

# Inspector's Report ABP-318040-23

Development	Retention permission for shed, cabinet and LPG Tank and permission for AD Blue Tank, cabinet, fence and removal of condition from planning ref. 20/4178 and all ancillary works O'Mahony's Centra, Spa Glen, Spaglen Td., Mallow, Co.Cork		
Planning Authority	Cork County Council		
Planning Authority Reg. Ref.	226814		
Applicant(s)	O'Mahony Spa Glen Ltd.		
Type of Application	Retention Permission and Permission		
Planning Authority Decision	Grant Permission with conditions		
Type of Appeal	Third Party		
Appellant(s)	Sheiona Finn		
Observer(s)	None.		

Date of Site Inspection

27<sup>th</sup> August 2024.

Inspector

Matthew McRedmond

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## 1.0 Site Location and Description

- 1.1. The site is located at O'Mahony's Centra, Spa Glen, Mallow, Co. Cork. The site amounts to a stated area of approx. 0.268 ha. and forms part of a wider, irregular shaped landholding of approximately 1.05ha that also comprises the main use at this site, which is the Centra Shop/Maxol Service Station. A neighbouring dwelling located to the north east along Spa Springs Road is also located within the landholding.
- 1.2. The site is located in the townland of Spa Glen, on the northern side of Mallow town. There are existing residential dwellings to the west and north west of the site with a multi-unit residential development permitted to the north/north east. Other relevant land uses to the south of the site are Bridhaven nursing home, ABC's and 123's preschool, Scoil Íosagáin Infant school and Mallow Convent National school.

## 2.0 **Proposed Development**

- 2.1. The proposed development consists of retention permission for:
  - an existing refuse shed.
  - an electric vehicle charge point; and
  - above ground 1600 litre LPG Tank with associated works.
- 2.2. Permission is also sought for:
  - An AD BLUE fuel pump cabinet and 5000 litre above ground tank.
  - Construction of a 2.5m hit and miss fence to screen existing 2no. sheds and refuse shed.
  - The removal of Condition No. 3 of Planning Ref. 20/4178, which required the removal of 2no. sheds associated with car wash operations on site.

## 3.0 **Planning Authority Decision**

## 3.1. Decision

3.1.1. On the 23<sup>rd</sup> August 2023, Cork County Council granted planning permission subject to 16 no. conditions to O'Mahony Spa Glen Ltd. for the retention permission and permission for the proposed works.

## 3.2. Planning Authority Reports

- 3.2.1. The Local Authority Planner had regard to the locational context of the site, planning history, local policy and to the referral responses and submissions made. Their assessment included the following:
  - They note the development to be retained and the proposed development are acceptable in principle at this location.
  - There is no objection to the retained and proposed permission from a visual and residential amenity perspective.
  - Issues in relation to noise impacts upon residential amenities should be clarified by the applicant.
  - No objection to removal of Condition No. 3 from Ref. 204178 to allow existing 2no. sheds to remain in place.
  - Proposed 2.5m fence acceptable in principle but acoustic properties to be confirmed in context of concerns in relation to noise from car wash.
  - Damage to boundary wall is a civil matter but measures to prevent further damage would be beneficial.
  - Details of car parking numbers and layout to be confirmed by applicant.

#### Further Information Request

- 3.2.2. The applicant was requested:
  - To undertake a site specific noise assessment and submit to the Planning Authority, with a site layout showing noise sensitive receptors.

- To provide details of acoustic fencing and noise attenuation parameters of sheds used in association with car wash.
- Provide operational details of car wash including opening hours.
- Drawings should be provided of 2no. sheds to be removed, as per Condition 3 of previous permission.
- Details of car parking numbers and layout of parking, including measures to protect the boundary wall to be provided by the applicant.

