



An
Bord
Pleanála

Inspector's Report 302260-18

Development	Retention of extension to customer carpark including demolition of wall/entrances and relocation of same, and retention of installation of external self-service laundrette. Permission for installation of two fuel dispensers including pay kiosk associated pipework, services, site works and four overground fuel tanks and the expansion/reconfiguration of the car park to include the installation of valeting/carwash bays.
Location	Reenadisert, Ballylicky, Bantry, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	17/00672
Applicant(s)	Keith Cronin
Type of Application	Planning permission
Planning Authority Decision	Grant permission s.t. conditions
Type of Appeal	Third Party

Appellant(s)	Mary & William Lynch
Observer(s)	None
Date of Site Inspection	17 th December 2018
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located on the N71 in the townland of Reenadisert, which is on the outskirts of Ballylicky village, approx. 6km to the north of Bantry Town, West Cork. It is situated on the Bantry to Glengarriff road, c.1km to the west of Ballylicky village. The site is a long-established commercial site with frontage to the N71, on the northern side of the carriageway. There is a residential property located on either side of the site and a further dwelling house opposite the site. The entrance to a large mobile home/holiday village at Reenadisert is located directly opposite the site. The residence to the immediate east is that of the appellants.
- 1.2.** The site has a mixed commercial use which has developed over a number of years. The principal uses are a petrol station, a Centra supermarket and a hardware shop/garden centre. There are several ancillary uses on the site including a self-service (pay kiosk) laundrette which is located behind the supermarket, a car wash bay adjacent to the eastern boundary and a customer car park. The hardware store and associated carpark, service yard etc. are located on the western side of the site. The supermarket and the petrol station occupy the central and eastern part of the site, with the petrol forecourt at the southern end, fronting the public road. There is a large warehouse shed on the lands to the rear (north) which is associated with the hardware store and supermarket. This area is separated from the petrol station/supermarket area by a c.2.25m high masonry wall with gates, and is accessed via the customer car park.
- 1.3.** The site area is given as 1.02ha. There are three vehicular entrances to the site from the N71, one to the hardware store and associated lands and the other two access points primarily serve the petrol station, supermarket and warehouse. There is a right-of-way through the eastern section of the site leading to the warehouse shed and to an access track which leads to an existing gravel pit behind the warehouse. The red line boundary includes the warehouse, lands to the east of this shed and part of the access track, but not the gravel pit. There is an existing car wash bay alongside the eastern boundary which is sited to the south of the appellants' house. The area between this carwash area and the public road comprises a grassed area with landscaping and a totem pole sign relating to the petrol station.

2.0 Proposed Development

2.1. It is proposed to retain certain changes to the layout of the customer carpark and the retention of a new self-service laundrette kiosk. In addition, permission is sought for a number of new elements including 2 fuel dispensers, 4 over ground fuel tanks and the expansion of the carpark to include the installation of a new valeting and car wash bays. The layout and details of the proposed development were subject to a number of revisions during the course of the application with five further information submissions (some of which were unsolicited). The final set of drawings which were accepted by the P.A. were submitted on 12th June 2018. For the sake of clarity and convenience to the Board, the description below is based on this final set of drawings. I will refer to the elements of the proposed development which had been revised in the subsequent sections of my report.

2.2. The main elements of the proposal (12/06/18) may be summarised as follows:

1) Alterations and Expansion of customer carpark –

- Retain expanded area of car park to north of existing car park and north of the entrance to the service yard to the rear of the supermarket.
- Retain the demolition of walls and entrance that had previously delineated the northern end of the car park.
- Retain the newly constructed walls/entrance delineating new northern and western extent of car park.
- Reconfigure car parking to east of supermarket to accommodate new fuel dispensers (see below), including the removal of the existing car wash bays adjoining the eastern boundary.

2) Fuel dispensing island –

- Provision of new fuel dispensing island with 2 fuel dispensers adjacent to the eastern boundary to the front of the site.
- Provide associated pay kiosk, pipework and services.
- This facility is to be located on the site of the grassed area near the entrance and necessitates a revised landscaping plan for the eastern boundary area.

- Landscape/screening on eastern boundary to consist of a rock armour wall with earthen bund, 2.0m wide and 2.5m high, with evergreen shrubbery on top of the wall (1.0m high). This would be a continuation of the existing earthen bund to the north. The mound would be planted with grasses, small shrubs and topped with evergreen shrubs.

3) Fuel tanks –

- Provide 4 no. over-ground fuel tanks to rear of expanded car park area
- One tank x 40,000 litres; Two tanks x 5,000 litres; one tank x 2,000 litres

4) Car wash/valeting area –

- Provide a new car wash and valeting area to rear of supermarket.
- Retain new wall along southern and western extent of valeting area.
- Construct new wall along eastern extent of valeting area.

5) Laundrette

- Retain existing self-service laundrette kiosk
- Relocate laundrette from current site adjacent to eastern edge of proposed valeting area to area immediately adjacent to eastern elevation of supermarket building.

