



An
Bord
Pleanála

Inspector's Report ABP 307672-20

Development	Retention of an existing silo.
Location	Knock, Lanesboro, Co. Longford.
Planning Authority	Longford County Council
Planning Authority Reg. Ref.	20/98
Applicant	MAC-CAS Limited
Type of Application	Retention Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant	Michael Connaughton
Observer(s)	None
Date of Site Inspection	21 st October 2020
Inspector	Brendan Coyne

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1.0 Site Location and Description

1.1. The site (0.28 ha) is located on the north-eastern side of the R392 in Lanesborough, Co. Longford. The site contains a single storey fuel service station with an unoccupied dwelling attached to its side, a 6.6m high grain silo immediately to the rear of the service station and a separate agri-supply business and gravel surfaced yard to the rear / north-east of the site. Vehicular access to the agri-supply business is provided to both sides of the fuel service station and adjoining unoccupied dwelling. A forecourt canopy and 2 no. fuel pump islands are located to the front of the fuel service station retail unit. A two-storey semi-detached dwelling is located on lands adjoining the site to the north-west and a single storey detached dwelling is located on adjoining lands to the south-east. The roadside boundary of the site is undefined. The speed limit along the R392 to the front of the site is 50 km/hr and a pedestrian crossing is located immediately to the front of the site. Lanesborough Community College is located opposite the site, on the south-western side of the R392. A row of 2 storey terraced dwellings within Church View housing estate adjoins the site to the north-east.

2.0 Proposed Development

2.1. Permission sought for the RETENTION of the following;

- An existing 6.5 metre high grain silo.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Longford County Council GRANTED permission for the retention of the development subject to 6 no. Conditions.

3.2. Planning Authority Reports

Planning Report (08/07/2020)

Basis for the Planning Authority's decision. Includes:

- The proposed development relates only to the retention of an existing grain silo located to the rear of the existing shop and is currently in use with the existing agri-business.
- Having regard to the nature of the existing site, to its proposed use and zoning status in the County Development Plan 2015-2021, it is considered that the proposed development is acceptable.

3.2.1. **Other Technical Reports:** None

4.0 **Planning History**

P.A. Ref. 19/101 & ABP Ref. 306838-20 Permission REFUSED ON APPEAL on the 18/08/2020 for the **retention** of the existing extended commercial storage yard. The reasons for refusal were as follows;

1. The proposed development comprises part of a larger commercial development and would facilitate the intensification of this use and associated parking, loading and unloading requirements. It is considered that the arrangements for traffic management are ambiguous and inadequate to cater for the parking demand generated by the proposed development, thereby leading to conditions which would be prejudicial to public safety by reasons of traffic hazard within the site and on the public roads in the vicinity.
2. On the basis of the information provided with the application and appeal the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Lough Ree Special Area of Conservation (Site Code: 000440) and Lough Ree Special Protection Area (Site Code: 004064), or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

P.A. Ref. 17/50 Application made by Michael and Nancy Casserly for the retention of an existing car wash bay - WITHDRAWN.

P.A. Ref. 17/13 Application made by Michael and Nancy Casserly for the retention of an existing storage yard - WITHDRAWN.

P.A. Ref. 14/47 and ABP Ref. PL14.243643 Permission GRANTED ON APPEAL to Mac Cass Ltd. for the construction of a canopy to serve existing fuel dispensing pumps.

Condition No. 3 requires, inter alia, that (a) the developer implement the traffic management plan submitted to the planning authority on the 17th day of June, 2014 in its entirety and submit to the planning authority for written agreement proposals for the management of vehicles making deliveries to the site, (b) parking spaces numbers 6, 7, 10 and 11 shall be relocated to the rear of the proposed site, (c) car parking space requirements and (d) where solid fuels (coal/briquettes) or bottled gas are to be sold, these shall not be displayed or stored to the front of the shop premises or on the forecourt area but shall be kept in a screened-off area or compound to the side or rear of the building.

