



An
Bord
Pleanála

Inspector's Report ABP309286-21

Development	Amendments to Circle K Service Station.
Location	Circle K Parkway West, Service Station, The Hill, Lucan Road, Palmerstown, Dublin 20
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD20A/0106
Applicant(s)	Circle K Ireland
Type of Application	Permission
Planning Authority Decision	Refuse.
Type of Appeal	First v Refusal
Appellant(s)	Circle K Ireland
Observer(s)	None
Date of Site Inspection	16 th July 2021
Inspector	Hugh Mannion

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1.0 Site Location and Description

1.1. The application site is rectangular, has a stated area of 0.5ha and is located on the left of the N4 dual carriageway as it by-passes Palmerstown, Dublin 20. The N4 becomes the M4, M5 and M6 further west and this is one of the main exits from Dublin city to the west and northwest. The site is occupied by an established service station which it is proposed to amend. The access is over a one-way section of the road with a left in/left out arrangement to and from the service station. The northern boundary adjoins the footpath along the N4. The southern site boundary is defined by a concrete block wall between 1.5/2m high which runs along the footpath of Palmerstown Drive. The eastern and western boundaries adjoin the side gardens of houses that face onto Palmerstown Drive.

2.0 Proposed Development

- 2.1. The proposed development comprises;
- I. the construction of a single storey extension to the rear of an existing forecourt retail unit and internal and external alterations to provide an amenity building with retail area (100m²), restaurant/café area with hot and cold meals and refreshments for sale for consumption on and off the premises, associated customer seating, customer WCs, back of house with ancillary office, staff welfare facilities, storage and plant areas, ancillary off-licence.
 - II. associated revisions to site layout, and
 - III. associated site and development works.

At Circle K Parkway West Service station, The Hill, Lucan Road, Palmerstown, Dublin 20.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission.

1. The applicant has not justified the net retail floor space of 133m² which is above the 100m² maximum and would thereby damage the district centre in Palmerstown and be contrary to the Retail Planning Guidelines and objectives R1 and R2 in the South Dublin County Council Development Plan 2016-2022.
2. The application has failed to justify the fast-food element of the proposed development in terms of impact on vulnerable uses such as nearby houses, the cumulative effect of an additional fast food use, the opening hours, vents and other external services. The proposed development would be contrary to section 11.3.6 (iii) of the Plan and the residential zoning objective for the area which is to protect and or improve residential amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planner's report recommended requesting additional information as follows;

- The County Development Plan at section 11.3.6(iv) limits the retail floor area of service station to 100m², including retail, display, circulation areas and areas behind the counters/tills. Amended drawings providing for this should be submitted.
- The proposed takeaway element may impact on vulnerable uses/residential uses. The applicant should address the lack of information on opening

operational hours, vents and other external services and other issues raised in section 11.3.6(iii).

- The planning authority has concerns in relation to cars circulating within the site. The applicant should address these concerns by submitting a revised layout limiting the car parking spaces to 13.
- Submit detail of proposed opening hours.
- The planning authority has concern in relation to the cooking function on site. Details should be submitted of.
 1. Location of refuse storage and recycling.
 2. Waste management plans.
 3. Layout and finishes of the hot/cold food services
 4. Details of grease traps and water supply.
 5. Ventilation details with internal and external locations and equipment specs.
- Set out details of surface water handling within the site.

Subsequent to the submission of the additional information the planner's report recommended refusal as set out in the manager's order.

3.2.2. Other Technical Reports

Water Services Planning Report requested information in relation to surface water disposal and reported no objection subject to separation of foul and surface water within the site and works to comply with planning authority standards.

Roads Department reported there were 20 unmarked parking spaces within the site and recommended that this should be reduced to 13 marked spaces. If permission is granted the pedestrian route from the parking to the convenience store should be clearly delineated and a construction traffic management plan should be submitted and agreed.

Public Realm Section reported no objection.

Environmental Health reported no objection.

Irish Water Reported no objection subject to connections agreements.

