



An
Bord
Pleanála

Inspector's Report

ABP-309439-21

Development

Reconfiguration and replacement of existing service station fuel pumps, canopy and associated underground fuel storage tanks, replacement of two-storey building with a new single storey building containing convenience shop, off-licence, café, seating area, relocation of two vehicular entrances/exits to service station, reconfiguration and expansion of carpark, landscaping, boundaries and associated site works.

Location

Dungarvan, Co Waterford.

Planning Authority

Waterford City and County Council

Planning Authority Reg. Ref.

20307

Applicant(s)

Coolagh Service Station Ltd.

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

First v. Condition and Third Party

| | |
|--------------------------------|--|
| Appellant(s) | 1. Coolagh Service Station Ltd. 2. Anne Harnett 3. Circle K Ireland Ltd. |
| Observer(s) | None |
| Date of Site Inspection | 12 th May 2022 |
| Inspector | Emer Doyle |

1.0 Site Location and Description

- 1.1. The proposed development site is located on the N25, on the north eastern approach to the town of Dungarvan, Co. Waterford.
- 1.2. The site has a stated area of 0.85 HA and additional landholding in the ownership of the applicant is outlined in blue on the application documentation. The site is occupied by an established service station with a large Centra store. There are currently two access points to the site which are extremely wide and function as both access and exit points. Traffic calming measures have recently been undertaken by the Council in the vicinity of the site.
- 1.3. There are a large number of residential properties on the opposite side of the N25 at this location. Lands to the south are in agricultural use and a derelict residential property in the ownership of the applicant is located on lands to the north.

2.0 Proposed Development

- 2.1. The proposed development consists of the following:
 - Redevelopment of existing service station - demolition of existing retail building, forecourt canopy, forecourt, car wash facilities etc. and construction of a new retail building, solid fuel storage shed, bin storage compound, forecourt and forecourt canopy, car wash facilities and new underground fuel storage tanks.
 - The stated floor area of existing buildings is c. 552m². The stated floor area of new buildings is c. 727m² comprising of a replacement building of c. 707m² and a fuel store of c. 20m².
 - As part of the redevelopment, it is proposed to reconfigure and expand the existing customer car park and relocate the existing entrances/ exits to the site from the N25.
- 2.2. Further Information was submitted to the Planning Authority dated the 10th of December 2021. Details submitted included the following:
 - Access/ Egress Design together with Traffic and Transportation Assessment and Road Safety Audit

- Landscaping Details
- Copy of Irish Water's pre-connection letter
- Details of food offering: Café- Frank and Honest Café offering as part of Centra Offering, Food Counter - Fast food as part of Centra offering together with drawing indicating the area included as retail. This area is stated to be 182m².
- Hours of opening
- Relocation of bin storage area

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 17 No. conditions.

Condition 1 (b) was as follows: This grant of permission is predicated on the development access and egress arrangements being revised to provide for a single access point and single exit point to be agreed with the Roads Authority prior to commencement of development.

Condition 3 required the following details to be agreed with the Planning Authority prior to commencement of development:

- (a) Revised access and egress arrangements to service the subject site
- (b) A single entry point and single exit point only, the proposed 2 No. entry and exit points are omitted by this condition. The location, width and details of the entrance and exit shall be fully agreed in writing with the PA prior to commencement of development.
- (c) The access/egress points shall be reduced in width to a width sufficient to provide for the requirements set out in point (b) above
- (d) The road layout fronting the site on approach to the site shall be modified to accommodate the revised development. The exact details of the revised road lining to the N25, National Route shall be agreed in writing with the Roads Section.

Condition 5 required lighting to be directed inwards towards the development.

Condition 6 required that the car wash facilities shall not operate outside of the hours of 0700 to 2100 hours.

Condition 7 required that access by the public to the premises/ food offering shall be confined to opening at 0700 hours and closing at 2300 hours.

All other conditions are of a standard nature for a development of this type.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The first planner's report considered that the principle of development was acceptable having regard to the existing use. Further Information was required in relation to a number of issues. The second report recommended permission subject to conditions.

3.2.2. Other Technical Reports

Water Services Report: Applicants will have to comply with Irish Water requirements.

