



An
Bord
Pleanála

Inspector's Report

ABP-303899-19

Development	Retention of demolition of a house and filling of land. Permission for site works to enable finished ground level to tie-in with ground level permitted under Reg. Ref. 12/4911 (ABP Ref PL04.241591)
Location	Pallas, Lombardstown, Mallow, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	18/07371
Applicant(s)	Inver Energy Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission and Retention Permission
Type of Appeal	First Party v. Grant
Appellant(s)	Jeremy Murphy
Observer(s)	None

Date of Site Inspection

9th May 2019

Inspector

Elaine Power

1.0 Site Location and Description

- 1.1. The subject site is located on the N72 approx. 2.5km west Lombardstown and approx. 10.5km west of Mallow. It is located approx. 40m south of Bolands Bridge and the River Blackwater.
- 1.2. The site has a stated area of 0.016 ha and is rectangular in shape. It previously accommodated a house. The subject site forms part of a larger landholding within the ownership of the application. The overall site previously accommodated a filling station with an associated retail unit.
- 1.3. The overall site is irregular in shape. It is currently fenced off and has recently been cleared and levelled. A steep embankment of stone has been provided along the western boundary of the site, with the N72. At the eastern boundary of the site there is a steep slope with mature trees and an unnamed watercourse. The site is bound to the north by 2 no. dwellings and agricultural lands and the south by the River Blackwater and agricultural lands.

2.0 Proposed Development

It is proposed to retain the demolition of a house, with a gross floor area of approx. 110sqm, and the partial filling of the land. Permission is also sought to carry out site works to enable the finished ground floor level to tie-in the ground floor level of the overall site, as granted under Reg. Ref. 12/4911, ABP PL04.241591, as extended under Reg. Ref. 18/6008.

3.0 Planning Authority Decision

3.1. Decision

Permission and retention permission was granted subject to 2 no conditions.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The Area Planners Report and the A/Senior Executive Planners Report raised no concerns regarding the proposed development and recommended that permission be granted.

3.2.2. **Other Technical Reports**

Ecologist Report: An Appropriate Assessment Screening Report was carried out and concluded that there was no objection to the proposed development.

Environmental Report: No Objection.

Area Engineer: No Objection.

3.3. **Prescribed Bodies**

TII: No Observations

3.4. **Third Party Observations**

Submissions were received from (1) Jeremy Murphy and (2) Peter Sweetman. The concerns raised are similar to those in the third-party appeal submission.

4.0 **Planning History**

PL04.241591, (Reg. Ref. 12/4911): Permission was granted in 2013 for the demolition of an existing filling station and associated retail unit and the construction of a new filling station with retail unit and store and associated signage, and the construction of a new and separate vehicular entrance and private open space to existing dwelling house. An Extension of Duration of Permission was granted in 2018 under **Reg. Ref. 18/06008**.

5.0 **Policy Context**

5.1. **Cork County Development Plan, 2014**

The site is located in a rural area and is unzoned.

The site is located in an area identified as Fertile Plain with Moorland Ridge in Appendix E of the Plan. These locations are designated as area of very high landscape value, very high landscape sensitivity and are of county importance. Section 13.6 – *Landscape Character Assessment of County Cork* states that ‘*very high sensitivity landscapes (e.g. seascape area with national importance) which are likely to be fragile and susceptible to change.*’ Policies GI 6-1: Landscape and GI 6-2: Draft Landscape Strategy relate to the protection of the landscape of County Cork.

The site is also located on a scenic route (S14) which links Mallow to Roskeen Bridge. Policies GI 7-2 Scenic Routes and GI 7-3 Development on Scenic Routes relate to the protection of the character of scenic routes.

5.2. Natural Heritage Designations

The site is located within the Blackwater River (Cork / Waterford) Special Area of Conservation (Site Code 002170).

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the development to be retained and completed. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was received from Jeremy Murphy. The issues raised are summarised below.

- Unauthorised works have been carried out on the site. An Extension of Duration (Reg. Ref. 18/6008) should not have been approved by Cork County Council.

- The application does not adequately address the impact the proposed development will have on the previously approved development on site (Reg. Ref. 12/4911, ABP PL04.241591)
- The access and egress from a National Road has been altered. The proposed development will result in a traffic hazard.

No details of the intended fill material has been provided.

6.2. Applicant Response

The Applicants submission is summarised below: -

- The Appellant is a competitor and does not live in the immediate area. The works do not result in an adverse impact on the amenities of the appellants commercial property and operations, which are located approx. 4km from the site.
- During enabling works for the filling station, previously approved on site, the existing house, subject of this appeal, became unstable. The dwelling was demolished, and the area of land subsequently filled.
- The demolition of the house does not impact on the development of the filling station.
- It is not proposed to import any new or additional fill. The works involve the grading of the existing on-site materials.
- The fill material was assessed as part of the AA Screening Assessment carried out as part of the previous application.
- The demolition of the house reduces the number of vehicular access points to the site and therefore improves traffic safety.
- The works do not result in an adverse impact on the amenities of surrounding properties.

