



An
Bord
Pleanála

Inspector's Report ABP 307675-20

Development	Change of use from retail use to retail with ancillary use as an off-licence.
Location	Knock, Lanesboro, Co Longford.
Planning Authority	Longford County Council
Planning Authority Reg. Ref.	20/97
Applicant	MAC-CAS Limited
Type of Application	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 (0.19 ha) is located on the north-eastern side of the R392 in Lanesboro, Co. Longford. The site contains a fuel service station with a single storey unoccupied dwelling attached to its western side. The fuel service station retail unit contains a deli serving area, 2 no. cold rooms, an office and store. A forecourt canopy and 2 no. fuel pump islands are located to the front of the retail unit. The site provides access to an agri-supply business and gravel surfaced yard to the rear / north-east of the site, within the applicant's landholding as outlined in blue. 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.

2.0 Proposed Development

2.1. Permission sought for the following;

- Change of use from retail use to retail with ancillary use as an off-licence.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Longford County Council granted permission for the proposed development subject to 5 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 use of an area within the existing shop.
- The proposal would not affect the external facade of the premises.
- Having regard to the nature of the existing site, to its proposed use and zoning status in the County Development Plan 2015-2021, the proposed development is considered acceptable.

3.2.1. **Other Technical Reports:** None

4.0 Planning History

P.A. Ref. 20/98 and ABP Ref. 307672-20 Permission GRANTED on the 08/07/2020 by the Planning Authority for the retention of an existing grain silo. CURRENTLY ON APPEAL before An Bord Pleanála.

P.A. Ref. 19/101 & ABP Ref. ABP 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 existing car wash bay - WITHDRAWN.

P.A. Ref. 17/13 Application made by Michael and Nancy Casserly for the retention of 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 service existing fuel dispensing pumps.

Noted Condition includes No. 3 which requires (interalia) 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 retention of partial use of 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 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. PL14.224700 – 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 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 retention of three no. grain stores.

P.A. Ref. 99/715 - Permission granted to James O’Flaherty for redevelopment of 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

Strategic Policy 3 – Local Service Town Lanesboro: It is the policy of the Council to consolidate, promote and encourage the provision of local scale retail development in these towns with a view to strengthening their position as local service towns. These centres provide important local service functions which will be actively encouraged.

RET 2: Other Development Types - (c) Petrol Stations

The Council recognises the more intensive role of petrol stations in recent times, the expansion from merely fuel depots to the provision of a wide range of convenience

and other goods and service. Applications for planning permission for such development should contain the following elements: (inter alia)

- v. Retail uses not associated with the motor industry shall be considered in the context of the existing retail outlets in the vicinity. Only uses which contribute to the vibrancy and service level of the settlement shall be considered.

Table 5.3: Parking Standards

5.2. Other Relevant Government Guidelines

Retail Planning Guidelines for Planning Authorities (2012)

5.3. Natural Heritage Designations

- 5.3.1. 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 MRIAI, representing the third-party appellant Mr. 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 main grounds of appeal are summarised under the headings below;

1. Unsuitability of the premises as an off-licence.

- The premises is located within 20 metres of a school, i.e. Lanesborough Community College.
- There are two off-licenses and five other licensed facilities within Lanesboro.
- Lack of adequate parking and traffic management on an over-developed site.

- Any additional uses at this over-developed site, along with its current extended opening hours, would cause further nuisance to the surrounding residential area.
- Previous unauthorised use of an off-license at the site.

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

- Unauthorised development has occurred at the site since 2010.
- The owner was granted planning permission for a petrol station canopy in 2014. The Conditions of this permission are still outstanding.
- There are currently three retention planning applications in progress on this site. These combined applications do not detail the full extent of unauthorised works.
- The drawings submitted do not detail unauthorised development on the site.
- Lack of clarity that Longford County Council is fulfilling its responsibility as the planning authority, the building control authority and the enforcement authority.
- Details provided 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.

3. Objection to the grain silo within the applicant's landholding.

6.1.2. Appendices lodged with the appeal include the following;

- Extracts from previous application P.A. Ref. PI17/13 (deemed withdrawn) including (inter alia);
 - Inland Fisheries report.
 - Appellants previous observations,

- Photographs of the site.
- Details from 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 photo 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 sites 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.
- Customers have an expectation that beer and spirits are available in a modern convenience store such as the premises in question.
- The premises is a secure store fitted with security and CCTV monitoring installations as required to store and sell beer and spirits.

