

Planning Policy Unit,
Kerry County Council,
Rathass,
Tralee,
Co. Kerry.

23rd February 2022

RE: SUBMISSION TO THE DRAFT KERRY COUNTY DEVELOPMENT PLAN 2022-2028 – CIRCLE K FENIT ROAD

Dear Sir/Madam,

We make this submission to the draft Kerry County Development Plan 2022-2028 on behalf of our clients, Circle K Ireland Energy Group Limited, Circle K House, Beech Hill, Clonskeagh, Dublin 4, and in relation to their existing **Circle K Fenit Road service station** located at **Mounthawk, Tralee, Co. Kerry, V92 WR25**.

Our clients wish to challenge that the subject site is not zoned or included within the development boundary of Tralee, a proposition which does not reflect, or properly account for, the long established and permitted commercial use of the site.

Given this permitted and established nature, our clients are of the view that the decision not to include the site within the town development boundary with an applicable zoning objective, poses an unwarranted risk to the operation of the service station and could damage its future development prospects.

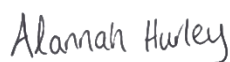
Firstly, the submission appeals for the service station to **be included within the Tralee development boundary** and be zoned as **'Mixed Use (M3) – District/Neighbourhood Centre'** in light of the strong and sustained planning merits pertaining to its current use for a range of such uses.

Secondly, the submission also appeals for reference to 50m² net retail floor area at petrol stations to be revised and amended to 100m² as per the stated recommendation of the Retail Planning Guidelines, 2012.

The submission is set out hereunder in detail. It is trusted that it will be seen as a constructive and productive contribution to the preparation of the final Plan, and, in this regard, we request that it is given favourable consideration.

Please forward all correspondence in relation to this submission to this office.

Yours sincerely,

A handwritten signature in black ink that reads 'Alannah Hurley'.

Alannah Hurley
Coakley O'Neill Town Planning Ltd.

Circle K Fenit Road

- 1.1 The subject site comprises an existing Circle K service station located on Fenit Road in the townland of Mounthawk to the north west of Tralee town centre. The service station site is generally triangular in shape, is comprised of 5 no. pump islands with a canopy over and a single storey amenity building which contains a main retail area, coffee making facilities, staff facilities as well as back of house areas.
- 1.2 The service station is accessed via two entrances off Fenit Road/R558 and R551. There are two main ID signs which are located at each of the two entrances, adjacent the roadside boundary. Car services such as air and water and a car wash facility and a laundry kiosk are located to the north of the main amenity building. Other commercial premises located on site include the Expose Hair Studio, with office uses permitted at first floor level..
- 1.3 In terms of land uses in the surrounding area, there are several residential estates to the north and south, Mercy Secondary school and a mixed use site comprising a pharmacy, pub/restaurant and a convenience store are located to the east of the subject site.

