



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304656-19

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<b>Development</b>	Demolition of outbuildings and extension to filling station. Realignment of one site access point and extension of boundary wall.
<b>Location</b>	Maxol Service Station, Whitestrand, Salthill Road Lower, Galway.
<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	18201
<b>Applicant(s)</b>	Maxol Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Residents of Father Griffin Road
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> August 2019
<b>Inspector</b>	Ronan O'Connor

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## 1.0 Site Location and Description

- 1.1. The site is located at the junction of Father Griffin Road and Salthill Road Lower, to the west of Galway City. On site is an existing service station with associated retail element.
- 1.2. The site is bounded to the north-east by a commercial premises, which has an access to the south-east of the site. To the south and south east and east of the site are residential properties along Father Griffin Road.
- 1.3. There are two entrances/exits off Salthill Road Lower and two entrance/exits off Father Griffin Road.

## 2.0 Proposed Development

- 2.1. Demolition of outbuildings and extension to filling station. Realignment of one site access point and extension of boundary wall.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant Permission. Conditions of note are as follows:

- Condition No. 4 – Restriction on the hours of operation of the deli and sit down area, off licence, delivery times.

### 3.2. Planning Authority Report

#### 3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

- Demolition and removal of the outbuildings considered acceptable.
- Applicant invited to comment on restricted sightlines from the proposed car wash exit, as a result of car parking.
- Principle of the development is acceptable in principle.

- Retail activity is clearly ancillary to the main activity of the petrol station.
- Application is requested to justify the provision of the off-licence element, having regard to the surrounding residential properties.
- Design is considered an improvement so the appearance of the building.

Further Information was requested in relation to (1) sightlines (2) justification for off-licence (3) nature of retail/deli element (4) car parking provision (5) signage.

Significant Further Information was received on 11/01/2019. which is summarised below:

- Sightlines – Revisions proposed to exit/double yellow line across the width of the exit and 4m beyond the exit.
- Off licence – Applicants stated not a stand-alone off-licence/accounts of only 8sq. m. - Planning officer considered the provision acceptable given the limited nature and size and the existing provision on site.
- Nature of Retail/Deli – No change in opening hours/will not be a 24hr/will not be a takeaway/delivery times outlined. In relation to the noise of the air conditioning units, a Noise Impact Assessment was submitted which states that there will not be an adverse impact on surrounding residential properties.
- Car Parking – Two additional spaces proposed on site.
- Signage – Details submitted.

3.2.2. Clarification of Additional Information was requested in relation to (1) proposed enclosure for the AHU and AC units (2) methodology of the noise assessment (3) details of sound attenuation materials to the east and southern boundary.

Clarification of Additional Information was received on 18/04/2019 and was considered acceptable.

Recommendation was to grant permission.

3.2.3. Other Technical Reports

Environment – No objection subject to conditions.

HSE – No objection subject to conditions.

T&I – No objection subject to conditions.

### 3.3. Prescribed Bodies

3.3.1. None.

### 3.4. Third Party Observations

3.4.1. 24 number of objections were received at application stage, 5 number in relation to the additional information submitted (including a signed petition of 23 signatures), and 1 no. objection in relation to the clarification of further information. The main issues raised are as follows:

#### Amenity

- Operating hours
- 24hr fast food service/unsuitable for a residential area
- Object to off licence/question need for provision/ Anti-social behaviour
- Delivery times
- Overlooking
- Noise from AC Units/car wash/Insufficient mitigation measures

#### Traffic

- Insufficient parking on site
- No delivery bay
- Increase in traffic movements
- No TIA has been submitted
- No cycle parking
- Traffic safety

#### Other

- Flooding
- No details of signage/waste plan
- Impact on the Father Griffin Monument (A Protected Structure)

## 4.0 Planning History

04/1000 – Grant - Car Wash

02/977 - Grant- Extension

98/451 – Grant – Cash Machine

93/151 – Grant – Petrol Filling Station

## 5.0 Policy Context

### 5.1. Development Plan

#### Galway City Development Plan 2017-2023

The site is zoned CI ‘Enterprise/Light Industry/Commercial’ with an objective to ‘To provide for enterprise, light industry and commercial uses other than those reserved to the CC zone’.

Relevant provisions of the Development Plan include:

- Section 11.16 Petrol Filling Stations. This concerns applications for filling stations and states *inter alia* where ancillary shops are permitted the total floor area devoted to retail sales shall not generally exceed 100m<sup>2</sup>.
- Section 11.4.6 ‘City Centre and/other Areas’ – considers *inter alia* applications for off-licences. Where development for off-licences, are being considered in areas outside of the city centre, the Council will take into account the following:
  - The effect of the proposed development on the amenities of the area,
  - The effect of the proposed development on the mix of uses in the area,
  - The size, number and location of existing off-licenses premises in the area.

