



## **Development**

Development of

(1) a single storey service station retail/services building with a ground floor area of 461m<sup>2</sup> including convenience shop (100m<sup>2</sup> net retail floor space), delicatessen for hot & cold food sales, with 90m<sup>2</sup> seating area and ancillary kitchen, stores, toilets & staff facilities.

(2) construction of a service station forecourt with canopy, 6 no. fuel dispensing pump islands & 4 no. underground fuel storage tanks.

(3) install 2 no. main ID signs, erect canopy signage and shop fascia signage and

(4) pressure wash & brush wash installation,

(5) construction of ancillary site features including, drainage, service yard, recycling building all with associated site works.

## **Location**

Parkway, Old Dublin Road & R445, Limerick.

<b>Planning Authority</b>	Limerick City & County Council.
<b>Planning Authority Reg. Ref.</b>	17/456.
<b>Applicant(s)</b>	Valero Energy Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission with conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellant(s)</b>	Topaz Energy Limited.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	11 <sup>th</sup> January, 2018.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject site is located to the east of Limerick City and in proximity to the Parkway Roundabout. The Old Dublin Road comprises the northern boundary of the site and was the primary route to Dublin before the opening of the Motorway. To the west of the Roundabout is the Parkway Shopping Centre which includes approximately 30 stores with Dunne Stores as its anchor. The Shopping Centre also provides for approximately 700 surface car parking spaces and has a direct access onto the Parkway Roundabout.
- 1.2. To the north of the site, there is a variety of uses including residential, office, retail and the Park Lodge Medical Centre, which is located on the junction of the old Dublin Road and Rhebogue Road. To the east of the site there are a small number of residential properties on larger sites and fields. To the south, and across the R445, is the Parkway Retail Park which includes businesses such as Homebase, PC World, TK MAX etc.
- 1.3. The site itself, is a brownfield site, currently vacant having previously been used as a filling station site. The previous structures are no longer present on the site but the access to the site and some internal roads remain in place. The site has a stated area of 0.6143ha.

## 2.0 Proposed Development

- 2.1. Permission is sought for the development of:

- (1) a single storey service station retail/services building with a ground floor area of 461m<sup>2</sup> including convenience shop (100m<sup>2</sup> net retail floor space), delicatessen for hot & cold food sales, with 90m<sup>2</sup> seating area and ancillary kitchen, stores, toilets & staff facilities.

- (2) construction of a service station forecourt with canopy, 6 no. fuel dispensing pump islands & 4 no. underground fuel storage tanks.

- (3) install 2 no. main ID signs, erect canopy signage and shop fascia signage and

- (4) pressure wash & brush wash installation,

(5) construction of ancillary site features including, drainage, service yard, recycling building all with associated site works,  
all at, Parkway, Old Dublin Road & R445, Limerick.

2.2. The planning application was accompanied by the following:

- The relevant architectural plans and particulars, public notices and the relevant fee
- Drainage plan
- Autotrack Analysis plan
- Landscaping Plan
- Brush & Pressure Wash Slab Plan & Recycle Building Plan
- Planning Report
- Architectural Design Statement
- Letter of consent from landowner.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

Limerick City & County Council decided to grant planning permission for the proposed development subject to 22 conditions, including the following:

3. Prior to the commencement of development the applicant shall submit revised plans for the written approval of the Planning Authority omitting the central circulation area located between the seating area and shop, ca. 30sqm. In the context of the development this is considered excessive and represents an extension of the net retail and seating areas. The overall floor area shall be reduced to a maximum of 350sqm.

**Reason:** In the interest of orderly development and to comply with the City Development Plan 2010-2016 and Retail Strategy for the Mid-West Region, 2010-2016.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The planning officer considered the proposed development together with the other technical reports submitted and initially concluded that further information was required in relation to four issues. These issues include a reduction in the gross footprint and floor area, clarify the end user of the café/seating area, a revised site layout as well as providing for the proposed bus lane on the R445.