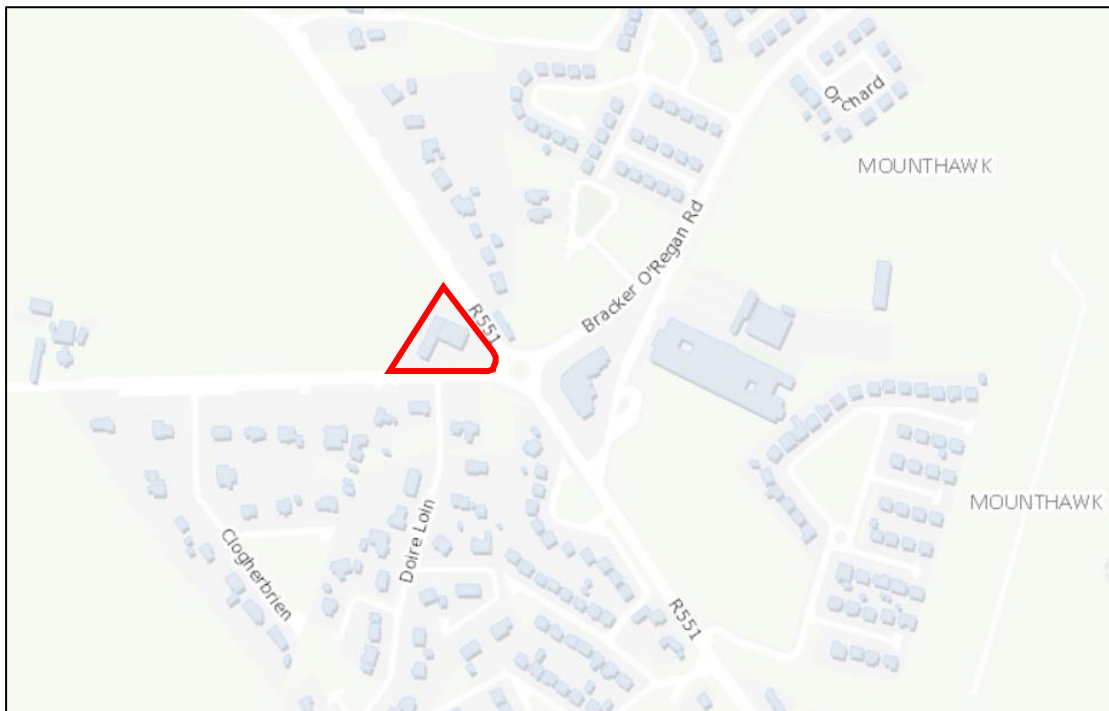


Figure 1: Site Location (generally outline in red, source MyPlan, annotated Coakley O'Neill)

Planning History

1.4 The following planning applications for the site have been brought forward to the planning authority;

- **Application Register Reference 971428:** Conditional permission granted on the 16th December 1999 to demolish existing house, construct retail shop outlet, illuminated canopy, underground tank farm, offloading slab, car wash, forecourt, illuminated signage, environmental compound, and ancillary works.
- **Application Register Reference 013836:** Conditional permission granted on the 28th March 2002 to construct an electrical substation.
- **Application Register Reference 043377:** A planning application was deemed withdrawn on the 11th May 2005 which has sought permission to construct a two storey structure to include two ground floor retail units and first floor office accommodation and all associated site works.
- **Application Register Reference 052095:** Conditional permission granted on the 9th September 2005 to construct a single storey structure consisting of 2 retail units adjacent to the existing filling station retail unit, including all associated site works.
- **Application Register Reference 061916:** Conditional permission granted on the 21st November 2006 to construct an additional storey structure over the existing filling station retail unit and proposed adjoining retail units recently granted permission (ref. no. 05/2095), the development is to consist of retail storage and office accommodation and provision of 2 new entrance doors including all associated site works.
- **Application Register Reference 09177:** Conditional permission granted on the 5th May 2009 for the change of use from retail storage to office accommodation at first floor level within the existing commercial development.

Proposed Planning Policy

1.5 In the Draft Development Plan, 2022, guidance on petrol stations is outlined in volume 6, section 1.9 in 'Development Standards and Guidelines' and as follows:

Design approach should reflect an integrated design dealing with buildings, structures, advertising, lighting, overall layout etc. reflecting a high standard of design. In urban centres where the development would likely have an impact on the historic or architectural character of the area, the use of standard corporate design and signage may not be acceptable. The provision of such facilities will be considered, having regard to the following, where appropriate:

- *Service stations are generally not encouraged in the retail core of urban areas or in rural areas*
- *The application must demonstrate that noise, traffic, visual obstruction, fumes/odours do not detract unduly from residential amenity in the area*
- *New petrol stations and refurbished existing stations shall ensure provision of Low Emission Vehicle Refuelling/Recharging*
- ***The retail unit shall not exceed 50m² net floor area. Retailing shall be confined to the shop floor area with the exception of sale of domestic fuel where some storage is permissible. Retail sales will be restricted to convenience goods (Our Emphasis)***
- *The developer shall indicate the hours of operation*
- *Generally, two access points with a minimum width of 7.3m and a maximum width of 9.1m with appropriate radius of curvature based on road design speed, will be required*
- *The layout shall demonstrate safe pedestrian and cyclist access and sufficient circulation for delivery vehicles*
- *The pump island shall not be located closer than 7m from the roadside boundary*
- *Traffic safety- in an area with a speed value of road less than 80km/h –a 160m minimum visibility distance, will be required. Where a speed value of road 80km/h or greater exists–a 215m minimum visibility distance, will be required*
- *No advertising or other structures whether permanent or temporary shall interfere with sightlines on motorists entering or egressing the site*
- *The front boundary of the site shall be defined by a wall not exceeding 0.5 m. in height and the area between this and the road edge shall be levelled and laid so that surface water does not pond in the area, nor flow onto the public road. No advertising shall be placed between the wall and the road edge*
- *A footpath shall also be provided outside the boundary wall*
- *All fixtures or fittings, including canopy lighting shall be provided in such a way so as not to cause a glare to road users, or unduly detract from the visual amenities of the area*
- *Design of stations will be required to be of high standard. Canopies should be appropriate to their setting in terms of height and design and for reasons of visual amenity should be set well back from the public footpath or edge of the public road*
- *Minimal advertising will be permitted and shall generally be restricted to a main pillar/totem sign structure, which shall not exceed 4.5m in height*
- *The forecourt and adjacent footpath shall not be used for advertising whether for permanent or temporary structures*
- *A maximum of two signs shall be permitted on the canopy which shall be externally or halo lit*
- *A Landscaping Plan is required for all applications for petrol filling/service stations.*