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 sewer and wastewater treatment system. Rates and water rates are paid to Longford County Council and Irish Water.
- The applicants 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 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.
- Copy of wine licence issued by the Revenue Commissioners – dated 30/09/2020.
- 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 regards 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:

- Suitability of the site for an off-licence
- Parking / Traffic Management
- Unauthorised Development

These are addressed below.

7.2. Suitability of the site for an off-licence.

- 7.2.1. The appellant objects to the proposed development on the grounds that the premises is not a suitable location for an off-licence, given its close proximity to a school and that there are two other off-licenses and five licensed facilities within Lanesboro. The appellant also expresses concern that the proposal would impact on the residential amenity of the area by way of nuisance.
- 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 fuel service station on the site, I am satisfied that the proposed off-licence ancillary to retail use would be consistent with the established use and, therefore, would not be contrary to the zoning objective of the site.
- 7.2.3. The net retail floor area of the proposal is c. 142 sq.m. and the stated floor area of the alcohol display area is 6.5 sq.m. Having regard to the context of the site and the modest scale and ancillary nature of the proposed off-licence, I do not consider that the proposed development would adversely impact on the residential amenity of the surrounding area by way of noise nuisance or general disturbance. The sale and display of alcohol products are restricted to the hours specified under the Intoxicating Liquor Act.
- 7.2.4. The appeal site is located directly opposite the Lanesborough Community College secondary school. The floor plans submitted detail the location of the proposed alcohol display areas. The applicant states that the premises is a secure store fitted with security and a CCTV monitoring installation. I note that security requirements concerning the sale and display of alcohol products are covered under the Intoxicating Liquor Act. Furthermore, I note that under the Intoxicating Liquor Act, the sale of alcohol to persons under the age of 18 is restricted and that in premises that are engaged in mixed trading such as petrol stations, it is a requirements that alcohol products must be displayed and sold in a specified area that is structurally separated from the rest of premises. I am satisfied that such provisions would address the appellants concerns with regards public order and public safety.
- 7.2.5. Having regard to the location of the premises on the outer edge of Lanesboro, its distance of c.300 metres from the closet off-licence located to the north-west within

the town and having regard to the modest scale of the proposed off-licence, I do not consider that the proposal would result in a proliferation of off-licences / ancillary off-licences at this location. I note that the Retail Planning Guidelines 2012 recommends that the planning system should not be used to inhibit competition or preserve existing commercial interests.

7.3. Parking / Traffic Management

- 7.3.1. The appellant objects to the proposed development on the grounds that there is a lack of adequate parking serving the proposed development. The appellant also expresses concern with regards traffic management on what the appellant considers is an over-developed site.
- 7.3.2. 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. Given that the net retail floor area within the proposal is c. 142 sq.m., I consider that the number of parking spaces provided complies with the Longford Development Plan parking standards with regards service stations. I do not consider that the proposal would generate a significant increase in traffic and that a traffic management plan is not warranted in this instance.

7.4. Unauthorised Development

- 7.4.1. 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. The appellant also objects to a grain silo within the applicant's landholding.

Having regard to the planning history of the applicant's landholding, I note that permission was granted by the Planning Authority for the retention of an existing grain silo under P.A. Ref. 20/98 and that this is currently on appeal under ABP Ref. 307672-20. The outcome of this appeal will determine the acceptability of this grain silo. 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 unauthorised development at the site should be dealt with by enforcement proceedings, which is a function of the Council. I recommend, therefore, that this ground of appeal should also not be upheld.

7.5. Appropriate Assessment

- 7.5.1. Having regard to limited nature and scale of the proposed development 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 proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that 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 petrol filling station use on the site and the nature and extent of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development 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 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 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>Reason: In the interest of clarity.</p>
2.	<p>No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the canopy, on the forecourt building or anywhere within the curtilage of the site or adjoining lands under the control of the applicant, unless authorised by a further grant of planning permission.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads and the petrol station forecourt during the course of the works</p> <p>Reason: To protect the amenities of the area.</p>

Brendan Coyne
Planning Inspector

21st October 2020