

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 GENERAL

Dear Sir/Madam,

We make this submission to 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 general policies relating to service station development.

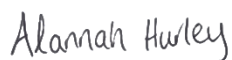
The submission addresses proposed development management standards set out for services stations in Volume 6 of the Draft Plan and raises concern over a clear misinterpretation of the Retail Planning Guidelines provisions relating to ancillary retail development and the net floor space for same at service stations.

We respectfully ask that the points made herein are reflected in the new Development Plan.

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.

- 1.1 Circle K are the largest operator of service stations in the country. They currently operate three service stations in county Kerry, as shown below.
- 1.2 In light of this, they have a significant interest in the proposed policies and objectives regulating the future development of these uses in the new Kerry County Development Plan.

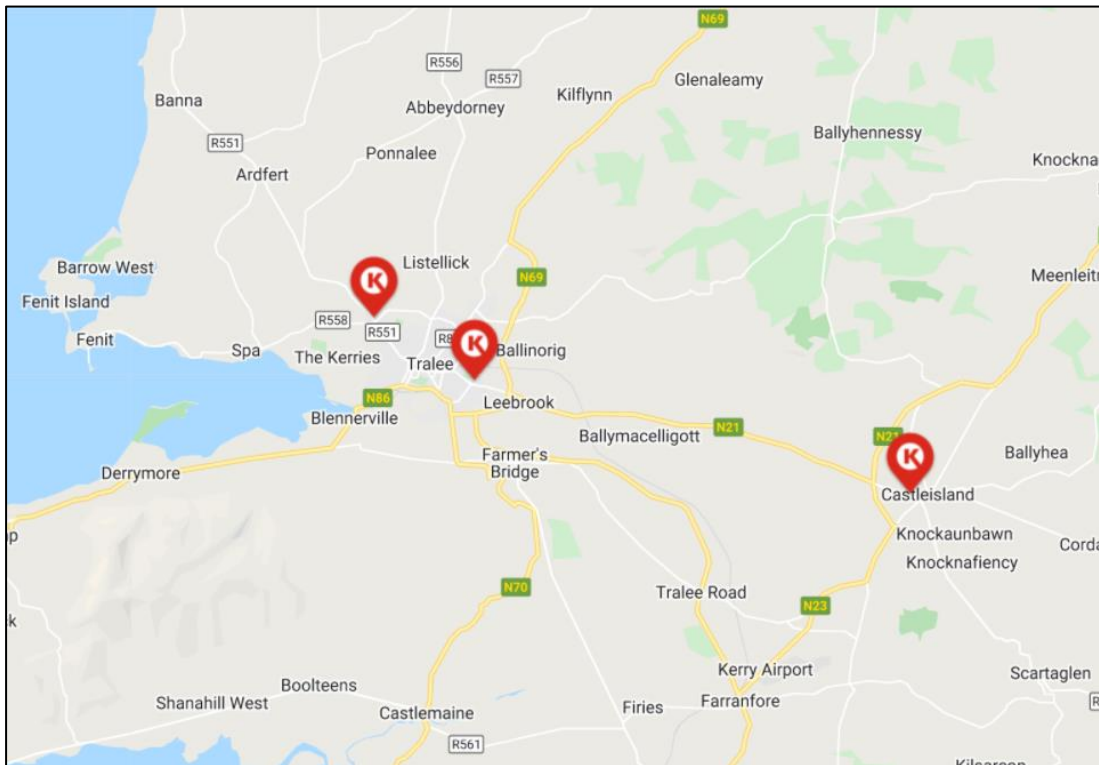


Figure 1: Circle K Service Stations Kerry, source Circle K Site Locator

- 1.3 Section 1.9 in Volume 6: Development Management Standards & Guidelines of the Draft Plan specifically addresses design guidelines for service stations.
- 1.4 Our clients have no issue with the vast majority development management standards set out in the policy. Circle K design and manage their sites to the highest standards in terms of customer expectation and health and safety. Sites are operated and developed with accessibility, sustainability and safety in mind and comply with all statutory regulations. Buildings are designed to a high architectural standard.
- 1.5 The following requirement however is of significant concern to our clients as it will have serious adverse impacts on the future potential redevelopment of a number of service station sites within their ownership in the Kerry area.