#### **Further Information Response**

- 3.2.3. The applicant provided a further information response that included the following:
  - A noise impact assessment
  - Map showing all noise sensitive receptors in the area.
  - Details of acoustic treatment to proposed fence.
  - Details of car wash operations 9am-9pm, 7 days a week. Power is switched off outside these times.
  - Drawings provided of car wash sheds/plant rooms.
  - Details provided of proposed bollards at spaces 12-19 to prevent further damage to boundary wall.
  - Revised site layout plan confirming details of parking.

## Planner's Response to Further Information Response

3.2.4. The Planning Authority noted the Further Information Response with no objection to RFI Items 2-4 and 6-9. Item 5 in relation to car wash operational times is noted as an enforcement issue to be pursued separately and clarification was requested in relation to Item No. 1 whereby specific noise levels attributed to the car wash in relation to the boundary and nearby sensitive receptors were to be clarified by the applicant.

#### Clarification of Further Information Response

3.2.5. The applicant provided a revised Noise Impact Assessment Report that stated calculated noise levels is 51dB(A)LAR at noise sensitive locations in accordance with

previous conditions attached to a grant of permission for this site which stated a noise level maximum of 55dBA during the daytime operating hours of 07:00-19:00. Additional noise attenuation at the proposed 2.5m screening fence would provide up to an additional 4dB reduction in noise levels.

#### Planner's Response to Clarification of Further Information Response

- 3.2.6. The Planning Authority noted the Further Information Response and having reviewed the details where additional compensatory noise insulation/mitigation is proposed by the applicant, recommended a grant of permission subject to conditions.
- 3.2.7. Relevant Conditions attached to the grant of permission include the following:

2. The proposed mitigation of a 2.5 metre high Acoustic Timber Barrier as detailed in the documentation submitted to the Planning Authority on the 06/06/2023 shall be constructed and complete within 2 months of the date of final grant of this permission. If not completed to the satisfaction of the Planning Authority the operation of the car washes shall cease until otherwise agreed in writing with the Planning Authority.

Reason: To protect the residential amenities of the area.

3. Noise levels emanating from the proposed development when measured at Noise Sensitive Locations shall not exceed 55 dBA (30 minute LAR) between 0700 hours and 1900 hours, 50 dBA (30 minute LAR) between 1900 hours and 2300 hours and 45 dBA (15 minute Leq) between 2300 and 0700 hours. All sound measurements shall be carried out in accordance with the latest editions of ISO Recommendations R 1996/1, 2 and 3 : Description, Measurement and Assessment of Environmental Noise" as appropriate. Noise Sensitive Location: Any dwelling house, hotel or hostel, health building, educational establishment, places of worship or entertainment, or any other facility or area of high amenity which for its proper enjoyment requires the absence of noise at nuisance levels.

Reason: To safeguard the amenities of the area and control noise emissions from the development.

4. A noise monitoring survey shall be undertaken and submitted to the Planning Authority by a suitably qualified professional within 6 months of completion of all proposed works associated with the application. The extent and timing of the survey and the monitoring sites used shall be agreed with the Planning Authority in advance. The developer shall carry any additional noise mitigation measures as may be deemed necessary following a review of such survey results.

Reason: To safeguard the amenities of the area and provide for monitoring.

13. Within 1 month of the date of the final grant of permission revised drawings showing proposals for a landscaped planted area to the south of car parking space no. 12 and at car parking space no. 15 shall be submitted to and agreed in writing with the Planning Authority. The details shall include drawings and timeline for implementation.

Reason: To ensure appropriate use of car parking and to protect the residential amenities of the area.

14. Within 1 month of the date of the final grant of permission details of proposals for signage to indicate no truck/lorry parking in car parking bays shall be submitted to and agreed in writing with the Planning Authority. The details shall include signage details, location of signage and implementation details.

Reason: To ensure appropriate use of car parking areas and to protect the residential amenities of the area.

15. Bollards along car parking spaces no. 12 – 19 to prevent damage the adjoining boundary wall shall be erected within 1 month of the date of the final grant of permission.