P.A. Ref. 11/62 Application made by Mac Cass Ltd, for the retention of partial use of the existing shop as an off-licence, canopy over existing fuel pumps, and full permission for retention of existing front façade of existing shop as built – deemed WITHDRAWN.

P.A. Ref. 10/29 Application made by Michael Casserly, for permission to construct a single storey extension to the rear of the existing shop unit, internal alterations, alterations to elevations, signage, removal of existing fuel pumps and installation of new fuel pumps with underground storage tanks, proposed canopy over pumps, car wash area and boundary fence, replacement of existing gantry sign, demolition of existing shed, connection to existing public foul sewer and surface water networks - WITHDRAWN.

P.A. Ref. 07/455 and ABP Ref. PL14.224700 – Permission GRANTED ON APPEAL to Burke and Lynch Ltd to retain a dry car valet workshop in an existing unit located to the rear of Burke’s Costcutter Petrol Station for a temporary period of 2 years.

P.A. Ref. 06/607 and ABP Ref. PL14.220492 – Permission REFUSED ON APPEAL, to Burke and Lynch Ltd, for a carwash recycling facility, fresh water tank and grease trap for the following reasons; (1) inadequate nature of the drawings lodged which did not comply with the Planning and Development Regulations, 2001 and precluded the

Board from considering a grant of permission, and (2) lack of clarity regarding how the water to be used would be connected into the water drainage network.

P.A. Ref. 00/352 Permission GRANTED to James O’Flaherty for a two-storey building, ground floor shop stores and first floor office, staff room, toilets and stores with external staircase to replace existing single stores building.

P.A. Ref. PL00/235 – Permission GRANTED to James O’Flaherty for the retention of three no. grain stores.

P.A. Ref. 99/715 - Permission granted to James O’Flaherty for redevelopment of the service station forecourt, new tanks and canopy.

5.0 Policy and Context

5.1. Development Plan

Longford County Development Plan 2015-2021 is the statutory plan for the area.

Zoning: The site lies within the development envelope of Lanesborough and is zoned ‘Commercial/Residential’, as per Variation No. 4 of the Development Plan. The purpose of the zoning is ‘to primarily provide for residential development with a possible element of commercial/retail development’.

Appendix 1D: Local Service Towns Ballymahon & Lanesborough Zonings and Policy

The site lies within the aquifer protection zone around the public supply borehole at Aghamore, Lanesborough.

Policy WS9 seeks ‘to ensure that the public drinking water supply of the County complies with relevant EU drinking water standards and to support the extension of supply, where necessary and where resources permit, to meet demand’.

Table 5.3: Parking Standards

5.2. Natural Heritage Designations

- 5.2.1. The appeal site lies c.400m to the east of Lough Ree, which is designated as a Special Area of Conservation, proposed Natural Heritage Area (Site Code 000440) and Special Protection Area (Site Code 004064).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was received from Tracy Connaughton MRIA, representing the third-party appellant Michael Connaughton, against the decision made by the Planning Authority to grant permission for the proposed development. Mr. Connaughton resides at No. 10 Knock, Lanesboro which adjoins the north-western boundary of the site. The grounds of appeal document submitted refers to issues pertaining to a separate planning application P.A. Ref. 20/97 on the subject site, which is currently on appeal under ABP Ref. 307675-20. The following is a summary of the issues raised in relation to the development seeking retention permission under the subject appeal.

6.1.2. Impact of the grain silo.

- The grain silo is located less than 30 metres from the appellant's dwelling and within 100 metres of a school and the Church View and Knock housing estates.
- The adjacent open storage yard encourages rats in the area.
- The grain silo is located against the back wall of a deli and associated cold storage room.
- A large amount of commercial food waste and grain is washed into the public sewer. The local authority has not addressed this issue.
- The grain silo is a threat to public health and is an environmental concern. Reference made to Inland Fisheries reports submitted under previous applications P.A. Ref.'s 17/13 and 17/50, where these reports queried meal and water treatment on the site.
- The grain silo should have been identified on the storage yard which was recently refused retention permission on appeal under P.A. Ref. 19/101 & ABP Ref. ABP 306838-20.
- There is a lack of adequate parking and poor traffic management on the site. HGV's and lorries park on the road and fuel tankers reverse across the main roadway.

