

An
Bord
Pleanála

Board Order ABP-309439-21

Planning and Development Acts 2000 to 2022

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 20307

Appeal by Circle K Ireland Limited care of Coakley O Neill Town Planning Limited of NSC Campus, Mahon, Cork City, County Cork and by Anne Harnett of Tournore, Abbeyside, Dungarvan, County Waterford and by Coolagh Service Station Limited care of Vincent Murray Designs Limited of Ballythomas, Rathgormack, Carrick-On-Suir, County Waterford against the decision made on the 19th day of January, 2021 by Waterford City and County Council to grant subject to conditions a permission to Coolagh Service Station Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: Redevelopment of the existing service station consisting of the reconfiguration and replacement of the existing service station fuel pumps, canopy and associated underground fuel storage tanks. The replacement of the existing convenience shop and off-licence, deli kitchen and seating area, toilet and staff facilities two-storey building with a new single storey flat roof building containing a convenience shop and off-licence, café seating area, deli and kitchen, associated storage rooms, staff facilities and customer toilets. The relocation of the two existing vehicular entrance/exits to the service station from the adjacent N25 road. The reconfiguration and expansion of the existing customer car park and the provision of two number bus parking spaces. The relocation of the existing automatic car wash, jet car wash and car services area within the site. The provision of a bin

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storage compound, customer solid fuel storage shed, customer domestic gas storage cage, new totem pole sign and other associated site signs, new landscaping and boundaries, and all associated siteworks; all at Coolagh Service Station Limited, Clonnagh/Clashmalea/Burgery, Abbeyside, Dungarvan, County Waterford.

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.

Reasons and Considerations

Having regard to the provisions of the Waterford City and County Council Development Plan 2022-2028 including the applicable zoning (GB) with a stated objective "to provide for and improve general business uses", to the established use of the site as a service station with an existing shop and to the pattern of development in the area, the Board considered that, subject to compliance with the conditions set out below, the proposed development comprising the redevelopment of the site for similar and improved services for motorists, would be in accordance with the stated zoning objective, would not detract from the vitality of the town centre and would not seriously injure the residential amenities of the area. The Board was satisfied that the access and egress arrangements and the quantum of parking proposed, including the reduced parking configuration from 91 to 61 spaces as shown in the submissions made to An Bord Pleanála during the course of the appeal, would, when considered in the context of the existing access, egress and parking, be acceptable in terms of traffic safety and parking arrangements. Overall, the Board concluded that the proposed development would be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board firstly took into account the established use of the site as a service station and noted that the existing shop on the appeal site has a net retail floor space of 230 square metres. The Board did not share the view of the inspector that the proposed

development on site would exacerbate the maximum retail floor space cap of 100 square metres for petrol filling station shops that is set out in the “Retail Planning Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government in April 2012 as the Board noted that the proposed development would result in a reduction in net retail area from 230 square metres to 182 square metres. In noting that the proposed development would also involve the provision of an increased net café/food-offering area from its current area of approximately 30 square metres to a proposed area of 182 square metres for this element of the proposal, the Board was satisfied that net retail floor space of a shop, as defined in the Guidelines, excludes cafés. The Board was otherwise satisfied that the shop and café would function to provide local services as part of the normal ancillary services provided within motor fuel stations serving the needs of motorists and would be in accordance with the provisions of the Waterford City and County Council Development Plan 2022-2028 including the GB zoning and in accordance with the proper planning and sustainable development of the area.

Having regard to the provisions of the Waterford City and County Council Development Plan 2022-2028 including the applicable land-use zoning (GB) with a stated objective “to provide for and improve General Business uses”, to the quantum of development proposed, to the pattern of development in the area, and to the established use of the site as a service station with a shop (with a net retail floor space of 230 square metres), it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety including access egress arrangements and the quantum of parking proposed, would not detract from the vitality of the town centre, would not seriously injure the residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board took into account the established use of the site with an existing net retail floor space of 230 square metres that currently exists on the site. The Board did not share the view of the inspector that the proposed development would exacerbate the maximum floor space of 100 square metres that is set out in the “Retail Planning Guidelines for Planning Authorities” issued by the Department of the Environment,

Community and Local Government in April 2012 in the context of the existing situation. The Board considered that it was necessary to take into account the existing size and scale of the retail area. In this regard, the Board was satisfied that the proposed net retail floor space (182 square metres – net retail) would not be increased above the current net retail floor space as part of the redevelopment proposed on site and that the proposed food/café area (182 square metres – café) is acceptable as the net retail floor space, as defined in the Guidelines, excludes cafés. The Board was otherwise satisfied that the shop and café would function to provide local services as part of the normal ancillary service provided within motor fuel stations serving the needs of motorists, and would be in accordance with the provisions of the Waterford City and County Council Development Plan 2022-2028 including the GB zoning and overall the Board is satisfied that the proposed development would be in accordance with the proper planning and sustainable development of the area.

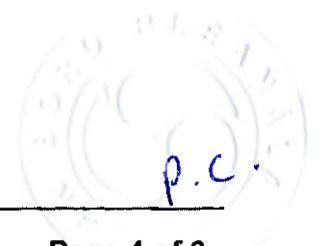
Conditions

1. The development shall be carried out 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 10th day of December, 2020 and by the further plans and particulars lodged with the appeal to the An Bord Pleanála on the 23rd day of January, 2023, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the developer shall enter into a Connection Agreement(s) with Uisce Éireann to provide or augment a service connection(s) to the public water supply and or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.



3. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. The use of the premises/food offering shall be restricted to between the hours of 0700 and 2300.

Reason: To protect the amenities of the adjoining properties.

5. The proposed car wash facilities shall not operate outside of the hours of 0700 to 2100 daily.

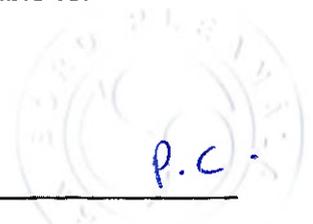
Reason: In the interest of protection of adjoining residential amenities.

6. All external shopfronts and signage shall be in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to the provision of such shopfronts and signage.

Reason: In the interest of visual amenity.

7. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.



8. 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 the 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



Patricia Calleary

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *18* day of *October* 2023.