2.3. The application was initially made on 19th October 2017 and was subsequently altered on 5th December 2017, 9th January 2018, 28th May 2018, 12th June 2018 and 19th June 2018. The main revisions to the proposed development may be summarised as follows:

- Siting of fuel dispensing island – moved further to the south away from appellants' house. Further Information (5/12/17) stated fuel to be dispensed - diesel and that notwithstanding proposed provision of 'remote pay kiosk', it is not intended to offer a 24-hour service from these pumps.
- Siting of laundrette – moved further to south, closer to supermarket.
- Car park layout – various changes to facilitate relocation of fuel dispensers and to accommodate route through eastern section of site to service yard, fuel

depot and valeting area to rear of site. Revisions included removal of proposed bays adjoining eastern boundary and provision of additional bays adjoining new northern boundary wall.

- Earthen bund – additional details (as described above plans received 12/06/18) provided as unsolicited information on 5/12/17.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 14 no. conditions. These were generally of a standard type and included. The following conditions are of note:-

- Condition 10 required that the parking spaces be provided in accordance with the revised site layout plan R00051702-08 received 12/06/18 and the bays shall be in accordance with the CDP standards.
- Condition 11 stipulated the hours of operation of the proposed laundrette, car valeting facilities and diesel fuel dispensing machines located close to the eastern boundary. The permitted hours are 0.800-2100 Monday to Sunday, inclusive of public holidays. The hours do not relate to the existing petrol station fuel pumps.
- Condition 12 prohibited the operation of either the existing petrol station pumps or the new fuel dispensing machines as fully automated (non-cashier) on a 24-hour basis without a further grant of permission.
- Condition 13 required the relocation of the proposed over-ground fuel tanks further to the north or west of the location as shown on the Revised Site Layout Plan R00051702-08 received 12/06/18.
- Condition 14 required that the landscaping/boundary treatment on the eastern boundary as shown on Drg. N. R0051702-01 received 12/06/18 be maintained in perpetuity, and that any plant that dies would be replaced within the next planting season.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Area Planner's initial report (12/12/17) noted that the site has a long-established use as a filling station and retail unit, that the retail element exceeds the 100sq.m cap and that the business was in operation prior to the coming into force of the Retail Guidelines. Reference is made to various planning permissions.

The Area Planner referred to the objection from the adjoining property and acknowledged the concerns raised.

Deferral was recommended pending receipt of further information. A request for FI was issued on 12/12/17 in respect of the following matters:-

1. Concerns regarding overdevelopment of the site, the close proximity of the fuel dispensers and the fuel tanks to the appellants' property.
2. Separation distances from fuel tanks and dispensers to boundaries
3. Concerns regarding road safety and parking provision. Revisions to entire layout sought with particular reference to siting of fuel dispensers, fuel tanks, valeting bays and laundrette relative to the eastern boundary and proposed landscaping/boundary treatment along this boundary.
4. The entrance and exit to site to be redesigned and physical measures put in place to delineate same and provide roadside boundary treatment.
5. Additional disabled parking and parent and child bays to be provided.

3.2.2. Other Technical Reports

Area Engineer's Report – (22/11/17) – no objection subject to conditions. Reference was made to TII submission and the access and egress to the site was identified as being in need of improvement for safety reasons. Reference was made to the third-party objection regarding the separation distances from the pumps. The increased parking provision was welcomed apart from the under-provision of disabled and parent-child spaces.

Environment Unit (28/11/17) – permission recommended subject to conditions regarding construction waste management, bunding of over-ground fuel tanks, and

surface water to pass through hydrocarbon interceptors prior to discharge to any watercourse.

Fire Officer (28/11/17) – recommended deferral in order to address separation distances between the site boundary and the fuel tanks, manholes, filling pipes and dispensing pumps.

3.3. Prescribed Bodies

Transport Infrastructure Ireland (15/11/17) – will rely on P.A. to abide by official policy in respect of development on/affecting national roads.

Irish Water (22/11/17) – no objection subject to recommended conditions.

3.4. Third party observations

One submission received from the appellants. The issues raised are summarised in page 6 of the Area Planner's initial report (12/12/17). Much of the content of the submission is similar to that set out in the grounds of appeal.

3.5. Further Information submitted 19th January 2018

1. Modified Layout for fuel dispensers further to north – pump island will service diesel vehicles, many of which will be agricultural (with trailers) and HGVs, thereby needing more manoeuvring space
2. Relocation of laundrette – demolition of existing external WC and relocation of laundrette here.
3. Revised Access and Parking Layout Plan – a defined entrance and exit, a revised parking layout with 40 parking bays (including disabled/parent and child).
4. Earthen bund – revised boundary treatment on eastern boundary comprising rock armour and earthen bund to height of 2.5m as continuation of existing bund. Mound would be planted with local grasses and small shrubs/creepers and topped off with evergreen shrubs.
5. Minimum separation distance – a minimum of 5m will be used.

The FI was deemed to be significant and was therefore re-advertised. The P.A. sent a response without prejudice (31/01/18) which raised serious concerns regarding impact on residential amenities of property to east given proximity of fuel pumps to boundary, particularly if pumps to be used at night time and sought reconsideration of the site layout.

3.6. Further information submitted 12th June 2018

A revised layout plan (12th June 2018), shows the fuel pumps and laundrette located further away from the dwelling to the east. The laundrette would be 31.3m and the pump island 37.4m from the dwelling. The revised layout was also described as catering for vehicles that would require significant manoeuvring space and would include an access channel for delivery vehicles servicing the supermarket and hardware stores. It was stated that it is not intended to operate self-service 24-hour pumps but acknowledged the P.A.'s position that with the passage of time, this could be desirable. However, it was stated that should this matter arise in the future, it would be intended that the existing pumps and forecourt would be used for such purposes.

