



An  
Bord  
Pleanála

## Inspector's Report PL04.249273.

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<b>Development</b>	Permission is sought for the retention of modifications to development approved under reg. ref. 15/6141 at Lakeview Topaz Service Station.
<b>Location</b>	Whitegate Road, Castleredmond, Midleton, County Cork.
<b>Planning Authority</b>	Cork County Council.
<b>Planning Authority Reg. Ref.</b>	17/05726.
<b>Applicant(s)</b>	Topaz Energy Ltd..
<b>Type of Application</b>	Retention Permission.
<b>Planning Authority Decision</b>	Grant subject to conditions.
<b>Type of Appeal</b>	Third Party V grant.
<b>Appellant(s)</b>	Mr. John Crean.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	9 <sup>th</sup> November, 2017.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject appeal site is located to the south of Midletons town centre, and to the south of the N25 Roundabout, in the townland of Castleredmond. The site is currently occupied by the existing permitted Topaz Service Station and includes a retail building, four pump islands, an automated car wash and the relevant car and bicycle parking and signage. There is an existing off licence located to the rear of the site, which does not comprise part of the subject development site.
- 1.2. There are residential buildings on either side of the site and the site fronts onto the main Midleton – Whitegate Road, the R630. The site has a stated area of 0.25ha.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the retention of modifications to development approved under reg. ref. 15/6141 at Lakeview Topaz Service Station, Whitegate Road, Castleredmond, Midleton, County Cork.
- 2.2. The modifications to be retained are described as follows:
  - Construction of an automated car wash to replace the approved valet car wash
  - Revisions to car parking layout
  - Revisions to approved external courtyard storage area
  - Retention of Canopy and forecourt pump islands at original location
  - Retention of monolith signage at original location
  - ESB Meter kiosk.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to grant permission for the retention of the modifications subject to 16 conditions, standard in the main.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planning Officers report formed the basis for the Planning Authority's decision to grant permission for the development as proposed. The Planning report also includes an Appropriate Assessment.

The report notes the issues raised in the third party objection and concludes that the modifications proposed are minor and do not fundamentally alter the operation of the site such that the macro road / connectivity issues pertaining to the parent permission need to be re-visited. The issues raised by the third party are more appropriately considered in the context of 15/1641 and can be dealt with as part of compliance with the terms and conditions of same.

The report concludes recommending that permission be granted for the proposed development subject to 16 conditions.

### 3.2.2. Other Technical Reports:

Environment Section: The report notes that the proposed drainage arrangements for the proposed development are the same as those approved under 15/06141. No objections are noted subject to compliance with 15 conditions.

Area engineer: The report notes that the proposed modifications will amend the external layouts and car parking, increasing spaces from 21 to 25. This is welcome. The report further notes that the applicant proposes to maintain a one way entry / exit system which is satisfactory. The report concludes advising no objection subject to compliance with one condition.

## 3.3. Prescribed Bodies

Irish Water: No objection

### 3.4. Third Party Observations

There is one third party submission noted on the PAs file from Mr. John Crean. The issues raised as summarised as follows:

- The applicants have demonstrated a failure to comply with the parent permission on site, 15/6141 refers. Retention for the entire development should be applied for due to ongoing Enforcement issues EF17106.
- There is a breach of planning as condition 20 of the parent permission demands that “the proposed improvement works to the adjoining regional road as set out in documents lodged shall be carried out in accordance with Cork County Council requirements and subject to appropriate licencing unless otherwise agreed in writing with the planning authority”.
- The applicant submitted proposals to address the above on the 10<sup>th</sup> May, 2017, but does not provide for any work on the eastern side of the road. The Council issued a letter of compliance on the matter. The compliance letter has been the matter of further correspondence / complaint on the basis that it does not address Condition 20 in the entire manner in which the condition was framed.
- The compliance matter still fails to address the applicants promise under 15/6141 to carry out works to the eastern side of the Regional Road, i.e. parking changes and cycle lane.
- The works have not been carried out and it is advised that the matter maybe raised with ABP or the Courts.
- It is requested that either the Council refuse permission or ask the agents to commit to doing what the previous agents agreed to.

