard to the information submitted as part of the planning application together with the information submitted in the appeal, the Board is satisfied that the proposed development for the refurbishment of existing petrol filling service station, generally accords with the policy requirements of the Development Plan and Local Area Plan. It is further considered that the design, scale and finish of the proposed works, would not seriously injure the visual or residential amenities of the area, would not represent a traffic hazard and would therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. No additional advertisements or advertisement structures shall be erected or displayed within the curtilage of the site without a prior grant of planning permission.

Reason: In the interest of visual amenity.

3. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of the visual amenities of the area.

3. The use of the sit down café seating area shall be ancillary to the main use of the premises as a shop and no change of use of the area shall take place without a prior grant of planning permission.

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

4. Prior to commencement of development, full details of all plant, including noise levels, shall be submitted to the planning authority for agreement.

Reason: In the interest of residential amenity.

5. All lighting used within the site curtilage shall be directed and cowled so as not to interfere with passing traffic or the adjoining residential properties.

Reason: In the interest of residential amenity and traffic safety.

6. All service cables associated with the proposed development shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

7. During the operational phase of the proposed development, the noise level from within the premises, measured at noise sensitive locations in the vicinity, shall not exceed-

(a) an LArT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday (inclusive), and

(b) an LAeqT value of 45 dB(A) at any other time.

All sound measurements shall be carried out in accordance with ISO Recommendations R 1996, "Assessment of Noise with Respect to Community Response" as amended by ISO Recommendations R 1996/1, 2 and 3, "Description and Measurement of Environmental Noise", as appropriate.

Reason: To protect the amenities of properties in the vicinity of the site.

8. Prior to commencement of development, the developer shall engage an appropriately qualified environmental consultant to carry out a site contamination report complete with appropriate remediation measures. The report shall be submitted to the planning authority for agreement, and all the agreed remediation measures shall be carried out in full.

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

9. 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.

10. The site shall only be used as a petrol filling station and no part shall be used for the sale, display or repair of motor vehicles.

Reason: In the interest of protecting the [residential] amenities of the area.

A. Considine

Planning Inspector

02nd November 2016