It was noted that there are no Irish regulations in respect of separation distance for diesel pumps, but on the advice of the Fire Dept, the matter was guided by a combination of the Petrol Regulations and the UK Regs regarding diesel pumps. It was stated that although diesel is much less volatile than petrol, the distance proposed is 5 metres, which exceeds the minimum distance of 4.25m for petrol.

An '**Unsolicited letter**' dated **12/06/18** was also received in which the applicant confirmed that the operating time of the new dispensing pumps shall be that of the existing pumps and service station shop, which is -

Summertime April-October – 0700 to 2200 weekdays and 0800-22.00 Sundays

Wintertime October-April – 0700-21.30 weekdays and 0800-21.30 Sundays.

The response was deemed significant and was re-advertised.

3.7. P.A. response to submission of 12/06/18

Area Engineer (10/07/18) – following a meeting on site a revised layout was submitted, which shows a defined entrance/exit. This is welcomed. The concerns raised by the third party (appellants) were noted that it is dangerous for them to exit their property as their sightlines are blocked by the extra volume of HGVs and cars that are parking on the side of the road. The AE considered, however, that the revised entrance, parking and circulation layout would address this issue.

Environment Officer (27/06/18) – no objection s.t. conditions.

Third party submission (27/06/18) – FI request fails to include many items contained in TP's original submission to P.A. These have been summarised on pages 3-4 of the Planner's Report (11/07/18), the main points of which are as follows:

- Noise and disturbance from proposed pump island – large lorries and tractors, people talking, engines revving and 24-hour service will happen sooner or later. Will devalue property.
- Increased hazard and odour – danger of fuel leaks. Smell is aggravated by wind direction and already occurs from refuelling of underground tanks. Adverse health impacts from diesel fumes.
- Earthen bund ineffective – it has not been maintained and now has knotweed and other invasive species.
- Overdevelopment of site with significant nuisance from existing activities, many of which are unauthorised – car park and laundrette causing noise and privacy issues. The applicant operates car sales from the premises, which adds to the traffic and parking congestion. There is an unauthorised quarry at the rear which is serviced by lorries going through the site.
- Traffic hazard – already dangerous to exit property as sightlines obscured by illegal parking.

The **Area Planner (11/07/18)** stated that serious concerns had been raised from the outset and that despite the submission of revised plans, these concerns had not

diminished. It was considered that it was a fine balance between whether to recommend a grant subject to conditions which would protect residential amenity or a refusal. Regard was had to the planning history, which included the retention of many unauthorised elements in the past, the size of the shop which is considerably greater than a forecourt shop and where the hours of operation are not restricted, and the proximity of the fuel pumps to the residential property to the east, with the associated disamenity.

The proposed hours of operation of the pumps and laundrette until 10pm was considered to be unacceptable and should be restricted to 9pm. The applicant's comments regarding the likelihood of the future operation of the pumps on a 24-hour basis were noted but it was also observed that recent changes at other filling stations in the overall area had resulted in such 24-hour operations. It was considered, however, that a 24-hour operation would be unacceptable at this location due to the proximity of a third-party dwelling. Similarly, the revised layout showing the fuel tanks located 19m from the adjoining dwelling was still of some concern, notwithstanding the 4m distance from the boundary. It was considered that the tanks should be moved further to the north within the site boundary.

The relocation of the valet area and new heavy duty kerbing and parking island were considered to be an improvement. The comments of the Area Engineer were noted. Permission was recommended subject to conditions.

4.0 Planning History

92/3631 – permission granted for petrol station canopy, sign and relocation of petrol pumps and tanks. No details of this permission but referred in in Area Planner's report.

11/193 – Permission for retention of an extension to a shop including storage area and for change of use of part of retail area to off-licence.

14/58 – permission granted for construction of entrance porch, alterations to elevation, remodelling of existing shop layout including partial change of use from

retail to seating area associated with deli counter and erection of external shop signage.

14/311 – permission granted for retention of alterations to hardware store to include formation of recessed shop entrance with external storage/display area, alterations to elevations including recladding of roof, erection of signage and enlargement of vehicular service area.

14/623 – permission granted for demolition of unauthorised stores and for construction of commercial stores in lieu of same

5.0 Policy Context

5.1. Cork County Development Plan 2014

Relevant policies include:

EE 4-3 and EE 9-1 – these objectives seek to promote business development in appropriate locations in the main towns and key villages. EE 9-1 includes a set of criteria whereby new business in rural areas will be encouraged.

GI-6-1 Landscape

- (a) Protect the visual and scenic amenities of County Cork's built and natural environment.
- (b) Landscape issues – important factor in all land-use proposals
- (c) Ensure new development meets high standards of siting and design.
- (d) Protect skylines and ridge lines for development
- (e) Discourage development requiring the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

G 13-1 and G 13-2 Minimise noise pollution and light pollution respectively.

TM 3-1 restrict individual access points and avoid creation of new ones onto national road network.

5.2. West Cork Municipal District Area Local Area Plan 2017

Site is located within the Development Boundary for Ballylicky. The landscape is High Value Landscape and the N71 is a designated scenic route.

5.3. Natural Heritage Designations

Glengarriff Harbour and Woodland SAC and NHA (000090) – lies approx. 3km to the northwest.

