



An  
Bord  
Pleanála

## Inspector's Report ABP 315122-22

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<b>Development</b>	An extension to an existing service station amenity building.
<b>Location</b>	Circle K Service Station, Ballymurphy, Dunshaughlin, Co Meath. A85 FC78
<b>Planning Authority</b>	Meath County Council
<b>Planning Authority Reg. Ref.</b>	22 - 668.
<b>Applicant</b>	Circle K Ireland (Retail) Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party x Refusal
<b>Appellant</b>	Circle K Ireland (Retail) Ltd..
<b>Observer</b>	Adrian Copeland
<b>Date of Site Inspection</b>	26 <sup>th</sup> June, 2023.
<b>Inspector</b>	Jane Dennehy.

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## 1.0 Site Location and Description

The site which has a stated area of 2,907 square metres and is located in the townland of Ballymurphy on the north side of the R147 a regional route, formerly, (prior to the opening of the M3), a national route to the south of Dunshaughlin.

The existing service station has three pump islands with a canopy overhead and a single storey amenity building at the south side providing retail convenience goods and including coffee along with staff and other back of house facilities. Carwash air and associated facilities at the southern boundary. There are picnic tables on grass and fencing along the northern and eastern boundaries. The amenity building and canopy are forward of the footprints of the dwellings to the north and south sides which are setback circa twenty metres from the frontage.

There is a low plinth wall on the frontage with two combined entrances/exits onto the R147, one at the northern end and the other at the southern end. There are no public footpaths or lighting and a broken white line is along the centre of the carriageway of the R147.

The residential property to the north side (occupied by the observer party,) has large front and side gardens with dense mature coniferous trees and hedgerows inside the boundary with the applications and long the road frontage. A vehicular entrance is located at the northern end and a pedestrian gate at the southern end of the frontage. The residential property to the south side has a single entrance at the southern end of its road frontage. There is residential development a short distance to the north the construction of which is nearing completion

## 2.0 Proposed Development

The application lodged with the planning authority indicates proposals for:

- An extension with a stated floor area of eighty-three square metres facilitating a revised internal layout, inclusive of an off license area (7.9 square metres) and resulting in a total net sales area of 83 square metres and a gross floor area of 195 square metres.
- Elevation changes; relocated signage, new entrance doors and new glazing.

- Rearrangement of the site layout to incorporate fifteen additional car parking spaces, a codex payment terminal, car wash paved seating bin storage and relocation of the laundry unit and car services unit and all associated drainage works and side development works.

The applicant submitted a response, on 28<sup>th</sup> September, 2022 to a request for additional information and erected and published new site and newspaper notices.

The submission includes:

- A site layout to indicate satisfactory carparking spaces layout, an auto track drawing to demonstrate circulation standards for large vehicles/tankers and a sightline drawing.
- Details of daily volumes of effluent generated and the proposed water treatment and disposal on site for the car wash facility, in the absence of scope for connection to the public sewer, details as to potential for intensification of use having regard to statutory policies, carparking, traffic routing for tankers and larger vehicles, the planning status of the laundry unit landscaping and boundary treatment. (Revised site and newspaper notices were also erected and published.)
- Revised proposals to demonstrate that the proposed retail area would be compliant with the net retail floor space requirements as set out in Annex 1 of the Retail Planning Guidelines The applicant indicates willingness to accept a condition to restrict net sales are to a maximum of one hundred square metres.
- Confirmation that that applicant intends to regularise the planning status of the . existing laundry which is unauthorised development.
- A comprehensive landscaping scheme and boundary treatment proposals prepared by a landscape architect.

### 3.0 Planning Authority Decision

Decision

By order dated, 20<sup>th</sup> October, 2022, the planning authority decided to refuse permission based on the reasoning outlined below:-

The proposed development, as presented, and by reason of the lack of sufficient information regarding adequacy of the hydrological assessment for discharge of car wash trade effluent to groundwater and the Site Characterisation Report conflicts with the DM Objective INF OBJ 13 of the Meath CDP and therefore poses unacceptable risk to public health and is contrary to the proper planning and sustainable development of the area.

### **3.1. Planning Authority Reports**

#### **3.1.1. Planning Reports**

The initial planning report indicates a recommendation for a multiple item additional information request to be issued. The supplementary on the further information submission report indicates the recommendation for refusal of permission based on the reason set out under section 3 above. The planning officer's concerns, having regard to the technical reports of the Environment Section.

#### **3.1.2. Other Technical Reports**

The Transportation Department dated 7<sup>th</sup> October, 2022 on the further information submission indicates no objection subject to a condition for a revised site layout to be submitted for agreement with the planning authority prior to commencement of the development indicating sightlines at 160 metres from a 2.4 metres setback.

The Environment' Department's report dated; 19<sup>th</sup> October 2022 on the further information submission indicates a recommendation for refusal of permission on grounds that the development would be prejudicial to public health as it is .not demonstrated that the proposed development would not adversely affect ground waters, that there is adequate separation distance between the wastewater treatment system and a well, and high T values and elevated water table concerns.