4.0 Planning History

- 4.1. SD16A/0188 permission granted to remove existing palisade fencing and erect new railings at the western end of the filling station on the Palmerstown by-pass, Palmerstown, County Dublin.
- 4.2. SD15A/0360 permission refused for fencing along the western boundary of the filling station on the Palmerstown by-pass, Palmerstown, County Dublin.
- 4.3. PL06S.218785 (PA reg Ref SD06A/0092) permission granted to redevelop an existing filling station to compromise demolition of existing shop, canopy, pumps etc and provision of new forecourt shop with restaurant area including the sale of hot food for consumption in and off the premises, off licence, ATM machine, stores, signage, new forecourt layout including forecourt canopy, petrol pumps, shop signage, shop plant compound, waste compound, underground fuel storage tanks, car parking automatic car wash, jet wash, car wash plant room, I.D. sign together with ancillary works at Parkway West Service Station, The Hill, Lucan Road (N4), Palmerstown, County Dublin.
- 4.4. PL06S.202432 (PA reg Ref SD03A/0027) permission granted for alterations to existing forecourt building shop to include a change of use of office/part storage area to retail use including ancillary works at Maxol Service Station, The Hill, Lucan Road, Palmerstown, County Dublin.

5.0 Policy and Context

- 5.1. **Regional Spatial and Economic Strategy 2019-2031 (RSES).**
- 5.2. The application site is within the area of the Dublin Metropolitan Area Strategic Plan included as chapter 5 of the RSES. The guiding principles of the metropolitan area plan include consolidation of development within existing centres of Dublin, its suburbs and towns in its hinterland.

5.3. **Retail Planning Guidelines for Planning Authorities (DoECLG 2012)**

5.4. The application is best described as forecourt retail/mini supermarket linked to a motor service station. The objectives of the Retail Guidelines are that;

- retail development be plan lead especially through the adoption of retail strategies in Development Plans,
- a sequential approach to locating new retail development should be adopted where preference is given to city and town centres for new development,
- the planning systems should support competition in the retail sector,
- new retail developments support sustainable travel modes, and,
- new development should be accompanied by good urban design,

5.5. **South Dublin County Council Development Plan 2016-2022.**

5.6. **Retail (R) Policy 1** It is the policy of the Council to seek to ensure adequate retail provision at suitable locations in the County and to protect the vitality and viability of existing centres in accordance with the retail framework provided by the Retail Planning Guidelines for Planning Authorities (2012) and the Retail Strategy for the Greater Dublin Area 2008-2016. Given the changing economic circumstances since the adoption of the Retail Strategy for the Greater Dublin Area a cautionary approach will be adopted in relation to future quantitative retail floor space requirements.

5.7. **R1 Objective 1:** To have regard to the Retail Planning Guidelines for Planning Authorities, DOECLG (2012), the Retail Strategy for the Greater Dublin Area 2008-2016, Regional Planning Guidelines Office (2008) and the Regional Planning Guidelines for the Greater Dublin Area 2010-2022 (2010) in defining the role of retail centres and in determining planning applications for retail development.

5.8. **R1 Objective 2:** To update the Retail Strategy for South Dublin County within the lifetime of this Plan following the completion of the reviews of the Regional Planning Guidelines for the Greater Dublin Area 2010 - 2022 and the Retail Strategy for the Greater Dublin Area 2008 – 2016 and include for analysis of footfall, vacancy and expenditure.