- The applicants under P.A. Ref. 19/101 & ABP Ref. ABP 306838-20 were Michael & Nancy Casserly. The applicant under the subject appeal are MAC-CAS Limited, of which Michael & Nancy Casserly are both Directors.

6.1.3. Unauthorised development at the appeal site and applicant's landholding

- Unauthorised development has occurred at the site since 2010.
- There is a lack of clarity in relation to the extent of unauthorised development and changes of use on the site.
- The drawings submitted do not detail unauthorised development on the site.
- There are currently three retention planning applications in progress on this site. These combined applications do not detail the full extent of unauthorised works.
- Lack of clarity that Longford County Council is fulfilling its responsibility as the planning authority, building control authority and enforcement authority.
- Longford County Council imposed inadequate conditions in its grant of permission.
- The appellant provides details of non-compliance with conditions imposed under previous permitted applications.
- The mismanagement of and unauthorised development on the site has adversely impacted the residential amenity of the appellant and reduced the value of their property.
- The unauthorised development and mismanagement of the site provides no protection of the environment, ground water or Natura 2000 sites in the area.
- The appellant has incurred excessive planning and legal advice costs in relation to the unauthorised development on the site.

6.1.4. Appendices lodged with the appeal include the following;

- Extracts from previous application P.A. Ref. 17/13 (deemed withdrawn) including (inter alia);
 - Inland Fisheries report
 - Appellant's previous observations

- Photographs of the site
- Details from the Natura Impact report of Longford County Development Plan 2015 - 2021.
- Extracts from the Landscape Character Assessment of Lanesborough in the Longford County Development Plan.
- Details of correspondence with Longford County Council since 2019 including correspondence and a photograph with regards oil and petrol spills on the site.
- Acknowledgement letter from the EPA.
- Details of enforcement correspondence with Longford County Council with photographs attached.

6.2. Applicant Response

6.2.1. The response received from J.A. Gorman Consulting Engineer Ltd., representing the Applicant, is summarised as follows;

- The applicant has not sought to frustrate the planning process in any way.
- Recent applications made in respect of the subject or adjoining site have been made in the names of the relevant and applicable legal entity.
- The applicant is making a genuine effort to comply with the Planning and Development Regulations.
- The grain silo has been specifically designed to store animal feed in a safe, secure and hygienic way.
- The grain silo is fully enclosed with controlled fill and discharge chutes to mitigate the risk of attracting birds / vermin and to eliminate waste.
- Pestguard Limited are retained by the applicants on a quarterly basis to provide pest control services at the subject site. Copies of statements / agreements are available upon request.
- The grain silo is not located within the area of the site which is subject to a separate retention application / appeal under P.A. Ref. 19/101 & ABP Ref. ABP 306838-20.

- The silo is relatively easy to move, therefore the applicant is willing to relocate the silo to an alternative location within the confines of the site should the Board consider it a requirement to increase separation distances.
- Irish Water are aware of all wastewater connections made to the public foul sewer and discharge emanating from the premises. The applicants are a customer of Irish Water and pay quarterly fees on a non-domestic basis.

6.2.2. Appendices lodged with the applicant's response include the following;

- Letter from Michael J Casserly, Managing Director of Mac-Cass Ltd. stating:
 - Details of the establishment of Mac-Cass Ltd. in 1988 and its trading activities.
 - The site is not illegally connected to the public sewer. Rates and water rates are paid to Longford County Council and Irish Water.
 - The applicant would not deliberately allow feed to be washed to the wastewater drain, with the cost that it would incur.
 - With regards traffic, the site has been accident / incident free since the appellants purchased the premises in 2009.
 - Neither the School Board of Management or residents of the Church View estate have made an observation or objection to planning applications on the site.
 - There has never been an oil spill on the site.
 - The applicants have a contract with 'Pestguard' to control pests on the site.
- Details of the planning history of the site.
- Solicitors letter (dated 01st July 2020) clarifying the appellants misquotation of a Judge in Longford court with regard breaches of planning legislation.