Reason: In the interests of residential amenity and to prevent damage to boundary wall.

## 3.3. Prescribed Bodies

None on file.

## 3.4. Third Party Observations

A single submission was received from a neighbouring landowner, expressing concerns about the impact of the proposal on their property, the boundary wall, visual impact, site layout and excessive noise from the proposal. As the observer party are the subsequent Third-Party Appellant, their concerns are noted and considered further in the context of the Grounds of Appeal and Assessment below.

## 4.0 **Planning History**

**Ref. 22/4911:** Permission granted to install solar panels on roof surfaces and elevational changes to south façade.

**Ref. 20/6143:** Retention permission granted for fuel pump, vehicle charge point and relocation of existing electric vehicle charge point including ancillary signage.

**Ref. 20/4178:** Permission granted to extend concrete hard standing area, a new rollover car wash, a new jet wash, install 2no. sheds, provide 3no. additional car spaces and new boundary treatments.

**Ref. 16/6593:** Permission granted for new petrol station forecourt including new signage and lighting and associated works.

## 5.0 Policy Context

## 5.1. Cork County Development Plan 2022-2028

- 5.1.1. **Zoning**
- 5.1.2. The western section of the site is zoned for town/neighbourhood centre uses under objective ZU 18-17.
- 5.1.3. The eastern section of the site is located within an area zoned as an existing Residential/Mixed Residential and Other Uses under objective ZU 18-9.

#### 5.1.4. Volume 3 – North Cork - Neighbourhood Centres

5.1.5. In relation to Neighbourhood centres, the County Development Plan notes the provision of neighbourhood centres and local services and facilities is beneficial and desirable in reducing the need to travel to other areas and can result in the creation

of a real sense of local place enabling the interaction of people and the provision of local services and facilities.

Objective MW-GO-09 seeks to support the development of neighbourhood centres where needed particularly in areas of the town where additional growth is planned.

## 5.2. Natural Heritage Designations

5.2.1. The closest Natura 2000 site is the Blackwater River SAC (Site Code: 002170) – located approximately 1.2km to the south of the subject site.

#### 5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any 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

A third-party appeal was submitted by a resident who lives in a neighbouring property. The main issues raised by the appellant can be summarised as follows:

- Ongoing issues of unauthorised development on site.
- Objects to two proposed above ground tanks on grounds of safety and contends an additional LPG tank near front road does not have permission.
- Intensification of use has led to increase in traffic to rear of site at appellants property boundary. Trucks parking at boundary wall invading privacy.
- Two sheds associated with car wash were to be removed on condition of grant of permission.
- Refuse shed is unnecessary given ample floor space in shop.

- Proposed commercial use is inappropriate in this private residential area.
- Boundary wall has been damaged structurally by cars parking against it.
- Noise from car wash is unacceptable (above 50 and 55dBA), particularly given the hours of operation which are beyond the 9pm cut off point.
- Appellant is seeking the peace and enjoyment of their back garden.

## 6.2. Applicant Response

The applicant submitted a response to the third party appeal stating the following relevant matters:

- Appeal is vexatious and does not relate to genuine planning matters.
- All previous complaints have been dealt with and compliance details are available from Cork County Council.

## 6.3. Planning Authority Response

No further comments to make.

## 6.4. **Observations**

None on file.

