



An
Bord
Pleanála

Inspector's Report

ABP-319712-24

Development	Vehicular access road from vacant service station site to Maxol service station, staff parking on derelict service station site and replace gantry sign.
Location	Miles, Clonakilty, Co. Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	23/423
Applicant(s)	Maxol Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party v. Refusal
Appellant(s)	Maxol Limited
Observer(s)	None
Date of Site Inspection	22 November 2024
Inspector	Cáit Ryan

1.0 Site Location and Description

1.1. The site is located on the western side of Clonakilty, approx. 47km south west of Cork city. The 0.057ha site comprises two separate premises bounding the N71. The operational Maxol premises is a corner site, with roadside frontage to the N71 to east (Mayor's Walk) and north (Skibereen Road). To its north east is a roundabout at the intersection of N71/R588. The Maxol site is bounded to south by the separate vacant service station site. This site has roadside frontage to Mayor's Walk (N71) to the east, and is bounded further to south by various premises relating to auto repair/car parts/car sales. Other nearby large commercial/industrial facilities are

- Clonakilty Black Pudding premises on eastern side of Mayor's Walk (N71), accessed from Western Road (R880) to north
- Irish Yogurts Clonakilty facility located to west of the site, accessed from N71
- Dunnes Store is to north east, accessed from Western Road.

1.2. Currently, the character of the area is as outskirts of the town. There is limited existing development west of the site on the N71 (Skibereen Road). GAA grounds are located further west, accessed from R599. The site is within the 60kph zone. The 50kph zone begins a short distance further east on Western Road.

1.3. The Maxol premises is accessed by a wide vehicular entrance on N71 (Skibereen Road), approx. 14m west of the roundabout, with 'no exit' signage at surface level. A separate exit is further west. The forecourt building includes retail area and café. Car parking is provided at different locations on site. The vacant southern site contains a number of buildings, the principal being the former service station with large canopy. Some vehicles were parked on site on date of inspection. Ground levels along part of Mayor's Walk (N71) frontage are slightly higher than the adjoining public road.

2.0 Proposed Development

2.1. Permission is sought to

- Create a vehicular access road from the south eastern corner of the vacant

service station site to the existing Maxol service station

- Construct staff parking on the derelict service station with a pedestrian access to the Maxol service station
- Replace gantry sign on eastern boundary of vacant service station site

2.2. For clarity, the cover letter originally lodged refers to a Planning Statement. However, no associated Planning Statement is on file.

2.3. The plans and particulars originally lodged proposed 43no. car parking spaces across the overall site. At Further Information (FI) stage, plans and particulars submitted include a revised site plan, Traffic and Transportation Assessment and Car Parking Assessment. Car parking provision was amended and cycle parking was introduced, comprising:

- 36no. car parking spaces across the overall site (35no. stated by applicant)
- 62no. cycle parking spaces, of which 52no. are within the Maxol site and the remaining 10no. are in the southern, vacant site.

2.4. *Car and cycle parking provision as per existing site, as originally proposed and as amended by FI is outlined below:

Table 1

Existing Site Plan	Car Parking	Cycle Parking
Maxol site	25no.	0
Unoccupied site	11no.	0
Total	36no.	0
Original Proposal	Car Parking	Cycle Parking
Maxol site	25no.	0
Unoccupied site	18no.	0
Total	43no.	0
FI Amendments	Car Parking	Cycle Parking
Maxol site	22no.	52no.

Unoccupied site	14no.	10no.
Total	36no.	62no.

*Car parking spaces are not numbered on submitted plans.

3.0 Planning Authority Decision

3.1. Decision

Following a request for Further Information, the planning authority made a decision to refuse permission for 1no. reason as follows:

The proposed development seeks permission to extend the site curtilage of an established Maxol Service Station into part of an adjoining vacant / not-operational service station, on a site that directly adjoins with the N71 National Secondary Road, towards the western end of Clonakilty and sited within the development boundary of the town. The proposed development, which includes proposals to provide for additional car parking spaces to serve the Maxol Service Station within the grounds of the vacant / not operational service station, would give rise to excessive car parking spaces serving the Maxol Service Station, which would exceed the maximum car parking standards set out in Table 12.6 and materially contravene the objective TM 12-9 of the Cork County Development Plan 2022. Furthermore, the Planning Authority considers that to permit the proposed development and the overprovision of car parking spaces would give excessive priority to car infrastructure over more sustainable transport methods, may undermine the vitality and viability of existing retail / town centre uses in Clonakilty and would compromise the re-use of the vacant service station. The proposed development would, therefore, materially contravene the objective TM 12-9 of the Cork County Development Plan 2022 and would not be in accordance with the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Basis for planning authority's decision:

First Executive Planner's report (20 September 2023): Key issues include -

- Considers parking at existing Maxol station is adequate, and justification for additional for parking is required

Recommendation for FI reflects report.