Following receipt of the response to the further information request, the Planning Officer recommended that the overall floor area shall be reduced to 350m<sup>2</sup> and revised plans are required to be submitted. This issue was dealt with by way of condition, condition 3 of the Planning Authority's decision. The Planning Officer's report formed the basis of the Planning Authority's decision to grant permission.

#### 3.2.2. Other Technical Reports:

**Fire Officer:** No objection

**Planning & Environmental Services Dept:** Conditions recommended in relation to grease interceptors, the collection and storage of waste oil and no speakers to be mounted outside. A noise impact assessment is required by way of further information.

**Executive Archaeologist:** No archaeological issues.

**Physical Development Directorate:** There is a bus lane project proposed for the R445 from UL to the City Centre. The applicant must agree the boundary of the development. The preliminary design for a signalised junction in lieu of the roundabout would indicate that the western boundary of the development encroaches on Council owned land.

#### 3.2.3. Prescribed Bodies:

**Irish Water:** No objection

### 3.2.4. Third Party Submissions:

There are two third party submissions in relation to the proposed development as follows:

1. Mr. Thomas McMullan:

It is submitted that the proposed development will be monitored and considered against national, regional and local planning guidance and standards.

2. Topaz Energy Ltd:

Issues raised are summarised as follows:

- Non-compliance with the policies and standards of the County<sup>1</sup> Development Plan, 2010-2016 in terms of car parking provision, location and scale.
- The application is presented as the reinstatement of a previous petrol station.
- The previous petrol station use has ceased for an extended period of time and can be considered abandoned.
- The development, with an amenity building of 461m<sup>2</sup> and 38 car parking spaces, will be one of the largest in the City, on a par with motorway services area proposals. The development will become a destination in its own right.
- The development will result in overdevelopment of this inner urban site and will have a negative impact on both the residential amenity of residents and the vibrancy of adjoining retail centres.
- The development will lead to a proliferation of service stations in the general area, where there are already 4 within a 2km stretch of the R445 and a further 2 stations on the Ballysimon Road, 1 km to the south.
- The development will have the potential to create a traffic hazard and the car parking layout will undermine pedestrian safety.

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<sup>1</sup> I suggest that this should read City Development Plan and not the County Development Plan.

## 4.0 Planning History

**PA ref. P01/770204:** Permission granted for the demolition of existing service station building, canopy, forecourt and removal of existing tanks. Construction of new single storey building 399m<sup>2</sup> in area to include shop, deli-area, ATM, 5 x toilets, 2 x offices, canteen, 2 x stores, cold room, kitchen and restaurant. Construction of canopy over forecourt with 4 x pump islands, underground storage tanks, off-load pad, vents, fast fill pump, service area, car washing facilities, storage compound, boundary fence and ID sign.

**PA ref. P16/406:** Permission refused for two static 6m x 3m advertising displays.

## 5.0 Policy Context

### 5.1. Retail Planning Guidelines 2012

The RPGs cap the retail floorspace within filling stations at 100m<sup>2</sup>.

### 5.2. Development Plan

5.2.1. The Limerick City Development Plan, 2010-2016 is the relevant policy document pertaining to the subject site. The site is zoned 5A General Mixed Use and it is the objective of this zoning to 'promote the development of mixed uses that serves an area greater than its immediate catchment and to ensure the creation of a vibrant and sustainable urban area'. The zoning indicates the permitted uses and a petrol station is indicated as being 'permitted in principle'.

5.2.2. Chapter 16 of the City Plan deals with Development Management and Part II deals with petrol stations.

### 5.3. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon Special Area of Conservation, Site Code 002165, which lies approximately 500m to the north.

## 6.0 The Appeal

There are two appeals relating to the proposed development, a third party appeal against the decision of the Planning Authority to grant permission for the proposed development, and a first party appeal against a condition attached to the grant of planning permission.