- 5.9. **R1 Objective 3:** To support new retail provision in the County to meet the needs of the County's population and to direct new retail floor space into designated retail centres in accordance with the County Retail Hierarchy, so that centres can maintain and expand their retail offer.
- 5.10. **R1 Objective 4:** To support the viability and vitality of the existing retail centres in the County, in particular town, village and district centres and to facilitate a competitive and healthy environment for the retail industry, while reinforcing sustainable development.
- 5.11. **R1 Objective 5:** To assess and monitor the vitality and viability of town, major retail, district and village centres.
- 5.12. **R1 Objective 6:** To facilitate and provide for, the refurbishment and replacement of obsolete floorspace and promote the use of vacant floorspace.
- 5.13. **R1 Objective 7:** To support, subject to identified need, the development of smaller and medium sized supermarkets in preference to superstore and hypermarket outlets, development of which should be generally limited.
- 5.14. **R1 Objective 8:** To review and monitor retail trends that influence the performance of the sector within South Dublin and to encourage and facilitate innovation in the County's retail offer and attraction.
- 5.15. **R1 Objective 9:** To encourage and facilitate the provision of local convenience shops (Shop – Local) in existing residential areas where there is a deficiency of retail provision in the catchment, subject to protecting residential amenity
- 5.16. **Retail (R) R2 Sequential approach**
- 5.17. It is the policy of the Council to guide retail development where practical and viable in accordance with the framework provided by the Sequential Approach to enable the vitality and viability of existing town, major retail, village and district centres to be sustained and strengthened.
- 5.18. **R2 Objective 1:** To consolidate the existing retail centres in the County and promote town, village, district centre and local centre vitality and viability through the application of a sequential approach to retail development.
- 5.19. **R2 Objective 2:** To direct new major retail floorspace in the County to designated centres of the appropriate level and the identified Retail Opportunity Sites, and to

further direct retail development in designated centres into the Core Retail Areas and restrict retail development outside of the Core Retail Area to an appropriate level and form of retail development.

- 5.20. **Development Plan Section 11.3.6(iv) - Motor Fuel Stations Petrol stations**, while necessary, have the potential to cause disturbance, nuisance and detract from the amenities of an area and as such, proposals for new or extended outlets will be carefully considered. Motor fuel stations will not generally be encouraged within the core retail area of urban centres or in rural areas. Development proposals for motor fuel stations should address the following: Development proposals will be required to demonstrate that noise, traffic, visual obtrusion, fumes and smells will not detract unduly from the amenities of the area and in particular from sensitive land uses such as residential development. Motor fuel stations should be of high quality design and integrate with the surrounding built environment. In urban centres, where the development would be likely to have a significant impact on the historic or architectural character the area, the use of standard corporate designs and signage may not be acceptable. Forecourt lighting, including canopy lighting, should be contained within the site and should not interfere with the amenities of the area. The forecourt shop should be designed so as to be accessible by foot and bicycle, with proper access for delivery vehicles. The safety aspects of circulation and parking within the station forecourt should be fully considered. Retailing activities should be confined to the shop floor area, except in the case of sales of domestic fuel, where some external storage may be permissible. The external storage of gas cylinders and solid fuel should be limited in area and confined to strictly defined specifically designed compounds adjoining the shop/forecourt and be subject to adequate measures being taken for visual appearance, security and safety. The sale of retail goods from petrol stations should be restricted to convenience goods and only permitted as an ancillary small-scale facility. The net floorspace of a fuel station shop shall not exceed 100 sq.metres. Where permission is sought for a retail floorspace in excess of 100 sq.metres, the sequential approach to retail development shall apply (i.e. the retail element shall be assessed as a proposed development in its own right). Workshops for minor servicing (e.g. tyre changing, puncture repairs, oil changing) may be permitted in circumstances where they would not adversely impact the operation of the primary petrol station use and local amenities, particularly

with regard to proximity to dwellings or adjoining residential areas. Motor fuel stations and service areas in proximity to the National Road network will be assessed with regard to the Spatial Planning and National Roads Guidelines for Planning Authorities DECLG, (2012)

5.21. Natural Heritage Designations

Not relevant.