Roads Report (16/07/20): Roads are in favour of the principle of development. The preferred option is one entrance in on the Dungarvan side and one exit out on the upper side. There is a pavement surfacing scheme due to commence next week and takes account of traffic calming, islands etc. at this location. The developer should arrange a meeting with Roads ASAP to review the layout to take account of the proposed scheme, filter lanes, existing entrances and all users including pedestrians and cyclists. Consideration of the Tournore junction must be reviewed and considered.

Roads Report (15/01/21): No objection subject to conditions.

3.3. Prescribed Bodies

Transport Infrastructure Ireland: Report dated 12/06/2022 - No observations.

3.4. Third Party Observations

- 3.4.1. A number of submissions were received during consideration of the planning application. The issues raised are similar to the issues raised in the 2 No. third party appeals submitted to the Board.

4.0 Planning History

Relevant planning history as follows:

PA Reg. Ref. 14/510012

Permission granted by Planning Authority for provision of an ancillary off-licence area within the existing convenience shop.

PA Reg. Ref. 06/510091

Permission granted by Planning Authority for extensions and alterations to existing service station to include ground floor extension consisting of a new store, toilets, deli seating area, re-arrangement of existing deli, first floor staff accommodation, together with alterations to site layout and provision of new customer car park and truck parking area.

5.0 Policy Context

5.1. Retail Planning Guidelines for Planning Authorities 2012

- 5.1.1. Section 2.4.3 of the Guidelines states that there is a floorspace cap for petrol filling stations of 100 sq m net, irrespective of location.
- 5.1.2. Annex 1 sets out a glossary of terms, and defines 'net retail floorspace' as 'the area within the shop or store which is visible to the public and to which the public has access including fitting rooms, checkouts, the area in front of checkouts, serving counters and the area behind used by serving staff, areas occupied by retail

concessionaires, customer service areas, and internal lobbies in which goods are displayed, but excluding storage areas, circulation space to which the public does not have access to, cafes, and customer toilets’.

5.2. Development Plan

Waterford County Council Development Plan 2022-2028

5.2.1. This plan came into effect on the 19th of July 2022. It will replace the following statutory development plans:

- Waterford City Development Plan 2013-2019
- Waterford County Development Plan 2011-2017
- Dungarvan Town Development Plan 2012-2018

5.2.2. The site is located within the Dungarvan and Ballinroad Settlement Boundary.

5.2.3. The site is zoned as GB – To provide for and improve General Business uses; this includes suburban district uses and local neighbourhood centres. Surrounding lands to the north and west are zoned as SSR- Residential: Strategic Reserve.

5.2.4. Relevant Sections include the following:

Section 3.6.1 Waterford City and County Retail Strategy

Section 4.12.1 Waterford County Retail

Figure 4.4 Dungarvan Core Retail Area

5.2.5. Volume 2 sets out Development Management Standards.

Relevant Sections include the following:

Section 5.4 Retail Impact Assessment

Section 5.5 Traffic and Transport Assessment

Section 5.18 Motor Fuel Service Stations

Section 7.0 Parking Standards

Section 8.0 Roads Access Standards

Table 7.1 Car Parking Standards

Table 7.2 Cycle Parking Standards

5.3. Natural Heritage Designations

- 5.3.1. The appeal site is not located within or immediately adjacent to any site with a national heritage designation. The closest such sites are Dungarvan Harbour SPA Site Code 004032 and Dungarvan Harbour NHA Site Code 000663 c. 0.7km from the site.

5.4. EIA Screening

- 5.4.1. The proposed development comprises of redevelopment of an existing service station on a brownfield site. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive location, 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. The grounds of the **first party** appeal can be summarised as follows:
- The appeal is against Condition 3(b) only which requires a single access and exit junction as opposed to the relocation of the two existing dual use access/exit junctions as proposed in the application.
 - Transport Infrastructure Ireland made no submissions to the initial planning application or Further Information.
 - A Development Entrances Report is attached to the appeal. The main point made by this is that the implementation of Condition 3 (b) could lead to future excessive queuing times with the junction operating above capacity. If one junction was to be in operation at this development, the internal vehicle length

queue would increase from 2 to 11 vehicles and would have a significant impact on the workability of the internal layout of the development.

6.1.2. The grounds of the **third party appeal by Anne Harnett** can be summarised as follows:

- The entrance as shown on the drawing 0015, would be directly opposite my house and, as the service station can operate 24/7, there would be car lights shining directly on my bedroom windows intermittently at all times during the night/ early morning.
- Traffic using this exit would also cause hazard for anyone slowing down to cross the median strip (which is also used as a turning lane for traffic turning into houses on my side of the road.)