### 6.1. Grounds of Appeal – Third Party

The third party appellant is Topaz Energy Limited and the grounds of appeal, which are similar to those issues raised in the course of the Planning Authority's assessment of the case, are summarised as follows:

- The former service station use has been abandoned and should not form a reference point from which the current development proposal is considered.
- The prematurity of the granting planning permission pending certainty over the delivery of public transport infrastructure and resultant implications with respect to traffic generation and road safety.
- The proposed development does not comply with City Development Plan policy on the development of service stations.

It is requested that permission be refused.

### 6.2. Applicant Response

The first party has submitted a response to the third party appeal. It is submitted that Topaz Energy Limited are direct competitors of Valero Energy (Ireland) Limited and the response urges the Board to dismiss the appeal having regard to s138 of the Planning & Development Act, 2000 (as amended). The submission is summarised as follows:

- The previous use of the site as a petrol station is a material consideration from a planning perspective. The public notices do not refer to a replacement filling station and there is no ambiguity that the applicant is seeking a fresh planning permission for a new filling station use on the site.



- The scale of the proposed development is not considered excessive when compared to other modern filling stations.
- The issue relating to the bus corridor was raised in the further information request and was dealt with in consultation with the appropriate person. The Council's Senior Executive Engineer in Design and Delivery reported no objection subject to compliance with conditions. The applicant is happy to meet the terms of these conditions.
- The appellant provides no arguments or evidence to support their view that the proposed development will have a material impact on the Parkway District Centre. The proposal is for a stand-alone filling station and the scale is not remarkable or excessive.
- The Council did not consider that there was an issue of proliferation and it is submitted that the separation distance standard is subjective. There is no definition or standard which defines appropriate distances. The proposed filling station is not in the immediate vicinity of any other filling station.

### 6.3. Grounds of Appeal – First Party

This is a first party appeal against the inclusion of condition 3 in the decision of the Planning Authority to grant permission for the proposed development. The grounds of appeal are summarised as follows:

- Condition 3 requires the applicant to provide a complete new building design at that is the only way in which the current proposal can be reduced from 371m<sup>2</sup> to 350m<sup>2</sup>.
- It is accepted that the condition is seeking to prevent the use of the circulation area for storing retail products or for seating. It is submitted that this is not something that the applicant engages in and submits that there are more practical ways of dealing with the concern.
- The purpose of the circulation area is to facilitate the movement of persons within the building only. It is unreasonable for the Council to arrive at the view that the general circulation area is 'an extension of the net retail and seating areas'.

- It is submitted that an alternative condition which requires the surface of the proposed circulation area to be of a different colour would be more practical. This issue was dealt with by South Dublin County Council, Reg Ref SD16A/0282 refers, by way of condition – details attached.
- It is submitted that the general circulation areas within filling stations are similar to that currently proposed.

It is requested that condition 3 of the permission be replaced and a draft wording of the condition is provided.

#### **6.4. Planning Authority Response**

The Planning Authority has not responded to this appeal.

#### **6.5. Observations**

None

#### **7.0 Assessment**

Having considered all of the information submitted with the planning application, together with the appeal documentation and responses, and having undertaken a site visit, I consider it appropriate to assess the proposed development application under the following headings:

1. The principle of the development
2. Design & Visual Impact
3. Roads & Traffic Issues
4. First Party Appeal
5. Other Issues
6. Appropriate Assessment

## **7.1. The principle of the development**

- 7.1.1. Planning permission is sought to construct a single storey service station which will include a shop and delicatessen at the site on the old Dublin Road, to the east of Limerick City. The site is located on a primary access route through the City to the University and onto the M7 motorway. The site has a stated area of 0.6143ha and has road frontage on both the old Dublin Road as well as the R445. The site can be described as a brownfield site.
- 7.1.2. The Limerick City Development Plan, 2010-2016 is the relevant policy document pertaining to the subject site. The site is zoned 5A General Mixed Use and it is the objective of this zoning to 'promote the development of mixed uses that serves an area greater than its immediate catchment and to ensure the creation of a vibrant and sustainable urban area'. The zoning indicates the permitted uses and a petrol station is indicated as being 'permitted in principle'. I am satisfied that in principle, the development as proposed is acceptable and would accord with the zoning objectives afforded to the site.
- 7.1.3. Chapter 16 of the City Plan deals with Development Management and Part II of chapter 16, provides guidelines for the development of petrol stations. The Board will note that the third party appellant suggests that these amount to policy requirements which is not the case. It is a requirement that where a petrol station is proposed, 'the following guidelines shall be considered'. Overall, I am satisfied that the principle of the proposed development is acceptable.