### 5.2. Natural Heritage Designations

5.2.1. None.

### 5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. 1 no. Third Party Appeal has been received the Residents of Father Griffin Road, Galway, No.'s 97, 99, 101, 103, 105, 107 & 109 Father Griffin Road. The Grounds of Appeal are as follows:

#### General

- Scale of development is not in keeping with the Development Plan.
- Would devalue property.
- Area is largely zoned R 'Residential' – is an established residential area.
- Welcome the provision of a convenience store – however grave concerns over some aspects of the proposed development.

#### Parking/Traffic

- Requires 10 parking spaces but has only provided 5 safe places.
- Double yellow lines will reduce parking for residents
- Reducing the number of entrances/exits would be safer/allow for more parking spaces
- Provision of metered parking would resolve this issue
- A full TIA should be carried out as it is less than 35m from a major junction.
- No loading bays are provided/will increase congestion/impact on public safety.
- Deliveries are currently made at all times of the day.

#### Amenity

- Surfeit of off-licences in the area.
- 3 office licences within 0.5km and 5 further premises within 1.km.
- No evidence that supports the demand for this expansion.
- Glazed area directly overlooks the facing residences/request that the glazing be made opaque.

#### Design/Conservation

- Poses a risk to the Father Griffin Monument (A Protected Structure)/forms part of the boundary wall of the site.
- No mention within the application documents – no documents relating to works to the protected structure.
- No reference to the Protected Structure in the site notices.
- Imperative that it should be protected/century of Father Griffin’s execution in 2020
- Is not of a high quality design

### 6.2. **Applicant Response**

#### General

- Appeal is not valid/not all of the appellant’s have submitted acknowledgment of their original submission.

#### General

- Development would accord with the C1 zoning/Principle is acceptable.
- Retail shop and off-licence will remain ancillary to the petrol station.
- Sit down café areas do not form part of the net retail floorspace.
- Examples of where permissions for food outlets associated with petrol stations are given.
- The deli and seating area is small scale – 56.5 sq. m.

#### Parking/Traffic

- Revised exit proposals represents a planning gain in terms of traffic safety



- No parking space will be lost as the parking provision will only be relocated from one side of the proposed re-located exit to the other.
- Provision of metered parking is not a planning issues.
- Proposal provides 11 designated parking spaces, plus 8 additional spaces at pumps.
- The Board has previously accepted that car parking spaces at pumps can be considered as part of the overall car parking provision.
- Majority of the staff do not use a car to travel to work – site is well served by public transport.
- Unreasonable to request that the number of existing entrances/exits be reduced/the number of entrances to the site is already being reduced from 4 to 3.
- Development Plan requirement is for 10 spaces in total.
- The three car parking spaces at the service area are existing car-parking spaces and there is no proposal to remove these.
- There will be no increase in the number of delivery trucks to the site/condition has been imposed that restricts times of deliveries.
- Willing to accept a planning condition that all deliveries take place within the site.

#### Amenity

- Off-licence forms a minor ancillary element (8.7 sq. m) of the total retail floorspace and should not be considered a stand-alone off licence.
- Unreasonable to apply Section 11.4.6 of the CDP to this proposal as this relates to stand-alone off licences.
- No evidence to support claims of anti-social behaviour made at application stage.
- Reference is made to previous instances the Board has granted similar applications for ancillary off-licences.
- The only control over the volume of alcohol sales is based on floor area.
- No specific policy that controls or restricts land uses in proximity to schools.

- No overlooking from the glazed area due to the distance of the proposed development from the Appellant's properties, the proposed development is single storey and due to parking on both sides of the road.
- In relation to noise the AHU and car wash plant equipment is to be replaced with quieter alternatives and relocated within a noise attenuation enclosure- this will result in a considerable reduction in noise.
- Noise Impact Assessment addressed all of the issues raised by the planning authority.

### 6.3. **Planning Authority Response**

- Transportation Department satisfied with the delivery and loading arrangements.
- Off-licence has a limited area and was considered ancillary.
- No impact on the Fr. Griffin Monument.
- Not considered the glazed element would lead to overlooking.

### 6.4. **Observations**

6.4.1. None.

## 7.0 **Assessment**

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of the proposed development
- Transport
- Residential Amenity
- Design/Conservation
- Appropriate Assessment

### 7.2. **Principle of the Proposed Development**

7.2.1. The site is located within an area zoned CI 'Enterprise, Light Industry and Commercial'. This allows for *inter alia* retail of a type and of a scale appropriate to the function and character of the area. Of material consideration is the existing petrol station, with a retail element on the site. The extension of the premises is therefore acceptable in principle, subject to the considerations below.

7.2.2. **Transport**

7.2.3. The Third Party Appellants have raised the a number of issues related to transport, namely parking provision on the site, loss of parking in the vicinity of the site, delivery times and the nature of deliveries.