Caha Mountains SAC (000093) lies approx. 5km to the northwest.

Derryclogher Bog SAC (001873) lies approx. 5km to the north.

Sheep's Head SAC (000102) lies approx. 12km to the southwest.

6.0 The Appeal

6.1. Grounds of Appeal

The third-party appeal is from William & Mary Lynch. The main points raised may be summarised as follows:

Overdevelopment of the site will devalue their home – a Valuer's report has been submitted to substantiate this.

Intensity and unauthorised nature of existing development – the existing activities on the site have expanded over the years into a multi-use development comprising a service station, a supermarket, hardware store, laundrette, car valeting, quarry, building supplies, agri-goods, car sales etc. Several of these uses are unauthorised including the quarry and the car sales uses. The recent proposal is a step too far in the continual ever-expanding evolution of this business over the years.

No restriction of type of fuel – it is stated that notwithstanding a verbal assurance that the new fuel dispensers would be for diesel, Condition no. 11 indicates that the fuel would be petrol. There is no indication what fuel is to be stored in the underground tanks.

Fire/explosive risk – the risk of fire/explosion is indicated by HAS on its website. Although the pumps may be at the recommended distance in theory from their

house, the rest of their property, including the driveway and garden, is much closer and at serious risk.

Traffic and transport– it is not clear what the traffic impact would be in the absence of a TTA for the further intensification of this development, given the location of the premises at the side of the N71, where the speed limit is 60kph, notwithstanding proposed improvements at the entrance. The scale of the development warrants such an approach.

Wastewater treatment – inadequate information on waste water disposal from car valeting and from the overall development. Although Cond. 7 requires all surface water to pass through an interceptor, it should be noted that there is no mains sewer at this location.

Removal of existing concrete wall and mature trees – The removal of these items will open up their property to both the development and the public road. It will also be an additional noise nuisance to their property.

Structural damage to house – it is submitted that large-scale rock breaking has caused severe cracking of the external render in the adjoining house. Although this was repaired at the applicant's expense approx. 3 years ago, subsequent rock breaking has caused further cracking (see Engineer's Report attached). This is likely to be exacerbated by the additional rock breaking that will be required to install the underground tanks, pipework etc.

6.2. First Party Response

The First Party's agent responded to the grounds of appeal on 5th September 2018. This was mainly in the form of a rebuttal of the grounds of appeal. However, the following points are worthy of note:

- **History** - It was confirmed that the commercial use of the site commenced prior to 1964 and as such, is an established use. In the mid-sixties, it was used as a general shop, hardware and farm supplies and delivered produce all over West Cork.
- **Fuel storage and location of fuel tanks** - It was confirmed that the tanks will be relocated to a point at least 30m north of the appellants' house. It was also

confirmed that the fuel to be stored in the over-ground tanks would be diesel as it is not permissible to store petrol in over-ground tanks. Furthermore, it was stated that the new dispensers would be for diesel only.

- **Traffic impact** - It is submitted that the revised proposals will enhance traffic safety in the area and that they are acceptable to the P.A. engineers. It is further submitted that TII did not raise any major concerns.
- **Revised layout reduces impact on residential amenity** – It is submitted that the revised layout shows that the distances between the appellants' dwelling and the new fuel pumps (37.4m), the fuel tanks (c.30m) and the laundrette (c.31m), respectively would minimise any potential impact on the amenities of the appellants' property.
- **Waste water treatment** – it was confirmed that all foul and grey water from the site is discharged to the existing septic tank, which is regularly maintained and de-sludged and that the PE will not be increased. It was further stated that the car valeting (which is an existing activity) discharges wastewater to a retention separator via a grit trap, and then through a recycling plant to be reused any surplus surface water will be discharged to the SW drainage system on site. This includes an oil interceptor.
- **Rock breaking** – it was acknowledged that rock breaking has occurred to the rear of the premises, which was to provide sufficient storage and manoeuvring space. However, it is not likely that there would be any required to complete the proposed project, but if it is necessary for the installation of pipework, it is suggested that vibration monitoring be carried out to ensure it is carried out to acceptable standards.
- **Car sales** – it is confirmed that the applicant has placed a small number of cars for sales on the forecourt as a temporary trial, and if it had proved worthwhile, a planning application would have been submitted for this use.
- **Modifications to boundary** – the modifications to the bund will enhance the privacy and amenities of the appellants' property, including reducing noise from the very busy N71.

6.3. Planning Authority Response

A response was submitted by the Planning Authority on 28th September 2018. No new issues were raised. However, the following points are of note:

- The current application and development, another that in part relates once again to retrospective works, is highly problematic.
- It is acknowledged that discussions took place with the planning authority during the course of the application, no pre-application discussions took place and the contents of the letters from the third parties indicate that the efforts undertaken to date to allay their fears and concerns have not been particularly fruitful.
- The N71 is a main route for Heavy Goods Vehicles and this necessitated the imposition of a 24-hour ban on the use of the new pumps to prevent trucks using them at 3am or 4am, which would not be conducive to enjoyment of the dwelling house given the limited separation distances.
- The planning merits are many shades of grey but on balance, and subject to the conditions proposed, including the relocation of the fuel tanks further to the north, it was considered that the development could be supported.