The report on Flooding indicates the location as within Flood Zone C and no risk of flooding at the site.

The Lighting report indicates a recommendation for a condition for a lighting design, in according with the public lighting technical specification and requirements issued by the local authority to be submitted and agreed with the planning authority.

## 4.0 Planning History

**P. A. Reg. Ref. 97/102:** Permission was granted for demolition of a dwelling on the site and redevelopment of the existing petrol service station.

**P. A. Reg. Ref. 99/1697;** Permission was granted for installation of a car wash facility along with a car wash pad, screens, water recycling unit interceptor and associated surfacing and kerbing

Two applications for major redevelopment at the service station and associated and ancillary facilities were withdrawn prior to determination of a decision by the planning authority. (P. A. Reg. Refs DA40472 and DA60087 refer.)

## 5.0 Policy and Context

### 5.1. Development Plan

The operative development plan is the Meath County Development Plan, **2017-2027** according to which the site location is in a 'Rural Area'.

Development management policies and standards for Service Station development are set out in Section 11.6.5.

Policy Objectives DM POL 19, 20 and 21 and DM OBJ 58 apply.

The planning authority supports the policies within Transportation Infrastructure Ireland publication, "*The Service Area Policy*" in 2014 and it is requirement that regard is had to *Spatial Planning and National Roads – Guidelines for Planning Authorities*, (DOECLG 2012) in development proposals.

### 5.2. Relevant Statutory Planning Guidelines issued under Section 28 of the Planning and Development Act, 2000 as amended:

*Spatial Planning and National Roads – Guidelines for Planning Authorities*, (DOECLG 2012)

The Retail Planning Guidelines, (2012) Criteria for Retailing and Motor and Fuel Sections are set out in section 4.11.9 and Annex 1 thereof.

### 5.3. **Natural Heritage Designations**

The site location is not within any designated NHAs

### 5.4. **EIA Screening**

Having regard to the existing development on site, the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

An appeal was lodged by the applicant's agent on 16<sup>th</sup> November, 2022 and attached is a copy of a detailed engineering report. The appeal includes a revised proposal and floorplan in which the proposed carwash facility is omitted. According to the appeal:

- The planning authority did not consider that a sequential approach is to be applied in respect of retail development in excess of 100 square metres in net floor area at service stations. The Retail Guidelines and CDP allows for consideration of proposals for expansion alteration and improvement of non-conforming uses on individual merits (section 11.14.2) and the expansion of the retail function at service stations is acknowledged. (Section 11.6.5.)
- The proposed omission of the carwash facility addresses the reasoning for refusal wis which is based on perceived lack of information to support a favourable decision. It could have been addressed in response to a clarification of additional information request.
- Revised calculations for groundwater discharge demonstrate that the retail building, incorporating the proposed extension (83 square metres) can be properly serviced on site, without any necessity for connection the public foul

sewer network. The long-established arrangement at the site will be improved without unacceptable risk to public health.

- The revised proposals for the development accord with CDP Policies, DM POL 19, DM POL 20, DM POL 21, and DM OBJ 58 within Section 11.6.5 (chapter 11) of the CDP's development management standards which also have recognition of expansion and ancillary uses for service stations.
- The revised proposals accord with the definition of net retail floor space,( i.e.. The area with public access and visible to the public), within Annex 1 of Retail Planning Guidelines, 2012
- There is precedent of development at services stations to include extensions food offerings off licenses, and modifications to access and additional parking. (Case Ref Nos 301368, 300779, 305705, 300054, 300777, 300250 and 301669 refer.) The planning officer considered the application, subject to normal planning and environmental considerations acceptable in principle.

## 6.2. **Planning Authority Response**

A submission was lodged on 12th December, 2022 in which it is stated that the decision to refuse permission be upheld because the proposed development would not be in accordance with the proper planning and development of the area.

## 6.3. **Observations**

A submission was received from BPS Planning on behalf of Adrian Copeland whose residential property adjoins the application site in which it is requested that permission be refused. In brief, the objections to the proposal can be outlined as follows:

- The application is invalid due to issues relating to the display of site notices.
- The proposed development would have significant negative impacts on the residential amenities and the value of Mr Copeland's property and on visual amenities.



- The proposed development would have significant adverse impacts on the development potential of Mr Copeland's property where a second dwelling could be developed in the side garden.
- Noise mitigation details are insufficient. There is no boundary wall between the properties. Any new development should include substantial boundary treatment in block and stone walling.
- There is concern about public safety – there being a blind bend on the public road at the entrance to Mr Copeland's property.
- There is concern as to the adequacy of wastewater treatment facilities.

## 7.0 Assessment

7.1. The issues central to the determination of a decision are considered below under the following subheadings:-

- Drainage arrangements.
- Nature and Intensity of use
- Traffic safety,
- Property Value and Residential and Visual Amenities

7.2. Drainage arrangements.

7.3. In the appeal the reasoning for refusal of permission attached to the planning authority decision is addressed by the omission of the proposed car wash facility in entirety. This would overcome the concerns of the planning authority about significant loading on the on-site treatment and disposal system and consequent risk to public health by reason of contamination of groundwaters.