6.1.3. The grounds of the **third party appeal by Circle K** can be summarised as follows:

- Concerns regarding the scale of the proposed development and the impact on the vitality and vibrancy of Dungarvan Town Centre.
- Concerns regarding impacts on residential amenity.
- Concern that the conditions of permission mean that the access and egress arrangements will be agreed post planning decision.
- Concerns regarding the impact on the national road network contrary to local and national policy set out in the Spatial Planning and National Roads Guidelines.

6.2. **Planning Authority Response**

- None submitted.

6.3. **Observations**

- None submitted.

7.0 Assessment

7.1. I have read the appeal file and inspected the site and the surrounding area. I consider that the key issues arising in respect of the appeal comprise the following:

- Principle of Development
- Scale of Development
- Impact on Traffic Safety
- Impact on Residential Amenities
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The Board will note that a new development plan has been adopted since the decision on this planning application was made by the Planning Authority. The relevant Development Plan is the Waterford City and County Development Plan 2022- 2028.
- 7.2.2. The proposed development involves the demolition of an existing service station and pumps and a replacement building containing two main uses - convenience retail and café.
- 7.2.3. The site is zoned as 'GB' in the Development Plan – General Business. Section 11 of the plan indicates that service station, retail and café uses are all permitted in principle at this location.
- 7.2.4. In the context of the provisions and policy of the current Development Plan, the existing use of the site, and the planning history of the site, I consider that it is reasonable to support the principle of development at this location.

7.3. Scale of Development

- 7.3.1. In my view the key issues in terms of the scale of development relate to the impact on retailing in the town of Dungarvan, the overprovision of car parking spaces and

the concerns raised regarding the primary use of the service station as a destination in its own right.

- 7.3.2. I note that a service station has been present on this site since the 1980's. According to information submitted with the application, the applicant invested significantly in the site in 2007/8 with a major building upgrade. The total floor area of the existing building is stated to be c. 552m². The total floor area of the proposed building is stated to be 727m². There is an existing Centra shop on the site which is calculated to be c. 230m² in terms of the net retail area. The plans indicate a sit down internal area of c. 30m² which was not operational at the time of inspection due to Covid 19.
- 7.3.3. Information submitted with the Planning Application indicates that the proposed redevelopment provides for a proposed retail area of 182m² and a proposed food area/ café of 182m². I have examined the drawings submitted and I have calculated that the net internal area of the retail area may be above this using the criteria set out in the Retail Planning Guideline's for defining net retail floorspace. In this regard, I refer to the drawing submitted in response to the Further Information Request which specially indicates the area referred to in colour. I note that customers would have to use the main door and circulation area associated with this which is excluded from this area. I have calculated the food area to be c. 184m² with a further outdoor food area of c. 15m².
- 7.3.4. In my view the café and retail element as in many modern filling stations are wholly integrated. There is one main door only, shared circulation space, and a customer can easily purchase from either or both the shop/ deli and the café. Whilst the service station may have originated as a destination for fuel in the 1980's, I am satisfied to conclude that what is now proposed is a destination in itself with the large seating area indoors, outdoor seating area, barista, food counters together with the deli component with availability of hot dinners, deli, and sandwiches etc. I note that the Planning Authority requested information in the Further Information Request as follows: 'Whilst the deli counter remains within the shop area, the proposed seating area will be served by a dedicated café counter and separate food counter. The applicant is requested to fully describe the food offering from the separate dedicated food counter...'. The response submitted by the applicant provided details of the food offering as follows: Café- Frank and Honest Café offering as part of Centra Offer, Food Counter- Fast food as part of Centra offering.