### 4.0 Planning History

The following is the relevant planning history relating to the site:

**PA Ref 15/6141-** Permission granted to current applicants for redevelopment of existing service station to include:

- 1) demolition of existing building and removal of car wash facility,

- 2) construction of new single storey building of 329.3sq.m gross floor area comprising a convenience retail store of 100sq.m, an internal seating area, a hot food deli, ancillary food preparation, storage, staff, plant and toilet areas,
- 3) replacement of existing canopy with new canopy and reorientation of existing forecourt pump islands,
- 4) replacement of existing underground fuel tanks,
- 5) removal of car wash facility,
- 6) relocation of existing monolith signage,
- 7) 27 no. car parking spaces, 3 no. motorbike parking spaces, air/water services area and 12 no. bicycle parking spaces,
- 8) a new car valeting facility,
- 9) company signage throughout the site,
- 10) an external courtyard storage area and
- 11) all associated site, landscaping and development works including new retaining boundary walls

**PA Ref 06/12544-** Permission granted to current applicant for Installation of rollover carwash to replace existing jetwash and ancillary works

**PA Ref 02/2806-** Permission granted to Irish shell ltd for decommissioning of 6 no. underground storage tanks and installation of 3 no. underground petrol/diesel tanks and associated site works

**PA Ref 97/2077-** Permission granted to Irish shell ltd for replacement of a convenience shop/store relocation of car wash, extension to canopy, waste water treatment plant and ancillary works

## 5.0 Policy Context

### 5.1. Development Plan

The East Cork Municipal District Local Area Plan, 2017 is the relevant policy document pertaining to the site. The site is zoned as “existing built up area”.

## 5.2. Natural Heritage Designations

5.2.1. The subject site is located at a distance of approximately 400m from the nearest cSAC, Great Island Channel, cSAC Site Code 001058, and the Cork Harbour SPA, Site Code 004030. The site is not located within any designated site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a third party appeal against the decision of Cork County Council to grant retention of modifications to development approved under Reg. Ref. 15/6141. The issues raised reflect those submitted to the Planning Authority in the course of its assessment of the proposed development and are summarised as follows:

- If the decision is confirmed by the Board, it should have a condition attached requiring the provision of a cycle lane and parking bays on the eastern side of the R630 as per the approved R630 scheme as provided for in the applicants commitments under RFI submissions for 15/6141.
- The layout is materially different to what is on site and is not in accordance with the Road Safety Audit layout, which is leading to dangerous traffic movements from the site exit, south bound to the R630.
- Four freestanding back lit double sided signs on the site adds to the visual clutter, creates distraction and obstructions and the Board must refuse permission for retention.
- A grant of retention will have an adverse impact on the amenity and safety of local residents, pedestrians and cyclists and will create additional hazard.
- It is requested that the Board refuse permission for the proposal as the applicants have clearly sought to bypass previous commitments.

## 6.2. Applicant Response

The first party, through their agent, submitted a response to the third party appeal.

The submission is summarised as follows:

- The applicant refutes the appellants assertion that they have sought to bypass their commitments. The changes made which arose during the construction stage, were generally agreed with the PA and are relatively minor in nature.
- With respect to the proposed works on the R630, the applicants engaged fully with the Planning Authority and comply entirely with their requirements.
- It is submitted that, The Midleton to Whitegate R630 2009 Traffic Management Study, to which the appellant refers, is outdated and is no longer to be implemented, as advised to the applicant from the PA when seeking to comply with condition 20 requirements.
- In terms of the issues with condition 20, the first party has submitted details of correspondence between the applicant and the Council as evidence of compliance, including confirmation that the Council is satisfied with said compliance.
- It is submitted that the internal modifications the subject of this application are considered minor. It is concluded that the modifications are minor in nature and do not give rise to any material planning impacts different from the permitted development.

## 6.3. Planning Authority Response

The Planning Authority did not respond to this appeal.

## 6.4. Observations

None.

## 7.0 Assessment

Having undertaken a site visit and having regard to the planning history pertaining to the subject site and the nature and scale of the modifications the subject of this appeal, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Planning History & nature of modifications
2. Third Party Issues
3. Appropriate Assessment

### 7.1. Planning History & nature of modifications:

7.1.1. The development before the Board seeks to retain modifications to a previously permitted Topaz Service Station in Midleton, Co. Cork. Permission was granted under 15/6141 for the redevelopment of an existing service station on the site and the following modifications were made:

- Construction of an automated car was to replace the approved valet car wash
- Revisions to car parking layout
- Revisions to approved external courtyard storage area
- Retention of Canopy and forecourt pump islands at original location
- Retention of monolith signage at original location
- ESB Meter kiosk.