6.3. Observations

None

7.0 Assessment

7.1.1. I consider the main issues in determining this appeal are as follows:

- Principle of the proposed development
- Impact on Amenities
- Traffic / Car Parking
- Drainage
- Unauthorised Development

These are addressed below.

7.2. Principle of the proposed development

7.2.1. The appellant objects to the grain silo seeking retention permission on the grounds of its proximity to the appellants dwelling, a school and nearby housing estates. The appellant, Mr. Connaughton resides at No. 10 Knock, Lanesboro which adjoins the north-western boundary of the site and is located c.28 metres from the grain silo. The dwelling on the adjoining site to the south-east is located c.20 metres from the grain silo and a row of dwellings within Church View estate is located c. 52m to the north-east of the grain silo. Lanesborough Community College is located c.57 m to the south-west of the grain silo. The grain silo itself is located in the L-shaped return area to the rear of the fuel service station shop, at its north-eastern corner.

7.2.2. The appeal site is zoned 'Commercial/Residential', as per Variation No. 4 of the Longford County Development Plan. Having regard to the permitted and established agri-business of the site and the 3 no. grain stores permitted under P.A. Ref. PL00/235, I am satisfied that the grain silo seeking retention permission is consistent with the established use on the site and, therefore, would not be contrary to the zoning objective of the area.

7.3. Impact on Amenities

7.3.1. The grain silo is 6.5m high, cylindrical in shape with a half dome top and has a diameter of 3 metres. The structure is made of galvanised steel, incorporating filler pipes. The

grain store itself within the silo is raised off the ground and incorporates dispensers for the discharge of grain. The adjoining fuel service station premises has a roof ridge height of 7.4 metres. The adjacent agri-business stores to the rear of fuel service station are in excess of 2 metres in height. Having regard to the context of the site and the location of the grain silo, I do not consider the scale and height of the silo detracts from the character or visual amenity of the surrounding area.

- 7.3.2. The appellant expresses concern with regards vermin on the site. The applicant addresses this issue in response to the grounds of appeal stating that they have a contract with the pest control company 'Pestguard' to control pests on the site and that copies of statements / agreements with the company are available upon request. On the date of site inspection, I found the ground surrounding the grain silo clean and clear of grain. Given the permitted grain stores on the site, I consider it would be inappropriate to refuse retention permission for the grain silo on the grounds of its proximity to residential dwellings and a school. Concerns regarding pest control is a matter for pest control officers of the H.S.E. Notwithstanding this, I consider that in the event of a grant of permission a Condition should be imposed requiring that the grain silo be operated in such a manner to ensure that the surrounding ground is kept clean and clear of grain and other materials.

7.4. Parking / Traffic Management

- 7.4.1. The appellant objects to the proposed development on the grounds that there is a lack of adequate parking serving the development on site. The appellant also expresses concern with regards traffic management on what the appellant considers is an over-developed site.
- 7.4.2. The site is located within the 50km/hr speed limit zone of Lanesboro and along a straight stretch of road that is of a good standard in terms of width, alignment and the provision footpaths on either side. A signalised traffic light pedestrian crossing is located to the front of the premises, across the R392. The site has unrestricted access off the R392 and provides 7 no. parking spaces to the front and sides of the premises. Having regard to the location of the grain silo, which is easily accessible to vehicles accessing the agri-business on the site, I am satisfied that the development does not interfere with the flow of traffic accessing the site and provides adequate access and

turning movement for loading and unloading requirements. Given the nature and modest scale of the grain silo, I do not consider that the development seeking retention permission is a significant generator of traffic and does not create a traffic hazard. A traffic management plan is not warranted in this instance. I have had regard to the Board's recent decision under ABP Ref. 306838-20 whereby permission was refused for the retention of the existing extended commercial storage yard, with one of the reasons for refusal relating to traffic management and car parking generated by an intensification of the commercial development on the site. I do not consider that the grain silo seeking retention permission creates a significant intensification of the commercial development on the site to such an extent to warrant refusal of permission. I recommend, therefore, that the appeal should not be upheld in relation to this issue.