- 7.3.5. Whilst, I note that the existing shop is significantly above the maximum floorspace of 100m² set out in Section 2.4.3 of the Retail Planning Guidelines and Section 5.18 of the Development Plan – Volume 2 Development Management Standards for Motor Fuel Service Stations, the proposed development would exacerbate this and facilitate further dominance of this use and serve to undermine the fuel station use.
- 7.3.6. In this regard, I refer the Board to the proposed car parking spaces. I consider that the number of car parking spaces is a vast overprovision of spaces based on Development Plan standards and serves to illustrate that the function as a fuel station will not be a primary use and instead, the development will become a destination in itself. In this regard, I note that a submission to the Planning Authority expressed concern that the development may become a meeting point for tourists using the greenway. Table 7.1 of the Development Plan sets out the requirements for car parking spaces. Retail shops require 1 space per 50 square metres of floorspaces whilst restaurants require 1 space per 30 square meters of floorspace. As already illustrated, it is difficult to distinguish the floor space allocated to each use in this scenario as customers can move freely around both spaces. However, using the figures submitted by the applicant of 182m² for each use, I consider that the Development Plan requirement is for c. 10 spaces based on the net floor area the public have access to and excluding storage, toilets etc. The proposed development provides for a total of 91 spaces including disabled parking and EV charging points. Even using the figures submitted by the applicant based on the previous Development Plan and using figures of 182m² for retail and 182m² for café, there would only be a requirement for 32 spaces. The applicant points out that these proposed floor areas are gross and the requirement would be less than this. I note that the existing service station has a total of 39 spaces and Section 4.0 of the Traffic and Transportation Assessment advises that the traffic figures are expected to double in line with the size of the development.
- 7.3.7. Whilst I have carefully considered the size of the existing retail unit at this location, I note that there is a cap of 100m² for retail space set out in both the Development Plan and the Retail Planning Guidelines. The site is located c. 1.4km from the core retail area of Dungarvan as set out in Figure 4.4 of the Development Plan.
- 7.3.8. Having regard to the size and scale of the redevelopment of this site together with my concerns that the development will become a destination in itself, and the

distance from the retail town core, I am of the view that the sequential approach to retail development applies in this case. I note that no analysis of retail impact has been submitted with the application. I am concerned that the redevelopment of the site to the scale proposed together with the associated food offering and large parking area would become a destination in its own right and attract customers from elsewhere including the town centre, given the location on the N25 and proximity to the town centre. Retail Policy Objective 03 requires that the core retail area/ town or village centre will form the main focus and preferred location for new retail development. Without any retail assessment of the impact of the scale of shop at this location, it is very clear in my view that this proposal is contrary to the Development Plan and the Retail Planning Guidelines.

7.4. Impact on Traffic Safety

7.4.1. I note that the applicant has appealed Condition No. 3(b) of the decision by the Planning Authority.

7.4.2. Condition 3(b) is as follows:

A single entry point and a single exit point only shall be provided to serve the development permitted herein, the proposed 2 No. entry and exit points are expressly omitted by virtue of this condition. The location, width, and details of the entrance and exit shall be fully agreed with the Planning Authority prior to commencement of development.

7.4.3. In response to a Further Information Request by the Planning Authority, the applicant submitted a Traffic and Transportation Assessment and a Stage 1 Road Safety Audit undertaken by MHL and Associates.

7.4.4. Table 4.1 outlines trip generation figures. I note that the morning peak arrival is 121 trips with the evening trip figure of 128 trips. Section 4 states that 'as a conservative estimate for the additional traffic generated by the upgrading of the service station, we have doubled the traffic figures using the service station, in line with the size of the shop/ deli/ seating area doubling.' Table 4.1 sets out the figures for morning and evening peak at 242 and 252 trips respectively.

- 7.4.5. A Picady Analysis was carried out on the entrance junctions for current and future year scenarios. Section 10.2 outlines the TIA conclusions. The existing RFC recorded currently is 28% at the PM peak. The traffic analysis carried out on behalf of the applicant using two entrance/ exit points shows an RFC of 63% in the opening year 2021 and 72% in 2036. The results presented in the analysis are generally indicative of a development that would not have a significant impact on junction capacity.
- 7.4.6. The appeal response outlines that following discussions with Waterford City and County Council, the applicant was requested to consolidate access arrangements by limiting entry movements to a single 'entry only' junction and similarly restricting exit movements to another 'exit only' junction. The results of the analysis operate that this arrangement of one exit and one entry point as required by Condition 3 (b) would operate over capacity in the opening year. Maximum delays for turning into the development from the N25 at the new junction will be 15 seconds in 2036. The maximum RFC recorded is 106% in 2036 on Arm B. The analysis showed a maximum delay of 144 seconds for vehicles exiting the development. In practical terms, it is pointed out that if only one junction was to be in operation at this development, the internal vehicle length queue would increase from 2 to 11 vehicles and would have a significant impact on the workability of the internal layout of the development.
- 7.4.7. There are a number of issues for the Board to consider in relation to this analysis. Firstly, the site is located on the N25 in a 60kmh speed limit zone. The existing service station has two entrances which are very wide and function as multi-use entrance and exit points. On the site inspection, I found this situation to be somewhat confusing and concur with the Roads Report dated the 16th of July 2022 that 'the preferred option is one entrance in on the Dungarvan side and one exit out on the upper side.' I note that Transport Infrastructure Ireland had no observations to make on the application. Secondly, I note that whilst Section 11 of the Traffic and Transport Assessment notes that the southern entrance is to serve just the service station and the northern entrance will serve the service station and the proposed residential development, there is no assessment in relation to how future development will impact on this scenario. In this regard I note that lands to the north