## 7.0 Assessment

- 7.1. Having reviewed the details and appeal documentation on the file, the submissions made, having inspected the site, and having regard to relevant local and national policy and guidance, I conclude that the main issues are the following:
  - Principle of Development
  - Residential Amenity
  - Other matters
  - Appropriate Assessment (AA)

#### 7.2. Principle of Development

- 7.2.1. The proposed development forms part of the overall site of a Centra Supermarket, that is an established use at this location. The planning history of the site is noted, whereby a range of additions to existing facilities have been granted permission under various applications including but not limited to Solar Panels, a petrol filling station, car wash facilities, electric vehicle charge points and ancillary sheds.
- 7.2.2. The third-party appeal contends that the proposed use is inappropriate in a residential area and that the proposed above ground tanks are a safety hazard.
- 7.2.3. The Planning Authority considered that, as the proposals involve ancillary development to an established and permitted development, there is no objection in principle.
- 7.2.4. As set out in the Cork County Development Plan 2022-2028, the western section of the site is zoned for Town Centres/neighbourhood centres under objective ZU 18-17. The primary purpose of this land use zoning is to promote the development of town centres and neighbourhood centres as the primary locations for retail and other uses that provide goods or services principally to visiting members of the public.
- 7.2.5. The eastern section of the site is located within an area zoned as Existing Residential/Mixed Residential and Other Uses under objective ZU 18-9. Nonresidential uses in this land use zone are required to protect and/or improve residential amenity and uses that do not support, or threatens the vitality or integrity of, the primary use of these existing residential/mixed residential and other use areas will not be encouraged. Neighbourhood centres are permitted uses in this zone.
- 7.2.6. The existing Centra supermarket forms an important neighbourhood function at this location. The proposed uses seek to amend a previous permission to allow existing sheds (2no.) and LPG Tank to be retained and to provide additional complementary uses at this location. I am satisfied that the proposed development for retention and the proposed development are acceptable under the land use zoning for the site. I consider the provision of overground tanks for LPG storage and AD Blue storage to be acceptable as it is associated with the filling station element of the existing operations. Health and Safety matters related to such installations are beyond the scope of this assessment.

7.2.7. In conclusion, the site has a well-established use as a supermarket and fuel service station. The proposed development for retention and the proposed uses are consistent with the established use of the site. Having regard to the above and the planning history of the site, the zoning objectives pertaining to the lands under the current Development Plan and the established uses on site, I consider the principle of the development to be acceptable.

#### 7.3. Residential Amenity

- 7.3.1. The third-party appeal refers to a number of issues related to car parking on site, impacts on the boundary wall between their property and the appeal site and the impacts of noise. I consider these issues collectively to be related to residential amenity impacts.
- 7.3.2. Issues associated with existing operations, as raised by the appellant are noted. However, any issues with existing operations and compliance with previous permission on site are a matter for the Planning Authority. Enforcement is not a matter for the Board. I am satisfied that the proposed development does not have any negative impacts on residential amenity as detailed below.

## 7.3.3. Car Parking and Boundary Wall

- 7.3.4. The grounds of appeal state the additional uses on site are creating an increase in car parking demand, meaning vehicles now park at the rear of the site, adjacent to the boundary wall between the appellant's property and the appeal site. This car parking has resulted in damage to the wall over time as well as residential amenity impacts related to invasion of privacy by trucks/HGV parking next to the wall.
- 7.3.5. I note the two applicable land use zonings Neighbourhood Centre and Existing Residential/Mixed Residential and Other Uses – both on the appeal site and in surrounding areas. As outlined in Volume 1 of the County Development Plan, Neighbourhood Centre may be extended, subject to proper planning and sustainable development of the area and the protection of residential amenities.
- 7.3.6. The objective of the Existing Residential/Mixed Residential and Other uses zoning is to conserve and enhance the quality and character of established residential communities and protect their amenities.

- 7.3.7. In the response to further information, the applicant confirmed they will carry out repairs to the wall and install bollards at the base of the wall to prevent further damage by parking cars. I note on my site visit, these bollards were already in place. Additional signage to prevent truck parking in car parking spaces, particularly at spaces 12-19, would also be beneficial in protecting residential amenity. In addition to HGV parking signage, I consider the installation of bollards an appropriate solution to car parking along this interface that can be conditioned on any grant of permission. I do not consider that Condition 13 of the Planning Authority grant of parking space 15, to be necessary to mitigate amenity impacts at this location.
- 7.3.8. Given the details provided on file, and following my site inspection, subject to conditions 14 and 15 of the Planning Authority grant of permission, which I deem appropriate, I do not consider any unacceptable car parking related impacts would result from the subject proposal at the boundary wall with the appellant's property and therefore do not consider this to be a reason for refusal.