6.3. Planning Authority Response

None

7.0 Assessment

The main concerns raised in this appeal relate to the principle of the development and the potential for a traffic hazard. It is noted that concerns are also raised regarding the administrative processes carried out in Cork County Council and the applicants disregard for Planning Legislation, by carrying out unauthorised works on the site. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development
- Traffic
- Appropriate Assessment.

7.1. *Principle of Development*

- 7.1.1. The subject site (0.016ha) forms part of a larger site (0.76 ha), within the applicant's ownership. Permission was previously granted (PL04.241591), on the overall site, for the demolition of an existing filling station with associated retail unit and the construction of a new filling station with a retail unit and store and for a vehicular access and private open space associated with the existing house. The applicant has stated that the house, subject of this appeal, became unstable during enabling works and was subsequently demolished, and the site was filled. Concerns have been raised in the appeal that the impact of the works on the redevelopment of the overall site have not been assessed.
- 7.1.2. The house had a gross floor area of approx. 110sqm. It was a traditional style two-storey house with a part basement. Permission was granted (PL04.241591) for a new vehicular access onto the N72 and private open space associated with the house. The gable end of the house was located approx. 7m south of the forecourt canopy of the proposed filling station and approx. 46m south the proposed retail unit. Having regard to the limited size of the site, its siting within the overall site and the nature of the

works, it is my view that the works, subject to this appeal, do not negatively impact on the redevelopment of the site and the provision of the filling station.

7.1.3. Permission is also sought to fill the subject site to tie-in with the ground levels of the overall site, approved under PL04.241591. Concerns were raised in the appeal, that no information has been submitted regarding the proposed fill material. In the response to the appeal the applicant has clarified that the proposed works involve grading the existing on-site materials and does not require the importation of an new or additional fill.

7.1.4. Originally there were a substantial level differences on the site, with a level difference of approx. 2.5m from the front of the house and the rear of the house. To date the fill material has been unevenly applied on site, with a steep embankment provided along the eastern boundary, with the N72. It is proposed to retain and level this fill and further raise the ground level by approx. 1.2m – 2m above the original ground level. These works will result in a gentle slope on the overall site, with the subject site being approx. 0.9m lower than the centre of the public road (N72), 1.3m lower than the permitted retail unit and 0.7m lower than the permitted forecourt. Having regard to the original level differences on site, and the ground level approved under PL04.241591 for the overall site, I have no objection to the retention and completion of the filling of the site.

7.2. ***Traffic Impact***

7.2.1. Concerns have also been raised that the works subject of the appeal would result in a traffic hazard. The works include the retention of the demolition of a house. It is noted that permission was previously approved for the provision of a new separate vehicular access for the house. The demolition of the house results in the omission of the access onto the N72. As the works to be retained and completed omit an access onto the N72, it is considered that the works do not result in a traffic hazard or any road safety issues.

7.3. ***Appropriate Assessment***

7.3.1. The applicants Stage 1 AA Screening report described the site, the location and the proposed development, it summarised the regulatory context, it carried out desk top surveys and identified the European sites located within 15km radius of the works. It

confirmed that the proposed development is located within the Blackwater River (Waterford / Cork) SAC. It described the site and its qualifying habitats and species and listed the conservation objectives and targets and attributes. The NIS which was submitted as part of the previous application on site (PL04.241591) has been included as an Appendix.

7.3.2. Conservation *Objectives*: to maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC has been selected.

<i>European Site</i>	<i>Site Code</i>	<i>Relevant QI's and CI's</i>
Blackwater River (Cork / Waterford) Special Area of Conservation	002170	Freshwater Pearl Mussel White-clawed Crayfish Lamprey Twaite Shad Salmon Otter Estuaries Mudflats and Sandflats Perennial Vegetation Salicornia and other annuals Mediterranean salt meadows Killarney Fern Water courses of plain to montane levels with the Ranunculus fluitantis and Callitriche-Batrachion vegetation Old sessile oak woods Alluvial forests Taxus baccata woods

- 7.3.3 The Stage 1 AA screening report concluded that the works, subject to this appeal, would not and have not resulted in significant impacts on the SAC and do not inhibit, modify or preclude any of the permitted works previously approved PL04. 241591 and assessed within the NIS.
- 7.3.4 Notwithstanding the proximity of the site to the stream, which comprises a potential pathway, and the sites location within the SAC, there is no evidence to suggest that the works subject to this appeal have resulted or would result in significant disturbance or displacement of any qualifying interests.
- 7.3.5 It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site 002170, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and the submission of an NIS) is not therefore required.

8.0 Recommendation

It is recommended that permission be granted subject to conditions.

9.0 Reasons and Considerations

Having regard to the pattern of development in the rural area, the planning history of the site and the nature and scale of the development to be retained and completed, it is considered that, subject to compliance with the conditions set out below, the development to be retained and completed would not seriously injure the amenities of the area and would be acceptable in terms of traffic safety. The proposed development would, therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained 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 details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The vehicular access associated with the dwelling house shall be permanently omitted. The details of the boundary treatment along the eastern boundary of the site shall be submitted and agreed in writing with the Planning Authority prior to completion of works on site.

Reason: In the interest of clarity.

Elaine Power
Planning Inspector

17th June 2019