7.4. The on-site system proposed is A Molloy Environmental System 8 PE Chieftain SBR which incorporates tertiary treatment which will service the amenity building the loading from which is estimated to be 600 litres per day. Based on review of the appeal submission which includes a completed site characterisation form, design details for the amended proposal it is agreed, that the proposed arrangements in

which the carwash facility is omitted provide for a satisfactory on-site system for the proposed development that does not give rise to risk of contamination of ground water which would be prejudicial to public health.

- 7.5. While it is agreed with the planning authority the connection to the public foul sewer network is a preferable solution the extent to which the proposed development, differs from and forms an expansion of the existing development would not justify refusal of permission on such grounds.
- 7.6. Separately, there is no undue flooding risk the site lands being within Flood Zone C and details of calculations and the proposed surface water drainage system are comprehensive and confirmed as being acceptable by the planning authority.
- 7.7. Nature and Intensity of use
- 7.8. The observer party's objections over the nature and intensity of use having regard to the location in an area designated as "rural." The site location in being on the approach road from the south is close to the settlement of Dunshaughlin. It is not agreed that a sequential test is warranted. The net retailing space is circa eighty-six square metres in area and does not exceed one hundred square metres net retailing area in a service station whereby preparation of a sequential test is required having regard to section 4.11.9 of the Retail Guidelines and DM OBJ 58 of the CDP. It is agreed with the planning officer that the proposed development is acceptable in that concern as to significant adverse impact to the retail core of Dunshaughlin does not arise having regard to the nature and scale of the retail element and that the existing retail use is a previously established authorised use.
- 7.9. Traffic safety,
- 7.10. The observer party's concerns have been considered. The proposed development benefits from good road alignment, both vertically and horizontally although there is no public footpath facilitating pedestrians at the location which is outside although at the edge of Dunshaughlin. Sightline drawings showing proposals which would be minor in nature, if submitted for written agreement with the planning authority as recommended in the Transportation Department's report and satisfactorily implemented would ensure a satisfactory arrangement for turning movements onto and off the carriageway without adverse risk to public safety on the road network that would be attributable to the proposed development. The vehicular entrance to

the observer party's property is at the northern end of its road frontage and safety at and visibility in a southerly direction on exiting this entrance would be unaffected by movements onto and off the carriageway associated with the proposed development at the existing service station.

7.11. Property Value and Residential and Visual Amenities

7.12. It is not agreed with the observer party that the proposed development would have adverse impact on visual and residential amenities and property value. The Observer's property is a detached dwelling positioned centrally within its grounds at considerable distance from the boundary with the application site and there is dense screening planting on its inner side. There is dense boundary treatment and lawns between this boundary and the pump island, parking and amenity building which are positioned a considerable distance to the south so that activities are drawn away towards the southern end. It is considered that the existing authorised and operational service station would be enhanced and improved having regard to the amended proposals within the appeal. It is not agreed that there are grounds on which it could be agreed that significant adverse impact on the residential and visual amenities of the property to the north side or diminution of the property's value could be attributable to the proposed development at the application site.

7.13. Appropriate Assessment Screening

7.14. Having regard to the nature and limited scale of the existing development and the proposed development, and to the nature of the receiving environment and the distance from any European site or pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

## 8.0 Recommendation

In view of the foregoing, it is recommended that permission be granted based on the following reasons and considerations and subject to the conditions set out below.

## 9.0 Reasons and Considerations

Having regard to the established existing development on the site it is considered that subject to the conditions below, the proposed development would not be prejudicial to public health, would not endanger public safety by reason of traffic hazard, would not become a retail destination that would compromise the viability and vitality of the Dunshaughlin, would not seriously injure the residential amenities of properties in the vicinity and the visual amenities of the area and would not devalue of property in the vicinity. As a result, the proposed development would be on accordance with the proper planning and development of the area.

## 10.0 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 on 20<sup>th</sup> September, 2022 and by the further plans and particulars received by An Bord Pleanála on 16<sup>th</sup> November, 2022, 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. The parking and circulation layout and entrances arrangements, which provide for sightlines at 160 metres in each direction from a minimum 2.4 metres setback from the edge of the carriageway (as shown on drawing 2200 C13) shall be in accordance with the requirements of the planning authority.

Reason: In the interest of public safety and clarity.

3. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

Reason: In the interest of traffic safety and to prevent pollution

4. The wastewater treatment and disposal system serving the amenity building shall be located, constructed and maintained in accordance with the details submitted to An Bord Pleanala on 16<sup>th</sup> November 2022. Arrangements for the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Within three months of the occupation of the development, the applicant shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

5. The developer shall enter into water and wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

6. Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.

Reason: In the interest of public health.

7. Details of the external finishes, of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. Details of all external signage fittings and fixtures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

9. Prior to the commencement of the development the applicant shall submit and agree with the planning authority, full design details of a lighting scheme.

Reason: In the interest of public amenity and clarity.

10 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. 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

*I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.*

**Jane Dennehy**  
**Inspector**  
**3<sup>rd</sup> July, 2023.**