7.2.4. In relation to parking provision on site, the development plan requires a total of 10 parking spaces, and the applicants have provided 11 designated spaces. I do not accept the appellants' argument that the 6 of the 11 proposed spaces are unsafe or unusable, and I am satisfied that the layout and positioning of the spaces is appropriate, and will not give rise to safety issues. Therefore, the level of parking provision is acceptable.

7.2.5. In relation to road safety issues, namely the issue of potentially restricted sightlines from the proposed exit-only point on the Father Griffin Road, designed for users of the car wash. The applicants have proposed double yellow lines on either side of the exit point. The appellants' have stated that such provision will lead to a loss of an on-street parking space.

7.2.6. I note that the provision of double yellow lines, and the level of on-street parking, is a matter for the local authority, and is outside the control of the applicant.

Notwithstanding, I do not consider that sightlines are so restricted from the proposed exit point, as a result of on-street parking, so as to create a traffic hazard. In any case the number of movements associated with the car wash is limited during the day. I note also that an exit/entry point will be closed and this currently generates traffic movement to and from Father Griffin Road. The closure of this access point will have a beneficial impact on road safety, in my view.

7.2.7. In relation to deliveries, I do not consider that the increase in floor area will result in a significant increase in deliveries. In any case, a condition can be imposed in relation to delivery times, and requiring that all deliveries take place within the confines of the site, and not from the public road.

### **7.3. Residential Amenity**

- 7.3.1. The Third Party Appeal submission raises the issue of overlooking from the glazed area at ground floor level.
- 7.3.2. I do not consider overlooking will result from this element. There is approximately 19m from this glazed element to the closest residential window. Furthermore the use is non-residential in nature, and is separated from the nearest residential locations by a public road which is relatively heavily trafficked with parking on both sides of the road, all of which will serve to ensure no overlooking will result from the proposal.
- 7.3.3. In relation to the impact of the off-licence, this is very limited in area and is ancillary to the use of the site as a filling station. Such ancillary off-licences are commonplace within such premises and, in my view, will not have an impact on residential amenity of the area.
- 7.3.4. The issue of noise was raised in the submissions at application stage, although not raised in the Third Party Grounds of Appeal.
- 7.3.5. I note that there are existing plant units to the south-east elevation (to the rear of the shop) and there are two units on the north-western façade of the store room. I am satisfied that the relocation of the plant units to a location further from residential properties, to the north-east elevation, and the enclosure of such units within an acoustic enclosure, will result in reduced noise levels from the premises. A condition is recommended to ensure that appropriate noise levels are maintained.

### **7.4. Design/Conservation**

- 7.4.1. The issue of design was raised by the appellants and it is stated that the proposal is not of high quality design.
- 7.4.2. In my view, the design is typical of a filling station which accommodates ancillary activities and the scale of the proposal is in keeping with the surrounding area.
- 7.4.3. In relation to the impact on the Father Griffin Monument, the appellants appear to be referring to the monument on the boundary walls of the existing filling station. This is not a Protected Structure. The Record of Protected Structures refers to a monument (RPS Ref 3910) which is located some 800m from the filling station, close to the Father Griffin Road and Claddagh Quay. As such there will be no impact on same.

### **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, extensions to an existing filling station, within a serviced area and separation distance to the nearest European site, 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 the conservation objectives of any European site.

## 8.0 Recommendation

- 8.1. Grant permission.

## 9.0 Reasons and Considerations

Having regard to the zoning objective for the site, the pattern of development in the vicinity and the policies of the current Galway City Development Plan 2017-2023, it is considered that the proposed development would not seriously injure the residential or visual amenity of the area, would not have a material impact on the surrounding road network nor would it lead to the creation of a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 11th day of January 2019, and by the further plans and particulars submitted on the 18<sup>th</sup> day of April 2019, 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.</p> <p><b>Reason:</b> In the interests of clarity.</p>
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2.	<p>The noise level shall not exceed 55 dB(A) rated sound level, as measured at the nearest noise sensitive location. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity of the site.</p>
3.	<p>The following hours of operation shall apply:</p> <p>Deli and sit-down area: Monday to Friday 06:30 to 21:00; Saturdays and Sundays 07:00 to 21:00</p> <p>Off-licence: Monday to Saturday 10:30 to 22:00; Sundays 12:30 to 22:00</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity of the site.</p>
4.	<p>There shall be no deliveries to the commercial/retail element outside of the hours of 08:00 to 22:00. All deliveries shall take place within the confines of the site.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity of the site.</p>
5.	<p>The deli and sitting area shall not be used as a takeaway.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity of the site.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0900 to 1300 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
7.	<p>Water supply and drainage arrangements, including the attenuation and</p>

	<p>disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
8.	<p>The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
9.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
10.	<p>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.</p> <p><b>Reason:</b> 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</p>

	applied to the permission.
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Rónán O'Connor  
Planning Inspector

07<sup>th</sup> October 2019