Retail Unit

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)

- 1.6 Our clients rightly take issue with this policy provision as it is clearly anti-competitive and directly in contravention of the Retail Planning Guidelines, to which the Planning Authority must have regard in the preparation of the development plan.
- 1.7 While the company's stores generally have a net retail area of less than 100m², in some instance they do not. Such instances would be where the service station is located within an urban area with a lack of proper retailing facilities. In these cases, the service station effectively becomes a local neighbourhood shop fulfilling an important local service function.
- 1.8 All too often it has been Circle K's experience that this function is not recognised or acknowledged by planning authorities in the preparation of their development plans and in decisions made on planning applications.
- 1.9 A confusion most often arises due to an incorrect interpretation of the reference to 100m² in the Retail Planning Guidelines as being an absolute cap on the extent of net retail floorspace that can be incorporated into service station developments, but it is unclear as to why the Draft Kerry County Development Plan has set a 50m² cap on the net retail floorspace.
- 1.10 It is not the case that the Retail Planning Guidelines have a strict 100m² cap and it is certainly not the case that they recommend a 50m² net retail floorspace cap.
- 1.11 One of the key messages of the Guidelines is the promotion of competition:

Strong competition is essential to reduce retail costs and ensure that savings are passed on to retail customers through lower prices. Competition also promotes innovation and productivity.

The planning system should not be used to inhibit competition, preserve existing commercial interests or prevent innovation. In interpreting and implementing these Guidelines, planning authorities and An Bord Pleanála should avoid taking actions which would adversely affect competition in the retail market

These guidelines are aimed at ensuring that the planning system continues to play its role in supporting competitiveness and choice in the retail sector commensurate with promoting the vitality and viability of city and town centres.

- 1.12 The Minister's foreword to the Guidelines advises:

Experience also indicates that a strong and competitive retail sector demands a proactive approach in planning, listening carefully to the messages from both the retail sector and communities and responding appropriately in managing and reshaping our cities and towns in response.

1.13 One of the Guidelines policy objectives is:

Securing competitiveness in the retail sector by actively enabling good quality -- development proposals to come forward in suitable locations.

1.14 The imposition of a 50m² cap on retailing at service stations is in contravention of this objective and has no policy basis whatsoever with reference to the Guidelines.

1.15 The national Guidelines do not preclude retail developments in excess of 100m² net, rather, they state that in respect of any development in excess of 100m² net the sequential approach will apply, and the retail element should be assessed in the same way as would an application for retail development. To quote directly:

*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.*

1.16 Additionally, the national guidelines are clear that the retail proposal must only be justified sequentially and not with reference to the potential for impacts on town or village centres.

1.17 It is submitted that the policy objective set out in the Draft Plan represents a clear departure from national guidance to which the Planning Authority must have regard. Not only must they be consistent with these national guidelines, but the guidelines themselves take precedence.

1.18 In this regard, the Planning Authority will note that Section 12 of the Planning and Development Act, 2000, as amended, relating to the preparation of Development Plans, sets out a requirement that such plans are consistent with the:

.....specific planning policy requirements specified in guidelines under subsection (1) of section 28.

1.19 Given the extent of misinterpretation, it is suggested that clarification is given to explicitly state that retail proposals at service stations in excess of 100m² are permitted in principle, subject to the applicant being able to demonstrate sequentially that the proposal is in accordance with the proper planning and development of the area.

- 1.20 Further, given the changing nature of forecourt retailing, we suggest that new planning policies should reflect the current market dynamics to encompass the changes in the market, acknowledge the emergence of new players, and reflect the different petrol retail formats, particularly sustainable urban stations.
- 1.21 With reference to this request and the location of service stations in sustainable urban locations, it is submitted to the Council that several Circle K service stations are located within established urban centre locations in the county and should not therefore be inhibited by any restrictive policies in terms of their retail development. Their location in itself justifies retail development.
- 1.22 It should also be acknowledged that a significant proportion of these stations exist in sustainable locations in terms of their proximity to established residential areas and that service stations facilitate multi trip usage with customers getting both petrol and local convenience items in the one trip. The provision of multi-services on the one site has the benefit of reducing the number of trips required to be taken. Thus, in our view, there are a large proportion of service stations that promote the sustainable location of local facilities and services close to residential populations.
- 1.23 On the basis of the above, our clients requests the consideration of following:
- **Recognition that the nature of the service station market has evolved considerably and acceptance of their various forms and locations.**
 - **Support for the important local service function performed by urban stations and the sustainability of those established in residential neighbourhoods.**
 - **Acknowledgement of the expectations and requirements of the modern consumer in determining appropriate policies for this type of retailing.**
 - **Incorporation of reference in accordance with the Retail Planning Guidelines to development in excess of 100m² net retail sales area being acceptable in principle, subject to normal planning and development considerations.**