



Planning and Development Acts 2000 to 2019

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 18/716

Appeal by Circle K Ireland Energy Group Limited care of Coakley O'Neill Town Planning Limited of NSC Campus, Mahon Cork against the decision made on the 22nd day of March, 2019 by Kilkenny County Council to grant subject to conditions a permission to Inver Energy Limited care of Marston Planning Consultancy of 23 Grange Park, Foxrock, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of a petrol filling station to include a single storey commercial building (211.4 square metres) incorporating a shop (100 square metres) with internal ATM that includes an off-licence (3 square metres); café and sandwich bar (52.2 square metres) and ancillary spaces (59.2 square metres); external forecourt area with canopy over three pump islands and underground storage tanks; to be served by 17 number car parking spaces overall with vehicular access to and from the Castlecomer Road with revised road markings and signage. The development will include the diversion of the foul drain that currently passes through the site.

Permission is also sought for one number totem signage (24 square metres) to the north-east of the site; three number advertising signs on the north, east and west elevation of the filling station canopy of 3.07 square metres each (9.22 square metres overall); three number pairs of advertising signs on the

north, east and south-east elevation of the building of 3.96 square metres, 4.98 square metres and 4.68 square metres (13.62 square metres overall) as well as all associated site development, ancillary and boundary works, at Castlecomer Road within the townland of Glendine, County Kilkenny.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the zoning of the site for 'General Business' in the Kilkenny City and Environs Development Plan 2014-2020 (within which zoning all elements of the proposed development are permitted in principle), to the design, nature and scale of the proposed development and to the established character and pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity of the site, would not seriously injure the visual or other amenities of the area, would be acceptable in terms of pedestrian and traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on the 26th day of February 2019, 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. An Electric Vehicle Charging Point shall be provided at a suitable location within the site and shall be operational prior to the commencement of operation of the proposed petrol filling station. Details of the location of this facility shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In order to ensure an appropriate standard of development.

3. Details of the colour and materials of all external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. In particular,

Reason: In the interest of visual amenity.

4. The applicant or developer shall enter into water/and or waste water connection agreement(s) with Irish Water prior to the commencement of this development”.

Reason: In the interest of public health.

5. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

6. All tank and drum areas shall be rendered impervious to the materials stored therein. In addition, tank and drum storage areas shall be bunded either locally or remotely to a volume not less than 110% of the capacity of the largest tank or drum within the bunded area. Drainage from the bunded area shall be diverted for collection and safe disposal.

Reason: In the interest of the protection of the environment.

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material, including any materials containing asbestos materials in the existing structures to be demolished, in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management, and dust suppression and management measures.

Reason: In the interest of public safety and residential amenity.

9. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1500 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

10. Opening hours of the proposed facility shall be between the hours of 0600 and 2300 hours daily only, unless prior planning permission has been obtained to vary these hours. Deliveries to the retail unit shall only occur between these hours.

Reason: In the interest of residential amenity.

11. (1) The applicant shall carry out a stage 3 Road Safety Audit for the completed development.
- (2) Details of proposed sign SUP-002 – cycle lane sign shall be reviewed (directional arrow and text may be misleading in its current format).
- (3) No traffic or machinery associated with the proposed development shall block the free flow of traffic along the Castlecomer Road or the cul-de-sac road bounding the site to the west and shall not block any neighbouring vehicular entrances.

Details in relation to the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of pedestrian and traffic safety.

12. Signage shall be provided in accordance with the modified scheme as set out in the further plans and particulars received by the planning authority on the 26th day of February, 2019. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, additional signs or advertising structure shall be erected within the curtilage of the site or attached to the external facades of any buildings or other structures within the site in such a manner as to be visible from outside the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and to allow the planning authority to assess all future signage through the statutory planning process.

13. The site shall be landscaped in accordance with the landscaping and boundary treatment as set out in drawing number P2932-C007 received by the planning authority on the 26th day of February, 2019. If within a period of five years from the date of planting, any tree, shrub or hedge is uprooted, removed, destroyed or dies, replacement planting of a tree, shrub or hedge of a similar species shall be planted at the same place, unless written consent for any variations has been received from the planning authority.

Reason: In the interest of visual amenity.

14. 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.

Terry Prendergast
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2020.