#### 7.3.9. Noise

- 7.3.10. The grounds of appeal refer to the unacceptable noise levels arising from the existing car wash operations.
- 7.3.11. The applicant submitted a noise impact assessment at further information stage with some further clarifications on noise levels provided at clarification of further information stage. The Planning Authority considered the submitted information to be acceptable.
- 7.3.12. Having reviewed the submitted information on the file, particularly the submitted Noise Impact Assessment and clarification of further information I am satisfied that a worst-case scenario has been assessed and the noise levels at the nearest noise sensitive receptors would equate to 51dB(A), which is generally in accordance with acceptable noise levels for daytime activities as required under condition 10 of Reg. Ref. 20/4178. I note the applicant's proposal for additional noise attenuation to be added to the 2.5m fence that will further reduce the noise levels by up to 4dB. I consider the additional noise attenuation to be appropriate and can be conditioned with any grant of permission, along with a restriction on operating hours to 9am-9pm.

7.3.13. Given the details provided on file, and following my review of the site, I do not consider any additional noise related impacts would result from the subject proposal and therefore consider that residential amenity is appropriately protected with the subject proposal.

#### 7.3.14. Other Matters

- 7.3.15. The grounds of appeal referred to the condition on a previous permission to remove 2no. sheds and that the refuse shed was never given permission. The objection to the 2no. proposed above ground tanks is also noted.
- 7.3.16. The subject application seeks to remove Condition 3 attached to Planning Ref. 20/4178 that required the 2no. sheds to be removed. The application also seeks retention permission for the refuse shed and the LPG Tank.
- 7.3.17. Having inspected the site, the design of the existing 2no. sheds is considered appropriate. I have no objection to the 2no. existing sheds to remain in situ as they do not result in any adverse visual or amenity impacts. Similarly, the refuse shed is appropriately designed and is acceptable at this location. I note these sheds will be further screened by the proposed 2.5m fence, which is considered appropriate from a visual and noise mitigation perspective.
- 7.3.18. In relation to the 2no. above ground tanks, the existing activities and visual appearance of the site would allow these tanks to be appropriately integrated without any significant visual intrusion. I note both tanks are located well inside the site boundaries and screened by existing boundary fencing and planting which will be further augmented by the proposed screening fence in the case of the proposed LPG tank. I therefore consider the proposed tanks to be acceptable at this location.

## 8.0 AA Screening

- 8.1. The Blackwater SAC is located 1.2km south of the subject site. The proposed development includes sheds, tanks and screen fencing. The Planning Authority screened out any potential impacts on Natura 2000 Sites.
- 8.2. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, the absence of any hydrological connection to any European Sites and the proximity of the lands in question to the nearest European

site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

## 9.0 Recommendation

I recommend that permission is granted.

## 10.0 Reasons and Considerations

10.1. Having regard to the Cork County Development Plan 2022-2028, it is considered that, subject to compliance with conditions, the proposed development for retention and proposed development would be appropriate under the established development zoning and use of the site and surrounding sites, and it would be compatible with the uses on these sites. The development in its entirety would be capable of being accommodated within the confines of the site and visual appearance at this location would be satisfactory. This proposal would thus accord with the proper planning and sustainable development of the area subject to the following conditions:

## 11.0 Conditions

1.	The development shall be retained, 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 6 <sup>th</sup> June
	2023 and 28 <sup>th</sup> July 2023, except as may otherwise be required in order to
	comply with the following conditions. Where such conditions require details
	to be agreed with the planning authority, the developer shall agree such
	details in writing with the planning authority prior to commencement of
	development and the development shall be carried out and completed in
	accordance with the agreed particulars.
	Reason: In the interest of clarity.
2.	Hours of operation of the car wash shall be between 0900 hours and 2100
	hours daily.