6.4. Third party further response 4th October 2018

The responses from the P.A. and the first party were circulated. A further response was received from third party appellants on the 4th October 2018. The following points were made:

- **Traffic and transport** - The scale of the development warrants a TTA. There are no signs either side of the development site warning motorists of the nature of the development. The appellant is aware of accidents at this location.
- **Overall intensity of use/unauthorised use** - The quarry and building materials storage use is not shown within the red line boundary, yet it is an integral part of the overall development. All heavy goods vehicles access this rear part of the applicant's lands do so through the application site that is within the red line boundary. Thus, the use incorporates an unauthorised element as the main access to the quarry is through the site. As such, the application

cannot be determined by the Board. Given that the appellants have had to tolerate excessive noise, dust, vibration due to continual rock breaking and heavy machinery activity, this matter should be investigated.

- **Car sales** - The “temporary trial” of car sales is consistent with the past history of development on the site which has predominantly been the retention of unauthorised works. The applicants seem to rely on a “trial and error” mode. It should be noted that the applicant had commenced works on the current proposal and a plan had been furnished to them from Keohane Consulting Engineers. However, following an interjection from the appellants, a planning application was submitted
- **Wastewater treatment** - The existing septic tank is shown on Drawing POO/7/701-02 (dated 12/10/17) as being sited in the middle of the access route and car parking area. There is no percolation area shown and the entire area surrounding the site of the septic tank is laid out as either car park or access route. Furthermore, there is virtually no soakage in the area as the sub-strata is all rock, which means that all effluent, including wastewater from car washes, oil spillages etc. will find its way to the edge of the harbour at Ballylicky.

7.0 Assessment

7.1. It is considered that the main issues arising from the appeal are as follows:-

- **Principle of development** - including overdevelopment of site, extent of unauthorised development and appropriateness of further intensification of use/development.
- **Residential amenity** - Intensification/expansion of activities, proximity to residential property, nature of individual elements and adequacy of proposed mitigation measures.
- **Traffic and transport** – compliance with National Roads policy, need for TTA, adequacy of mitigation measures.
- **Adequacy of wastewater treatment** – sufficiency of information provided.
- **Other matters**

- **Environmental Impact Assessment**
- **Appropriate Assessment**

7.2. Principle of development

7.2.1. The use of the overall site in the ownership of the applicant is an established use which has developed incrementally over the past few decades. There are four main elements to the current use of the lands:

- Hardware store and garden centre with associated warehouse and open storage of goods accessed from N71.
- Petrol station with forecourt adjoining N71 including a car wash area and a self-service laundrette.
- A large supermarket with an off-licence and large storage area to rear and associated customer car parking.
- A quarry at the rear of the site, with access through the customer car park and goods delivery area.

It should be noted that the hardware store, supermarket and petrol station elements have been the subject of previous planning permissions. However, there does not appear to be any information on the planning status of the quarry.

7.2.2. More recently, there is information on the file that suggests that a car sales activity has also been introduced on a trial basis. The current proposal is principally to introduce a second fuel dispensing operation within the site. As the uses were initiated many years ago and have developed incrementally, often without the benefit of planning permission and subsequently rectified by means of retention permission, the existing activities on site are not very well regulated. For example, there are no restrictions on noise, fumes, etc., the hours of operation are loosely controlled and there is little control over the siting of certain activities or vehicular movements within the site. It is considered that had the development (as currently operated) been proposed at this current point in time, with residential properties in close proximity and being sited on a bend on the busy N71, it is unlikely that permission would have been forthcoming, particularly without strict controls on the nature, scale and intensity of use and on the manner in which activities are carried out on the site.

7.2.3. The current proposal can, in simple terms, be described as follows:

- The introduction of a new additional fuel dispensing operation, which is principally for diesel vehicles such as tractors, HGVs etc. including a new separate forecourt area which would be located adjoining the eastern boundary (with the appellants' property), towards the front of the site.
- Provision of an associated set of over-ground fuel storage tanks for the storage of diesel which would be located towards the rear of the site, also adjacent to the eastern boundary.
- Enlargement and revised layout for customer car park including proposals to facilitate the manoeuvring of HGVs within the site. This involves the retention of works including the demolition of a wall and rebuilding of a wall further to the north.
- Retention of a self-service laundrette within the customer car park, which would be located to the rear of the supermarket.
- Relocation of the car wash bay from the eastern boundary to the rear of the supermarket and to include car valeting.

In addition to the above, the submitted plans indicate that there is a right-of-way and an existing access track which leads from the N71 through the eastern part of the site to the quarry activities at the rear. The precise route through the site is not shown on the site layout plan, but it is assumed that it would be through the customer car park and/or goods delivery yard.

7.2.4. In essence, the proposed development before the Board seeks to introduce a new fuel dispensing activity with associated fuel storage, as well as ancillary services such as the laundrette and valet bays, and to rationalise the activities within the site to accommodate these new uses. Part of the proposed development has been carried out already (e.g. laundrette, removal and replacement of wall, revised/enlarged parking area), and these (currently unauthorised) elements would therefore be regularised in the event of a grant of permission. Thus, in that case, the only unauthorised element remaining would be the retention of the existing access through the site to the quarry at the rear. However, this aspect of the development has not featured in the P.A. reports or discussions about the use of the site and the

planning status of the quarry and/or access to it is not entirely clear. It is considered, therefore, that there is insufficient information on the file to draw any firm conclusions regarding the unauthorised nature of the quarry and its access. The Board could seek further information on this matter, should it be minded to grant permission for the proposed development.