- 1.6 In the Draft Plan, the site is to be located outside of the Tralee development boundary, as illustrated in figure 3, below.

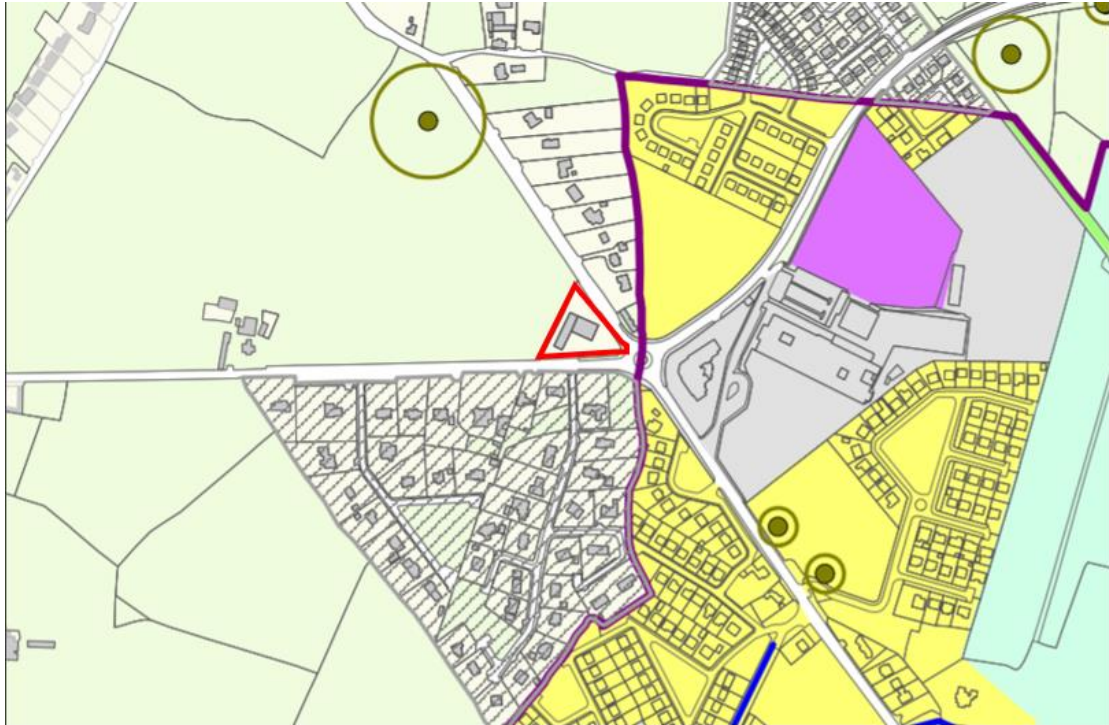


Figure 3: Proposed Site Zoning as per the draft Kerry County Development Plan, annotated Coakley O'Neill

Discussion and Submission

- 1.7 This submission argues that the site should be located within the Tralee development boundary and a 'Mixed Use (M3) – District/Neighbourhood Centre' zoning objective should be applied to the site.
- 1.8 The subject site is located at the junction/roundabout whereby the Tralee - Fenit Road/R558 and the Tralee – Ardfert/R581 roads meet. In addition to the hair studio onsite, there is an existing Circle K service station that has been in use as a service station for an extended period of time. It is therefore reasonable to consider it as part of the established retail resource serving both the Fenit Road and the wider community within the townland of Mounthawk in the northwest of the town.
- 1.9 On this basis, a 'Mixed Use (M3) – District/Neighbourhood Centre' zoning would be appropriate to the service station site as outlined in Volume 6, Land Use Zoning, in the draft Plan:

Mixed Use (Town Centres/Core Retail Area) (M1-M5): *Mixed use areas are generally intended to cater for zones which are specifically mixed use in nature and provide for a wide range of uses. The primary/core retail areas will form the main focus and preferred location for new retail development, appropriate to the scale and function of each town centre. It is policy to primarily provide for mixed uses and any other uses appropriate to the town centre in areas zoned mixed use. Proposed developments should improve the vitality and viability of the town centre and shall*

*meet the needs of the town. Residential development will also be encouraged particularly in mixed use developments. Mixed use, general development, opportunity/proposal site (M1), Town/Village centre or central area (M2), **District, neighbourhood centre (M3)**, Built up area (M4), Other mixed uses (M5).*

M3 – Permissible Uses

Shop (Class 1), Café/Restaurant, Carparking (Surface/Multi-storey), Fast Food/Take-Away,

M3 – Open for Consideration Uses

Petrol Filling Station, Residential Unit

- 1.10 With regard to this request, the Planning Authority will note that the service station site is strategically located adjacent the Tralee- Fenit and Tralee - Ardferf Roads, used daily by large numbers of commuters. It is extremely accessible and is located in the centre of existing residential areas and is also c. 300m away from Mercy Secondary School. It is also located approximately 750m away from two sites which are zoned for new/proposed residential off the R551. It is evident that this service station will continue to cater for both existing and proposed residential and employment populations in the area.
- 1.11 The subject site therefore effectively operates as a neighbourhood centre use supporting the vitality and viability of that area and, on this basis, we request the site be rezoned as mixed use (M3) district/neighbourhood centre to properly reflect this permitted and established context.
- 1.12 The site will continue to operate as a fuel station, but the focus in the future, as with all fuel and forecourt retailing, will be on expanding the range of services, including additional retail floorspace, expanded foodcourt/restaurant/cafe uses and other active ground floor uses.
- 1.13 It is clearly evident that the proposal to omit the site from the development boundary and not have an applicable zoning objective does not reflect the nature of the established and permitted service station use at the subject site, nor is it fully consistent with the various grants of planning permission at the site.
- 1.14 Our clients are concerned that the proposal to exclude the station of the town development boundary could fundamentally undermine the ongoing operation of the service station and would damage both its current valuation and future development prospects, particularly when there is no inherent planning rationale for doing so.
- 1.15 In addition, it puts our clients at a competitive disadvantage against operators who have a retail zoning objective applied to their site. For example, the site at the opposite side of the roundabout whereby All Care Pharmacy, Gala Convenience Store and O'Donnell's Bar and Restaurant are located, has a proposed zoning of Mixed Use (M3) – Built Up Area and is located within the development boundary. The service station site is a logical part of this commercial area and it is a simple matter of extending the proposed mixed use zoning to reflect same.

- 1.16 Conversely, a decision to not zone and include our clients' site in the town development boundary could be considered anti-competitive and in contravention of the objectives of the Retail Planning Guidelines in terms of its impact upon an existing retail outlet. The planning policy rationale underpinning this view is set out below.
- 1.17 The aim of **Development Plans, Guidelines for Planning Authorities, June 2007** is to improve the quality and consistency of development plans, and thereby improve the quality and consistency of decisions on planning applications.
- 1.18 The recently published draft update of these Guidelines, from August 2021, advises:

Ensuring that the economic or employment strategy of the development plan is translated into the appropriate land use zoning proposals is an important consideration in the plan preparation process. *The evidence and rationale underpinning the zoning of land for employment purposes must be clear and strategic in nature. Development plan preparation should include a comprehensive approach to estimating the differing zoning requirements for employment uses.*

Planning authorities should ensure that retail objectives in development plans support placemaking and the regeneration for core town centre areas and NPF strategic policy objectives of increased compact growth.