## **7.2. Design & Visual Impact**

- 7.2.1. The proposed development seeks to construct, following amendments in response to the Planning Authority's further information request, will include the construction of a service station comprising:
- a single storey service station retail/services building with a ground floor area of 371m<sup>2</sup> including convenience shop (100m<sup>2</sup> net retail floor space), delicatessen for hot & cold food sales, with 62m<sup>2</sup> seating area and ancillary kitchen, stores, toilets & staff facilities.

- forecourt with canopy, 6 no. fuel dispensing pump islands & 4 no. underground fuel storage tanks.
- 2 no. main ID signs, erect canopy signage and shop fascia signage and
- pressure wash & brush wash installation,
- ancillary site features including, drainage, service yard, recycling building all with associated site works.

7.2.2 The proposed development will comprise a single storey building with an overall height of approximately 6.15m in height and a stated floor area of 371m<sup>2</sup>. The overall design provides for double height shop area with a stated retail floor area of 100m<sup>2</sup> including the till area, 62m<sup>2</sup> deli seating area and 113m<sup>2</sup> of ancillary areas including the deli prep area and storage, general storage, staff facilities and an office.

7.2.2. In terms of the proposed finishes of the building, the Board will note the proposal to use glass and masonry with a smooth render. The proposed development also intends to landscape the site. I would suggest that the site of the proposed development can be considered as being prominent in the context of the wider landscape. Having regard to the low level nature of the proposed building, together with the scale of the building in the context of the site, I am satisfied that if permitted, the development will not result in any significant or negative visual impacts.

7.2.3. In terms of the lighting plan for the site, together with the signage proposals, I am satisfied that the development is acceptable. 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. Overall I am satisfied that the development as proposed is acceptable and I have no objections to the design of the proposed building.

### 7.3. **Roads & Traffic Issues**

7.3.1. The overall layout of the site proposes that car parking will be facilitated throughout the site, and primarily along the boundaries. The development will provide for an entrance only and a separate exit only onto the Regional Road to the south of the site. A second entrance / exit will be provided in the north eastern area of the site also.

7.3.2. While I accept that the petrol station is to be located on a busy public road, there are no obvious issues arising in terms of access or egress, in my opinion. The amended proposal has had adequate regard to the proposed infrastructural projects which will affect the R445 adjacent to the subject site and the Board will note that the Area Engineer has raised no objections to the proposed development. In addition, the Physical Development Section of the Council has advised no objections to the proposed development subject to the inclusion of a condition. 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 Limerick City Development Plan, 2010-2016 as extended.

#### 7.4. First Party Appeal

7.4.1. The first party has appealed the inclusion of condition 3 in the planning authority's grant of permission for the development. This condition states as follows:

3. Prior to the commencement of development the applicant shall submit revised plans for the written approval of the Planning Authority omitting the central circulation area located between the seating area and shop, ca. 30sqm. In the context of the development this is considered excessive and represents an extension of the net retail and seating areas. The overall floor area shall be reduced to a maximum of 350sqm.

**Reason:** In the interest of orderly development and to comply with the City Development Plan 2010-2016 and Retail Strategy for the Mid-West Region, 2010-2016.

7.4.2. The first party has requested that this condition be removed or amended. Having regard to the nature and scale of the proposed development, together with the overall design, I would not consider it necessary to include the above condition. I am generally satisfied that the proposed development, including the intended uses of each area within the proposed building, are adequately identified and justified. I am therefore satisfied that the condition should be removed.

- 7.4.3. Should the Board consider it appropriate, a condition requiring that the circulation area between the retail area and the food / seating area be clearly identified by a floor surface colour could be included in any grant of permission.