5.22. EIA Screening

The proposed development comprises an amendment to an existing and permitted service station on a brownfield site. Having regard to the location of the site within a developed urban area bounded by existing residential development and the N4 dual carriageway, to the availability of public water supply, public sewerage and surface water drainage and having regard to the likely emissions therefrom I conclude that there are no likely significant environmental impacts arising from the proposed development and that the requirement for submission of an EIAR and carrying out of an EIA can be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

- There is an extensive history of permitted commercial use on this site.
- The sequential test for retail development set out in the Retail Planning Guidelines and the County Development Plan refers to significant retail development. The proposed development in the present case is not such development.
- In previous cases (PL13.224145, PL09.245788 and PL06S.246498) the Board decided that a minor increase in retail floor areas in service stations was not contrary to the guidelines.
- There are no more suitable sites for the proposed development in or around Palmerstown village which would better fit the sequential approach.

- The deli, coffee dock and seating area are incorporated into the building sharing a single entrance/exit. The proposal is not for a takeaway and the reference to sale of hot food for consumption off the premises is included to adhere to the forms of description required by the planning regulations.
- There will be no additional impact on residential amenity nor are the impacts comparable to a standalone fast-food outlet.
- The petrol station has been operating for 60 years without negative impact on residential amenity.
- The proposed development will not give rise to additional noise over and above that from the adjoining N4.
- The operation requires very little cooking, food is mostly re-heated in a type of oven where built-in filters removes odours from the process. Air changes within the building are set out in the application and this matter (odour) is more appropriately controlled by a condition.
- The current waste management arrangements on site will not change.
- Any waste oils are collected and removed by a licenced contractor.
- There will be no significant negative impact on the area arising from the proposed development.

6.2. Planning Authority Response

- The matters raised are covered in the planner's report.

6.3. Observations

- None

7.0 Assessment

7.1. Refusal Reason 1.

- 7.2. The County Development Plan (11.3.6.(iv)) makes the point that service stations will not be encouraged within the core retail areas or in rural areas. Where service

stations are permitted the 'net floor space' will be limited to 100m². The planning authority requested by way of submission of additional information the reduction of the retail space to 100m² which would accommodate the whole retail element comprising display areas, circulation areas, areas behind the counter tops, the counter tops and till areas.

- 7.3. The applicant refers to the definition of net retail floor spaces provided in the Guidelines as "the area within the shop or store which is visible to the public and to which the public has access including fitting rooms, checkouts, the area in front of checkouts, serving counters and the area behind used by serving staff, areas occupied by retail concessionaires, customer service areas, and internal lobbies in which goods are displayed, but excluding storage areas, circulation space to which the public does not have access to, cafes, and customer toilets"¹.
- 7.4. The County Development Plan makes the point that motor fuel stations will not generally be encouraged within the core retail area of urban centres or in rural areas and that in other cases impacts on sensitive uses such as residential uses will be an important consideration. In the present case it is noteworthy that there is an existing petrol station/retail use on site which serves a clientele who at least in part are on their way to the outer suburbs or rural areas and who do not want to enter a neighbourhood centre for fuel. Additionally, I consider that diverting traffic off the N4 into Palmerstown village would be an appropriate objective. On that basis I consider that the proposed use is not contrary to the sequential test nor will it detract from the viability or vitality of Palmerston village centre.
- 7.5. The retail planning guidelines state that shops attached to petrol, stations should not exceed 100m² net. It appears reasonable therefore that 100m² exclusive of counters, shelving and other ancillary items would accord with the Retail Planning Guidelines. Furthermore, the proposed additional 33m² of retail space is relatively minor and is encompassed in an existing fuel retailing site.

¹ Annex 1 of the Guidelines.