and west of the site indicated to be in the applicant's ownership are zoned as SRR-Residential Strategic Reserve in the current Development Plan.

7.4.8. Overall, my view is that the proposed development is a significant intensification of the existing development and the scale of the proposed development is undesirable at this location. I consider that the impacts of traffic safety, the figures submitted for trip generation which the applicant considers to be a conservative estimate, and the number of car parking spaces associated with the proposed development further highlight this.

7.4.9. Whilst the preferred option in terms of traffic safety in my view is one entrance in and one exit out in accordance with Condition 3 (b), having regard to the traffic levels predicted this will lead to queuing on the N25 and have impacts on the workability of the service station. If the Board is minded to grant permission, it has the option of granting permission with the two entrance/ exit points as proposed by the applicant.

7.5. Impact on Residential Amenities

7.5.1. The main concerns in relation to residential amenity relate to traffic and light spillage having regard to the proposed 24 hr operation of the fuel element of the development.

7.5.2. This site has a long history as a service station and I consider that the main issue in relation to traffic relates to intensification of the site which I have dealt with in previous sections. I share the concerns in relation to same and concur with the issues raised in this regard.

7.5.3. The hours of operation are set out in the Response to Further Information as follows:

Retail and Food Offering: Monday- Saturday 6:00 – 23:00, Sunday 7:00 – 23:00

Fuel: 24 hours – 6:00 – 23:00 via retail counter, 23:00 – 6:00 via service hatch.

Conditions 4, 5 and 6 of the Planning Authority address noise, light spillage and car wash hours in the interests of residential amenity. Condition 7 alters the proposed opening hours of the premises to 7:00 to 21:00 hours Monday to Sunday. Should the Board be minded to grant permission, I consider that similarly worded conditions would be appropriate in order to mitigate the impacts of the proposed development on residential properties in the vicinity. Having regard to the separation distance

between existing residences and the site, the long history of a service station use on the site, and the mitigation measures as set out in the conditions referred to above, I do not consider that the proposed development would unduly impact on the residential amenities of properties in the area.

7.6. Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of development for which permission is sought which comprises of the redevelopment of a brownfield site with an existing service station in a built up area which is not within or immediately adjacent to any Natura 2000 sites, I am satisfied that 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. Having regard to the above, it is recommended that permission be refused for the proposed development based on the following reasons and considerations:

9.0 Reasons and Considerations

Having regard to the scale of development proposed including the size of the development relative to the existing development, the proposed food offering with indoor and outdoor seating together with the significant oversupply of car parking spaces, it is considered that the proposed development would become a destination in its own right and would result in a new primary use with the petrol filling station becoming a subsidiary use. Furthermore having regard to the Guidelines for Planning Authorities on Retail Planning issued by the Department of the Environment, Community and the Gaeltacht in 2012 and policy R03 of the Waterford City and County Development Plan 2022-2028, which requires the adoption of a sequential approach for locating retail development, the Board considered that, in the absence of a sequential assessment, there was insufficient justification for the proposed retail space in the development to significantly exceed the net floorspace of 100 square metres recommended for Motor Fuel Stations in Section 5.18 of the

Development Plan. In the absence of evidence for a sequential approach, the Board concluded that the proposed development would be contrary to the Retail Planning Guidelines and the Development Plan, and would, therefore, be contrary to the proper planning and sustainable development of the area.

Emer Doyle
Planning Inspector

21st July 2022