- 7.2.5.** The remaining issue in regard to the principle of development is whether it is appropriate to allow further intensification of use and activities on this site. The P.A. took the view that, although it was mindful of the potential impact on residential amenity and road safety arising from the current activities, it was acknowledged that this is an established commercial facility which is within the development boundary for Ballylicky. It was considered that the proposed development presented an opportunity to regularise the activities on site and to introduce controls to prevent increased detriment to residential amenity and traffic safety, notwithstanding the increased level of activity on the site. This view was also based on the further information submitted during the course of the application which proposed to increase the distances between the fuel dispensers, fuel tanks and laundrette from the appellants' house; to provide for increased landscape screening and a new entrance layout, which was designed to improve safety in terms of access and egress. The P.A. decision also introduced controls such as preventing 24-hour operation of the new fuel dispensers and restricting hours of operation for these pumps, the laundrette and the valet bays and moving the fuel tanks further to the north.
- 7.2.6.** The existing use of the site is quite intensive with four distinct commercial operations and ancillary activities, each of which generates traffic movements and a range of activities on site and gives rise to emissions in terms of noise, fumes, waste and drainage/discharges. The layout is quite congested with manoeuvring and circulation space relating to different activities criss-crossing the site. The level of detailed information regarding these matters before the Board is very limited. It is considered that the introduction of a new potentially intensive operation, which is likely to give rise to a significant increase in traffic generation, and HGV traffic in particular, as well as to additional emissions in terms of noise and fumes and waste/wastewater discharges, would result in overdevelopment of the site.

7.2.7. Furthermore, the site is accessed directly from and located adjoining a National Primary Route, which is also a Scenic Route that is heavily trafficked in the tourist season. The policy of the TII is to restrict access to such national roads in the transitional zones (60kph) and to protect the capital investment in such strategic infrastructure. Thus, the intensification of the use by means of the proposed additional activity which has the potential to attract an increase in traffic movements, a significant proportion of which are likely to be HGVs, would contravene this policy. In addition, there is a lack of clarity on the traffic generation/movements associated with the current use, including what proportion of these movements relate to the quarry use, the planning status of which is uncertain. Thus, the proposed development could potentially result in the intensification of a use, part of which may be unauthorised.

7.2.8. In conclusion, it is considered that the proposed development would result in overdevelopment of the site, with an associated intensification of access onto a national road, which would be contrary to the policy on development on national roads, and that the Board would not be satisfied, on the basis of the information submitted with the application/appeal, that the proposal would not facilitate the continuation of unauthorised elements of the existing use of the lands.

7.3. Residential amenity

7.3.1. The site is quite deep, extending c.130m back from the main road. Although the hardware store, supermarket and petrol forecourt are located close to the road and the residential properties on either side are set back c.40-60 metres from the road, it is noted that much of the open-air activities are located to the rear and adjacent to the eastern boundary. At present, the car wash facility is located directly adjacent to the boundary, but is c.15-20 metres to the south of the appellants' dwelling. The current proposal would see this element, which would be a source of noise nuisance, relocated away from the appellants' boundary, c.26m to the west of their house. This revision, together with the hours of operation controls, would be likely to reduce the potential nuisance from this activity. However, the revisions to the site layout include the following elements which would be likely to increase noise and disturbance:

- New fuel dispensers – the forecourt for these pumps would be located c. 37.4m to the southwest of the appellants' dwelling. However, they would be directly adjoining the common boundary, which kinks eastwards. The siting and orientation of the dispensing bays would necessitate HGV trucks, tractors, vans etc. to drive through the car park and loop around to access the bays/exit the site. Much of this circulation would take place adjoining the eastern boundary, with associated noise and disturbance.
- Demolition/relocation of wall – this has already taken place on site. It is clear that these works have exposed the side and rear elevations and rear garden of the appellants' house to a greater level of activity, as the wall has been relocated c.18m to the north, from a point which would have been roughly level with the house to a point c.14m behind the rear elevation. This space is now used as an expanded customer car park and as an entrance point to the goods/service yard and the warehouse, to the car valet area, to the fuel tanks and to the quarry to the rear. Formerly, it would have been used as a transit area to the goods yard, warehouse and quarry. The additional activity associated with the expanded car park, combined with the truck movements through the space, would be likely to result in noise and disturbance.
- New fuel tanks – these are shown on the amended drawing (12/06/18) as being just to the north of the expanded car park. However, a condition of the P.A. decision requires them to be relocated further to the north. The loading of the tanks and any fumes, noise etc. from this activity would be reduced from such a re-location, but the vehicles accessing the tanks for loading would still have to traverse through this area.
- Laundrette – this element is already on site adjoining the site of the proposed valet bays, but it is proposed to move them southwards, closer to the supermarket. The revised location (12/06/18) together with the proposed noise restrictions would be likely to reduce the noise and disturbance from this activity. Notwithstanding this, it is a new additional activity on site which is operated in the open air, with the potential for noise and disturbance.

7.3.2. It is considered that the proposed fuel dispensers, fuel storage and laundrette, as well as the expanded car parking area, combined with the range of activities

currently operating from the site would give rise to a significant level of noise and disturbance which would seriously injure the residential amenities of adjoining properties.