7.6. Refusal Reason 2

- 7.7. The second reason for refusal references the policy in relation to petrol filling stations and the objective to protect the residential amenity of adjoining property.
- 7.8. The County Development Plan policy (section 11.3.6(iv)) is that applications should demonstrate that injury to the amenity of sensitive uses such as residential uses should not arise from noise, traffic, visual obtrusion, fumes and smells. It is noteworthy in this instance that there were no observations made to the planning authority or the Board objecting to the proposed development despite the proximity of housing development on Palmerstown Drive.
- 7.9. The size of the site and the layout of the proposed development is a key consideration in this regard. The site is 0.5ha and there is an existing canopy and service/retail unit. There are no sensitive uses on the northern site boundary (the N4) or the southern boundary (the roadway and footpaths of Palmerstown Drive). The closest house to the east is 41 Palmerstown Drive and that is about 64m from the edge of the canopy and between the concreted forecourt/circulation area and the closest house there is landscaped green area between 20m and 24m wide. The impacts on these three boundaries and adjoining uses will not be impacted by the proposed development.
- 7.10. At present the western boundary of the application site adjoins number 39 Palmerstown Drive and the separation distance is 20m from the existing building to the site boundary. This area comprises a concrete circulation area, a right of way pedestrian link between Palmerstown Drive and the N4 and then a grassed strip and hedging/boundary wall with the residential use. This relationship will be altered by the new development in that the building will move to within 12m of the boundary. Significantly the uses within this extended area will comprise storage, staff and customer toilets, an office staff room, and a plant room. There are 3 doors proposed for this elevation and no windows. The coffee area/deli counter and tills are all contained within the original floor plate of the existing building.
- 7.11. The planning authority raised the issue of ventilation in the request for additional information and the applicant replied that these details were yet to be decided. The appeal makes the point that this matter may be subject to a compliance condition. I consider that the applicant was remiss in not including these details. Nevertheless,

and having regard to the points made by the applicant in relation to the types of hot food to be sold within the proposed development and the preparation needs for that food I conclude that a condition requiring the agreement of the planning authority in relation to the layout of ventilation systems is sufficient to address this point.

7.12. Having regard to the foregoing I conclude that the proposed development, subject to conditions, will not seriously injure the amenity of adjoining property and will not contravene the Development Plan policy in relation to impacts on adjoining sensitive uses.

7.13. Operating Hours.

7.14. The applicant states that the premises operate on a 24 hour basis and no change in that is proposed.

7.15. Car Parking/Circulation

7.16. The matter of circulating within the site and car parking was raised as a query in additional information request by the planning authority. The application submitted a revised layout provision for circulation in/or out the application site and car 13 spaces as required by the planning authority. I consider this arrangement to be satisfactory.

8.0 Recommendation

8.1. I recommend a grant of permission.

9.0 Reasons and Considerations

9.1. Having regard to;

- the existing and permitted motor fuel/retail use of the site,
- the modest scale of the proposed extension and the increase in the retail sales floor area,
- to the location of the application site on a major exit from Dublin city centre and its relative remoteness from Palmerstown village centre,
- the site layout and separation distances of the redeveloped building off the site boundaries,

it is considered that the proposed development will not undermine the vitality and viability of any village or town centre, will not undermine the sequential approach to the retail development within the area, will not seriously injure the residential amenity of nearby property or the visual amenity of the area and would, otherwise, be in accordance with the provisions of the South County Dublin County Development Plan 2016-2022, the Retail Planning Guidelines for Planning Authorities (Department of the Environment, Community and Local Government 2012), and with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 on the 2nd day of December 2020 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to commencement of development details of the type and location of any ventilation machinery, extractor fans or associated equipment shall be submitted to and agreed in writing with the planning authority. No outlets for such equipment shall be located on the western facade of the proposed building.</p> <p>Reason: In the interests of residential amenity.</p>

3.	<p>No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the canopy, on the forecourt building or anywhere within the curtilage of the site unless authorised by a further grant of planning permission.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>All surface water arising within the site shall be treated and disposed of in accordance with the requirements of the planning authority. Prior to commencement of development detailed plans and particulars providing for these arrangements shall be submitted to and agreed in writing with the planning authority.</p> <p>Reason: To prevent water pollution.</p>
5.	<p>The developer shall enter into potable water and wastewater connection agreements with Irish Water.</p> <p>Reason: In the interests of public health.</p>
6.	<p>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.</p>

	<p>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.</p>
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Hugh Mannion
Senior Planning Inspector

26th July 2021