- 1.19 Additionally, the **Retail Planning Guidelines for Planning Authorities 2012** set out a framework to ensure that retail development is plan-led, to promote city centre vitality through the sequential approach to development, enable good quality development in appropriate locations, facilitate modal shift and to deliver quality design outcomes.
- 1.20 A central theme of these Guidelines is the importance of the statutory development plan process with their first objective being that retail development is plan led. Also critical to the planning framework, this establishes the importance of existing retail centres, which are seen as the optimum location for new retail development.
- 1.21 On this basis, planning authorities are advised to have regard to the changing role of urban areas and the value of maintaining retailing when preparing development plans and retail strategies. Among the matters to be included in plans are the following:
2. Outline **the level and form of retailing activity appropriate** to the various components of the settlement hierarchy in that core strategy;
 3. Define, by way of a map, the **boundaries of the core shopping areas** of city and town centres and also location of any district centres (See Section 3.4);
 6. **Identify sites which can accommodate the needs of modern retail formats** in a way that maintains the essential character of the shopping area;

- 1.22 In the context of these national level policies objectives, it is our submission that the existing service station at Fenit Road requires an appropriate zoning objective that properly reflects its existing and permitted retail use and, on this basis, merits rezoning as a Mixed Use (M3) – District/Neighbourhood Centre.
- 1.23 Aside from this zoning matter, the decision to cap the net floor retail areas of petrol stations in the draft Plan to 50m² which “shall be confined to the shop floor area with the exception of sale of domestic fuel where some storage is permissible. Retail sales will be restricted to convenience goods” contravenes the Retail Planning Guidelines, 2012 which state in section 4.11.9;

Retailing and Motor Fuel Stations

Convenience shops are part of the normal ancillary services provided within motor fuel stations. In rural areas, they can have a very important function as the local shop or small supermarket. However, such shops should remain on a scale appropriate to the location, and their development should only be permitted where the shopping element of the station would not seriously undermine the approach to retail development in the development plan.

The floorspace of the shop should not exceed 100 M² net; where permission is sought for a floorspace in excess of 100 M², the sequential approach to retail development shall apply, i.e. the retail element of the proposal shall be assessed by the planning authority in the same way as would an application for retail development (without petrol/diesel filling facilities) in the same location....(Our emphasis)

In considering applications for development, attention should also be given to the safety aspects of circulation and parking within the station forecourt...

- 1.24 It is relevant to highlight that the Retail Planning Guidelines **do not preclude** retail developments at service stations in excess of 100 m² net, rather, they state that in respect of any development in excess of 100sqm net the sequential approach will apply, and the retail element should be assessed in the same way as would an application for retail development.
- 1.25 It is therefore inappropriate and unjustified to halve the general recommended figure of 100m² for retail net floor space at petrol stations in the Retail Planning Guidelines, 2012 to 50m² in the Plan.

Conclusion

- 1.26 In conclusion, and with regard to nature of this submission's request and the subject site, we ask the Planning Authority to note:
- **The service station's strategic location at the junction of the Tralee – Fenit and Tralee – Ardfert Roads, in close proximity to existing and proposed residential areas and educational facilities.**
 - **Its current commercial use and the fact that it has been part of the local retail resource for an extended period of time.**
 - **The decision not to include the site within the development boundary with an applicable zoning objective fails to properly reflect its current and permitted use and will undermine its operation in the future.**
 - **The 50m² net retail floor area for petrol stations should be revised and amended to 100m² so as to align with the Retail Planning Guidelines, 2012.**
- 1.27 On all these grounds our client's site presents a strong credible case for a zoning designation that allows for the continued operation of the existing permitted service station use, something which is directly undermined by the exclusion of the site from being located with the development boundary of Tralee.
- 1.28 The reality is that this Circle K service station is already an established use. Its zoning will therefore reflect its established use and will enable it to develop its services in accordance with customer expectations and the proper planning and sustainable development of the area.
- 1.29 Furthermore, the site's designation as a district/neighbourhood centre demonstrates a strong compliance with national, regional, and local planning policy with regard to the sustainable development of compact urban centres of sufficient critical mass to support their strategic roles within wider settlement structures.
- 1.30 In addition, it places an appropriate emphasis on the regeneration and intensification of existing developed lands and the provision of sustainable employment generating uses.
- 1.31 In conclusion, our clients are of the view if their service station on Fenit Road continues to be excluded from the development boundary and remains unzoned, it does not reflect the established and permitted commercial use of the site and secondly, risks restricting not just its ongoing commercial use, but its future development potential.
- 1.32 The submission also appeals for the 50m² net retail floor area to be revised and amended to 100m² and for the service station to be zoned as Mixed Use (M3) - District/Neighbourhood Centre in light of the strong and sustained planning merits pertaining to its current use for a range of such uses.