- 7.3.3.** The main mitigation measures include the restriction of fuel type to diesel, a restriction on the hours of operation of these elements, a prohibition on 24-hour use of the diesel pumps and an enhanced and extended earthen bund. It is considered, however, that these measures would merely seek to control the effects of the new elements of the overall use of the lands and would not be sufficient to prevent a significant increase in the level of noise and disturbance associated with the overall use of the site. No noise assessment has been submitted or requested. It is considered that the introduction of extra noise generating and traffic generating activities onto the site, together with bringing many of these activities physically closer to the appellants' dwelling house, would result in serious injury to the residential amenities of the adjoining residential property.

7.4. Traffic and transport

- 7.4.1.** The site is located on a national secondary route, the N71 which links Bantry with Glengarriff, which is a busy tourist route. The TII Spatial Planning and National Roads Guidelines 2012 (Section 2.5), state that in the case of lands adjoining national roads to which speed limits of greater than 60kph apply, additional accesses or the generation of increased traffic from existing accesses should be avoided. In respect of 'Transitional Zones', (i.e. sections of national roads on the approaches to or exit from urban centres that are subject to 60kph limits), a limited level of direct access may be permitted to facilitate orderly development. Any such proposals, however, must be subject to a Road Safety Audit carried out in accordance with NRA requirements and a proliferation of such entrances, which would undermine the role of such zones must be avoided. The appeal site is located in such a Transitional Zone (60kph).
- 7.4.2.** The level of activity on the site has grown substantially over the past decade. It can be seen from a comparison of the 'street-view' image on google maps, which is dated 2010, with the existing scenario, that the use of the site has intensified significantly with each element of the original use having been expanded. It is also clear that the level of traffic associated with the current use is much more intensive.

As stated above, it is considered that the proposed development is likely to further increase the level of traffic generation associated with the site and that the number of HGVs is also likely to increase with the introduction of dedicated diesel pump bays. It is considered that the intensification of the access to the site would undermine the capacity, investment value and safety of the national road and would be contrary to the objectives of the Government policy on National Roads.

7.4.3. The current junction of the development site and the public road (i.e. the roadside boundary) is not formally defined. The entrance to the supermarket is directly behind the petrol pumps on the forecourt and the entrance to the hardware shop is immediately to the west of the pumps, and the entrance to the car park, (which includes the goods service entrance, car wash, laundrette, quarry etc), is immediately to the east of the pumps. There is effectively a 90m stretch where vehicles can enter/leave and park in a haphazard manner. I can confirm that during my site inspection, a large truck and several vans were parked alongside the N71. It is considered that the existing situation is hazardous to both vehicular users and pedestrians. In particular, I would be concerned about the potential conflict between large trucks entering and leaving the site and traversing through the customer car park to access the goods service yard, valet area, laundrette and quarry as well as the proposed fuel tanks. It is also possible that there could be HGVs queuing to access the diesel pumps which are to be located close to one of the main entrances. As it is a customer car park for the supermarket and laundrette, there is a potential conflict with pedestrians.

7.4.4. I note that the Area Engineer has been in discussions with the applicant with a view to formalising the entrance/exit, and that the revised layout of 12th June 2018 seeks to address these concerns. I would agree that the revised layout, which formalises the entrance/exit points and introduces a knee rail, would improve the road safety at the entrance. However, in the absence of any specific information regarding the traffic generation of both the existing and proposed development, together with a Road Safety Audit, which would identify the precise nature of the problems and propose specific solutions and mitigation measures to overcome them, it is not possible to conclude whether these alterations to the entrance would be sufficient to avoid the creation of significant adverse impacts on the national road network or would adequately improve the pedestrian environment within the site.

- 7.4.5.** The Spatial Planning and National Roads Guidelines also state (3.4) that Traffic and Transport Assessments are useful tools for assessing the impacts of development proposals which generate significant additional trips and road traffic on the national road network. Given the nature and scale of both the existing and proposed development on the site, and the lack of information regarding the existing/proposed levels of traffic generation provided with the application and appeal, it is considered that there is insufficient information on which to draw any firm conclusions on the appropriateness of the proposed development in terms of its impact on the national road network and the effectiveness of any mitigation. However, it is clear that the existing use generates a high volume of traffic, a significant proportion of which is HGV traffic. Furthermore, the proposed development would introduce an additional diesel dispensing forecourt near the entrance to the mixed-use commercial/retail development, which would result in a multitude of potentially conflicting traffic flows, which would endanger pedestrians. It is considered, therefore, that the intensification of both the use and the access onto a national road, together with the congested layout, would give rise to a traffic hazard and would be contrary to national roads policy.
- 7.4.6.** It is considered that should the Board be minded to grant permission, a TTA and a Road Safety Audit should be required to be submitted prior to determination of the case. In the absence of such information, it is considered that there is insufficient information to be satisfied that the proposed development would not give rise to a traffic hazard and/or would not be contrary to National roads policy.

7.5. Adequacy of wastewater treatment

- 7.5.1.** It is proposed to dispose of wastewater from the overall development to the existing septic tank system, the location of which is shown on the submitted site layout plans, as being within the car park to the east of the supermarket. The response to the grounds of appeal (5/9/18) states that the septic tank system operates satisfactorily and is regularly de-sludged, and that the current proposals do not seek to increase the PE or floor area of the development. It is further stated that the wastewater from the car valet area will be collected and discharged to a full retention separator via a grit trap and from there will pass through a recycling plant to be re-used. It is stated that any surplus water from the valet bays will discharge to the surface water system

after being cleaned in the grit trap and separator. It is pointed out that there has been a car wash facility on the site for many years, the modern technology results in a significant reduction in water usage and that the valet bays will be moved further away from the appellants.