	<b>Passon:</b> In the interact of the residential amonities of property in the
	<b>Reason:</b> In the interest of the residential amenities of property in the
	vicinity.
3.	The noise level arising from the operation of the proposed development
	shall not exceed 55dBA rated sound level between the hours of 09:00-
	21:00 and shall not exceed 45dBA at any other time, as measured at any
	point along the boundary of the site. Procedures for the purpose of
	determining compliance with this limit shall be submitted to, and agreed in
	writing with, the Planning Authority prior to the commencement of
	development.
	Reason: To protect the amenities of property in the vicinity of the site.
4.	Within 1 month of the date of the final grant of permission details of
	proposals for signage to indicate no truck/lorry parking in car parking bays
	shall be submitted to and agreed in writing with the Planning Authority. The
	details shall include signage details, location of signage and
	implementation details.
	Reason: To ensure appropriate use of car parking areas and to protect the
	residential amenities of the area.
5.	Within 1 month of the date of the final grant of permission bollards along
	the rear of car parking spaces no. 12 – 19 shall be erected and maintained
	for the lifetime of the development.
	·
	<b>Reason:</b> In the interests of residential amenity and to prevent damage to
	boundary wall.
6.	The proposed mitigation of a 2.5 metre high Acoustic Timber Barrier as
	detailed in the documentation submitted to the Planning Authority on the
	06/06/2023 shall be constructed and complete within 2 months of the date
	of final grant of this permission. If not completed to the satisfaction of the
	Planning Authority the operation of the car washes shall cease until
	otherwise agreed in writing with the Planning Authority.
	Reason: To protect the residential amenities of the area.

7.	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.
	<b>Reason:</b> In the interest of public health and to ensure a proper standard of development.
8.	All waste generated on site shall be disposed of through appropriately licenced collection and disposal contractors.
	<b>Reason:</b> To safeguard the amenities of the area.
9.	During the construction of work the developer shall provide on site a covered skip or other such receptacle for the deposit therein of all rubbish, litter, packaging, rubble and other such materials arising from the works. The developer shall ensure that the site and its environs are maintained at all times in a clean and tidy condition. <b>Reason:</b> To protect the amenities of the area.
10.	No dust, mud or debris from the site shall be carried onto the public road/footpath. The developer shall clean any spillages on the public roads arising from the development, as the need arises or when requested to do so by the Planning Authority.
	<b>Reason:</b> To protect the amenities of the area and in the interests of road/traffic safety.
11.	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.

**Reason:** 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 applied to the permission.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

. Matthew McRedmond Senior Planning Inspector

02<sup>nd</sup> September 2024

# Appendix 1 - Form 1

# **EIA Pre-Screening**

# [EIAR not submitted]

	rd Pleanála ABP-318040-23 Reference					
Proposed Development Summary			Retention permission for shed, cabinet and LPG Tank and permission for AD Blue Tank, cabinet, fence and removal of condition from planning ref. 20/4178 and all ancillary works			
Development Address			O'Mahony's Centra, Spa Glen, Spaglen Td., Mallow, Co. Cork.			
1. Does the proposed development come within the definition of				the definition of a	Yes	$\checkmark$
<b>'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)				No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?						
Yes		Class		EIA Mandatory EIAR required		
No	$\checkmark$				Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?						
			Threshold	Comment	C	onclusion
				(if relevant)		
No	$\checkmark$		N/A		Prelir	IAR or ninary nination red
Yes		Class/Thre	shold		Proce	eed to Q.4

4. Has Schedule 7A information been submitted?				
No	Preliminary Examination required			
Yes	Screening Dete	Screening Determination required		

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_