7.1.2. The permitted development sought the removal of an existing car wash facility and its replacement with a new car valeting facility. The current proposal seeks the retention of an automated car wash facility which was constructed on the site and it is submitted that it occupies a smaller footprint than the approved valet units. The unit as installed is located in the north western corner of the site and in my opinion, can be considered acceptable. There are no visual impacts associated with the car wash and I am satisfied that there is no objection to this element of the development.

7.1.3. The revisions to the internal layout of the site has provided for an increase in car parking on the site by two spaces. The modification affects the previously



permitted parking in the area of the now constructed automated car wash. I note that the Council's Area Engineer considered the increase in the car parking provision as welcome. I have no objection to this element of the development.

7.1.4. The amendments to the car wash facility has provided opportunity to increase the area of the storage compound, located to the north western corner of the site. The compound area has increased from the permitted 72m<sup>2</sup> area to 160m<sup>2</sup>. Having regard to the location of the compound, I am satisfied that there are no visual impacts arising. Overall, I am satisfied that the increased compound area raises no issues in terms of planning and therefore, I have no objection to this element of the development.

7.1.5. Under 15/6141, planning permission was granted for the replacement of the existing forecourt canopy, including the pump islands. Overall, the permission would have given rise to very minimal visual changes in the context of the service station, and both the existing and the permitted would have been very similar in terms of scale. It is submitted that the costs associated with the permitted replacement canopy and pump islands exceeded expectations. Ultimately, it was decided to retain the existing infrastructure. I am satisfied that this element of the development is acceptable.

7.1.6. The permitted development in 2015 also provided for the relocation of the existing monolith sign. The sign is, and has always been located on the north eastern corner of the site. The current proposal is seeking permission to retain it in its current position. I am satisfied that this is acceptable.

7.1.7. During the redevelopment of the site, an ESB Kiosk was erected in the north eastern corner of the site. The structure has a floor area of approximately 3.44m and an overall height of 2.85m. The kiosk was requested to be installed by ESB Networks to isolate power to both the service station and the off-licence, and for future energy providers to take meter readings without having to enter either building. I am satisfied that this kiosk presents no visual impacts or interferes with the general amenities of the wider area, and as such, I have no objection to same.

7.1.8. Overall, I am satisfied that the modifications the subject of this retention application are minor and can be considered as being acceptable.

## **7.2. Third Party Issues**

7.2.1. The Board will note that the third party appeal does not seem to object to the particular elements of the retention application. The primary concern arising relates to what the appellant considers to be the non-compliance with conditions attached to the parent permission pertaining to the site, PA ref 15/6141 refers. In particular, condition 20 is cited states that “the proposed improvement works to the adjoining regional road as set out in documents lodged shall be carried out in accordance with Cork County Council requirements and subject to appropriate licencing unless otherwise agreed in writing with the planning authority”. In particular, it is submitted that the applicant has failed to carry out works on the eastern side of the Regional Road, i.e. the parking changes and cycle lane.

7.2.2. The Board will note that the applicant has submitted clear evidence to show compliance with this condition of the previous grant of planning permission. The evidence would also clearly indicate that there was correspondence and agreement between the first party and the planning authority in relation to the compliance issues. While I acknowledge the submission of the third party, and indeed, his clear frustration on the matter, the issue of compliance with conditions is not within the remit of the Board. Compliance matters lie with the planning authority and from the first party submission, and my research on the issues raised, I am satisfied that this matter would appear to have been dealt with by the planning authority. I have no further comments in this regard.

## **7.3. Appropriate Assessment**

The subject site lies within 400m of the closest European Sites, being the Cork Harbour SPA (site code 004030) and the Great Island Chanel cSAC (site code 001058). Having regard to the nature and extent of permitted development on the site, together with the minor nature and scale of the modifications the subject of this retention application, 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. It is recommended that permission be granted for the retention of modifications to the permitted development, for the following reasons and considerations and subject to compliance with the stated conditions.

## 9.0 Reasons and Considerations

Having regard to the provisions of the current Cork County Development Plan, 2014, and the East Cork Municipal District Local Area Plan, 2017, the existing established commercial use on the site, the planning history associated with the site, 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, subject to compliance with the following conditions, the proposed development would be acceptable and would not injure the existing visual and residential amenities of properties in the vicinity of the site. It is concluded that the development, would be acceptable in terms of 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 interests of clarity.

2. All relevant conditions attached to the previous grant of permission pertaining to the site, Cork County Council reference 15/6141, shall be strictly adhered to.

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

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A. Considine  
Planning Inspector  
19<sup>th</sup> December, 2017