7.5. Drainage

- 7.5.1. The appellant expresses concern that grain is being washed from the site into the public sewer which is a threat to public health and the environment. Reference is made to Inland Fisheries reports submitted under previous applications P.A. Ref.'s 17/13 and 17/50.
- 7.5.2. As detailed in Section 4.0 above, under P.A. Ref. 17/13 permission was sought for the retention of an existing storage yard and under P.A. Ref. 17/50 permission was sought for the retention of an existing car wash bay. Both applications were deemed withdrawn. I noted during site inspection that a car wash is not in operation on the site and that under P.A. Ref. 19/101 & ABP Ref. ABP 306838-20 permission was recently refused on appeal for the retention of the existing extended commercial storage yard. The reasons for refusal are detailed in Section 4.0 above. Having regard to the nature of the grain silo seeking retention whereby the grain is enclosed in a sealed silo container and kept dry therein to prevent mould and decay, I am of the opinion that the grain silo is not a threat to public health or the environment. Surface water drainage can be dealt with by way of standard Condition, in the event of a grant of permission.

7.6. Unauthorised Development

- 7.6.1. The appellant objects to the proposed development on the grounds that unauthorised development has occurred at the site since 2010 and that condition requirements

under ABP Ref. PL14.243643 (see section 4.0 above) remain outstanding. The appellant highlights that the drawings submitted do not detail the full extent of unauthorised works on the site and questions if Longford County Council is fulfilling its responsibility with regards planning, building control and enforcement.

- 7.6.2. Having regard to the planning history of the applicant's landholding, I note that permission was granted by the Planning Authority under P.A. Ref. 20/97 for the change of use from retail use to retail with ancillary use as an off-licence and that this is currently on appeal under ABP Ref. 307675-20. The outcome of this appeal will determine the acceptability of this off-licence. I note also that permission was recently refused on appeal under ABP Ref. ABP-306838-20 for the retention of the existing extended commercial storage yard. With regards non-compliance with Conditions under ABP Ref. PL14.243643 and any other unauthorised development at the site, I consider that any such unauthorised development should be dealt with by enforcement proceedings, which is a function of the Council. I recommend, therefore, that this ground of appeal should not be upheld.

7.7. Appropriate Assessment

- 7.7.1. Having regard to limited nature and scale of the development seeking retention permission and the nature of the receiving environment and proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the development seeking retention permission would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that permission be granted subject to conditions, for the reasons and considerations below.

9.0 Reasons and Considerations

- 9.1. Having regard to the land use zoning designation for the site, the established agri-business and petrol filling station use on the site and the nature and extent of the grain silo, it is considered that, subject to compliance with the conditions set out below, the

development seeking retention permission would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The development to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be retained 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 within three months of the date of this decision.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(i) This permission relates only to the retention of the grain silo, to be used for the storage of grains.</p> <p>(ii) Storage of grain shall be confined within the grain silo. There shall be no open storage of grain on the site.</p> <p>Reason: In the interest of clarity.</p>
3.	<p>The grain silo shall be operated in such a manner to ensure that the surrounding ground is kept clean and clear of grain and other materials, and, if the need arises for cleaning works to be carried out on the site.</p> <p>Reason: To ensure that the surrounding yard is kept in a clean condition and in the interest of public health.</p>
4.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and to ensure a proper standard of development.</p>

5.	Unless otherwise agreed in writing by the planning authority, the grain silo shall not be used or operated outside 0800 hours and 2000 hours, Monday to Saturday (excluding Bank Holidays). Reason: In the interest of the residential amenity of the area.
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Brendan Coyne
Planning Inspector

28th October 2020