## 7.5. **Other Issues**

### Abandonment of service station use

- 7.5.1. The third party appellant raises issues relating to the abandonment of the previous petrol station use at the site and cites a number of Referral cases in relation to this issue. It is submitted that the former petrol station use cannot be relied upon in assessing this development proposed. The third party submits that both the Planning Authority and the applicant have erroneously done so to a significant degree.
- 7.5.2. The Board will note the development description presented by the applicant, and as detailed in all public notices. I am satisfied that the applicant has sought permission for the construction of a new petrol station and that there is no issue arising in relation to abandonment. References to the previous use of this brownfield site as a petrol station in the reports do not, in my opinion, imply reliance, as suggested. The planning history for the site shows that a petrol station was permitted on the site.

### Proliferation of service stations

- 7.5.3. The third party has raised concerns that a grant of planning permission in this instance, will result in a proliferation of service stations within a 2km stretch of the Regional Road. The R445 is a major route through Limerick City and there are five existing stations identified as being proximate to the site. In the immediate vicinity of the subject site, there is no existing filling station, with the closest being approximately 500m to the east. There are no existing stations within the visual context of the site and in this regard, I would not agree that a grant of permission will result in a proliferation of such use.

### Potential site contamination

- 7.5.4. The Board will note that the site was previously used as a petrol filling station. While all elements of that development appear to have been demolished and removed from the site, I would consider it prudent to include a condition in any grant of permission requiring that the developer engage an appropriately qualified

environmental consultant to carry out a site contamination report complete with appropriate remediation measures if required.

#### Residential Amenity

- 7.5.5. The proposed development site lies in proximity to a number of residential properties, to the north and east of the site. I have considered the potential impacts of the development on the general amenities of these residential properties. Having regard to the nature of the receiving environment, together with the separation distances from the proposed development site, I am generally satisfied that the proposed development will have little or no impact on these properties or other properties in the area.

#### Retail Impact:

- 7.5.6. The third party appellant has raised concerns that the proposed development does not comply with the Limerick City Development Plan policy requirements, and that the development if permitted, will undermine the Parkway District Centre. I have considered this issue very carefully. The Retail Planning Guidelines places a cap of 100m<sup>2</sup> on retail floorspace associated with petrol stations. The Board will note that the proposed development complies with this floorspace cap. In addition, it is notable that the proposed development is located on lands where the provision of a petrol filling station 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.
- 7.5.7. 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 development of the site, and I am satisfied that the development is acceptable.

## **7.6. Appropriate Assessment:**

Given the location of the subject site within the development boundaries of the Limerick, together with the brownfield nature of the site and the proposal seeking to construct a 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 Limerick City Development Plan, 2010-2016, the pattern of existing and permitted development in the vicinity, 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 the proposed development, generally accords with the policy requirements of the Development Plan. It is further considered that the design, scale and finish of the proposed works, would not seriously injure the general, 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 as amended by further information submitted on the 6<sup>th</sup> day of September, 2017, 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. The proposed kerb edge along the property frontage on the Old Dublin Road shall be set back a minimum of 10.4m, measured from the channel kerb on the north side of the old Dublin Road. Prior to the commencement of any development on site, revised plans and drawings shall be submitted for the written agreement of the Planning Authority.

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

3. The retail unit shall be used solely for the sale of goods relating to the motor trade, or such convenience goods as are appropriate to a petrol filling station (confectionary, newspapers, etc), and no part shall be used for the sale, display or repair of motor vehicles. No off-licence shall operate from the site.

**Reason:** In order to restrict the retail sales within this shop to those appropriate to a petrol filling station and comply with the City Development Plan, 2010-2016.

4. 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.

5. 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.

6. 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. No fast food take-away shall operate from this unit.

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

7. 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.

8. 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.

9. 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.

10. 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.

11. 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 if required.

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

12. 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.

13. 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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A. Considine

Inspectorate

22/01/2018

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Inspector's Report

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