- 7.5.2.** Notwithstanding the additional information provided in the response to the grounds of appeal, it is considered that the level of information provided regarding the existing and proposed waste-water and surface water management and disposal within the site is very limited. The hard-standing areas within the site have increased substantially in the past decade and the current proposal further expands the car park and areas traversed by vehicles. The ground levels fall from north to south towards the road and the bay. The proposed development also increases the volume of fuels to be stored and handled within the site and introduces a laundrette. I note that the P.A. has required bunding of the fuel tanks and the installation of oil interceptors as conditions. Should the Board be minded to grant permission, it is considered that further information should be requested in respect of the management and disposal of waste/surface water within the site.

7.6. Other matters

The appellants have raised the issue of structural damage to their house in respect of rock breaking. The first party (5/9/18) has responded that it is unlikely that there will be much rock breaking required in respect of the current application, but has suggested that vibration monitoring be required during construction.

7.7. Environmental Impact Assessment

- 7.7.1.** The proposed development involves the storage, handling and dispensing of a fossil fuel on a site where fossil fuels are stored and dispensed already. It is considered, therefore, that it falls within Class 3(e) of Part 2 of Schedule 5 "Installations for the storage of fossil fuels, where the storage capacity would exceed 150 tonnes per day". No information has been provided regarding the volume of fossil fuels stored or dispensed (existing and proposed) at the site, but it is unlikely that it would exceed the threshold. It is considered, therefore, that the development is likely to be sub-threshold development and a Preliminary Examination is required.

7.7.2. Having regard to the range of activities on the site, many of which generate emissions such as noise, fumes, odours, wastewater etc., it is considered that the introduction of additional activities, which would generate further such emissions, could give rise to significant environmental effects, in the absence of adequate mitigation. The proposal to increase the volume of fuels to be stored, handled and dispensed on the site and the introduction of a laundrette, could also give rise to the generation of pollutants. Insufficient information has been provided to assess the likely effects of these matters on the environment. Given that the project is likely to generate a significant amount of additional traffic, a large proportion of which is likely to be HGV traffic, and that no information is available regarding the nature and scale of traffic generated by the existing development, there is a significant and realistic doubt about the likelihood of significant effects on the environment. The location of the site on a national road and in close proximity to a number of residential properties adds to this doubt. Furthermore, the presence of a quarry at the northern end of the lands, which is accessed through the application site, raises concerns regarding the nature and scale of the overall development and the likely impact on the environment.

7.7.3. Having regard to the nature, size and location of the proposed development, combined with the nature and scale of the existing development on the site, it is considered that the likelihood of significant effects on the environment arising from the proposed development is uncertain. The need for environmental impact assessment cannot, therefore, be excluded at preliminary examination and a Screening Determination is required. As such, should the Board be minded to grant permission, Schedule 7A information should be submitted in order to assess whether the proposed development would have significant effects on the environment.

The Board should note, however, that as the site includes several uses that are currently unauthorised, for which retention is being sought, and a Screening Determination is required, planning permission cannot be granted.

7.8. Appropriate Assessment

The closest European sites are Glengarriff Harbour and Woodlands SAC (000090), which lies approx. 3km to the northwest, Derryclogher Bog SAC (001873), which lies approx. 5km to the north, and Cahal Mountains SAC (000093) which lies approx. 5km to the northwest. Sheeps Head SAC (000102) also lies c. 12km to the southwest across the bay. Given the distances involved, that the site is located in an established area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

- 8.1.** I recommend that planning permission should be refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. Having regard to the nature and scale of the existing development on this peripheral site at the edge of Ballylicky village, which includes a petrol station, a supermarket, a hardware store and an access route through the site to a quarry at the rear, the planning status of which is uncertain, and to the nature of the proposed development which would introduce additional diesel storage and dispensing facilities, a laundrette and an expanded customer car park and car valet area, each of which would generate additional traffic movements and emissions, it is considered that the proposed development would constitute overdevelopment of the site and would seriously injure the residential amenities of the area and of property in the vicinity, notwithstanding the proposed mitigation measures. Furthermore, the Board is not satisfied that the proposed development would not facilitate the continued use of an unauthorised development on or adjoining the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the nature and scale of the existing development on the site, which generates a significant volume of traffic, including a high number of heavy goods vehicles, it is considered that the proposed development would result in the intensification of use of an access onto the N71, which is a National Secondary Road, at a point where a speed limit of 60km/h applies, and would introduce an additional diesel dispensing forecourt near the entrance to the mixed use commercial/retail development, which would result in a multitude of potentially conflicting traffic flows that would endanger pedestrians and give rise to a traffic hazard, and that the additional traffic movements generated by the proposed development would interfere with the safety and free flow of traffic on the public road. The proposed development would, therefore, contravene Government Policy on National Roads to preserve the level of service and carrying capacity of the National Secondary road and to protect the public investment in the road and would endanger public safety by reason of a traffic hazard. The proposed development would, therefore, would be contrary to the proper planning and sustainable development of the area.

Mary Kennelly
Planning Inspector

19th February 2019