First Senior Executive Planner's report (20 September 2023): Key issues include -

- Application is essentially to extend Maxol site into vacant service station, and no details submitted of applicant's intentions regarding use of this site
- Concerns that car parking proposals would conflict with Objective TM 12-2 and would encourage car borne journeys to this edge of town location.

Recommendation for FI reflects report.

Second Executive Planner's report (12 April 2024):

- Notes Area Engineer and National Road Design Office (NDRO) reports
- Considers parking standards applied incorrectly; restaurant is not independent
- Notes no specific use indicated for disused filling station, and allowing additional parking associated with adjacent site would be premature and may compromise its future use.
- Proposal would materially contravene Development Plan Objective TM 12-9.

Recommendation to refuse permission reflects report.

Second Senior Executive Planner's report (12 April 2024): Key issues include:

- Notes change of use of vacant site to vehicle repair garage is outside the scope of subject application
- As GFA of Maxol forecourt building is 511.05sqm (as per P.A. Ref.10/50014), maximum car parking requirement for retail use is 25no. spaces. Deli/food counter and seating area are ancillary uses.
- Overprovision of car parking could undermine retail functions/town centre uses and set undesirable precedent adjoining a National Secondary Road

Recommendation to refuse permission reflects report.

3.2.2. Other Technical Reports

Area Engineer (12 September 2023 and 9 April 2024)

First Area Engineer's report: Notes safety concerns regarding access for old petrol station being used to serve operating petrol station, staff parking on site would work but it is not recommended that the sites/access points be linked for vehicle movements, and notes TII report. Recommends FI.

Second Area Engineer's report

- Is not satisfied that Road Safety Audit (RSA) addressed internal vehicle movements
- Concerns regarding parking layout.
- Recommends permission be granted subject to existing entrance to north east being closed and internal layout revised, and outlines 12no. conditions.

Environment (29 August 2023 and 22 March 2024):

Environment Reports: No objection subject to conditions.

Cork National Roads Design Office (CNRDO) (12 April 2024)

- Endorses Area Engineer's recommendations including relating to existing entrance at north east corner on traffic safety grounds. This will remove potential conflict point of internal traffic movements with vehicular and pedestrian traffic on N71.

3.3. Prescribed Bodies

3.3.1. **Transport Infrastructure Ireland (TII)** in a letter dated 22 August 2023 states it considers the application to be at variance with official policy in relation to control of development on/affecting national roads, as it would, by itself or the precedent it would set, adversely affect the operation and safety of the national road network as—

- Insufficient data has been submitted to demonstrate that proposed development will not have a detrimental impact on the capacity, safety or

operational efficiency of the national road network in the vicinity

- It would be at variance with control of frontage developments on national roads outlined in Spatial Planning and National Roads Guidelines for Planning Authorities (2012). Recommends RSA, and recommendations to be incorporated by amendment to existing planning application or as conditions

3.4. Observations to the Planning Authority

None

4.0 Planning History

Northern Service Station Site:

P.A. Ref. 08/50028: Permission granted in 2009 to demolish building and provide new forecourt building with 143.1sqm retail, 201.5sqm restaurant/café, forecourt canopy, petrol pumps, 2no. car washes and signage. Conditions of note are:

Conditions 2 and 3: (2) Submit drawings for proposed new roundabout (3) Construct roundabout at developer's expense.

Condition 3: Provide 29no. car parking bays

P.A. Ref. 10/50007: Permission granted in 2010 for retention of alterations including internal alterations, increase retail area by 79.27sqm and provision of additional food preparation area.

P.A. Ref. 10/50014: Permission granted in 2010 for change of use from retail to retail and off-licence use (25.81sqm).

Southern Service Station Site:

P.A. Ref. 10/50005 and ABP Ref. 237482: Permission granted in 2011 for construction of service station. Condition 9 states:

The overall development shall be under the control of one operator and no subdivision of the development shall take place without a prior grant of planning permission. Reason: In the interest of orderly development.

P.A. Ref. 13/50008: Permission granted in 2014 for retention of fuel pump island and

underground tank.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

Vol. 1: Main Policy Material and Vol. 5: West Cork

The site is zoned **Objective ZU 18-10: Existing Mixed/General Business/Industrial Uses** which is to facilitate development that supports in general the employment uses of Existing Mixed/General Business/ Industrial Areas.

Development that does not support, or threatens the vitality or integrity of the employment uses of these areas shall not be permitted.

Appropriate Uses on this zoning include service station and vehicle servicing/maintenance garage.

Section 18.3.10 states these areas include a large range of uses including service station and vehicle servicing/maintenance garage. This zoning will protect existing uses and support expansion where appropriate of existing uses while not permitting uses that would threaten the vitality and integrity of the primary use of these areas.

A large landbank comprising 8ha to west is zoned Industry and includes the Irish Yogurts Clonakilty site. **Special Objective CK-I-01** (Vol.5) states Industrial Development subject to comprehensive landscaping proposals and agreed access strategy in accordance with Spatial Planning and National Roads Guidelines, to include provision for Western Relief Road. Flood Risk. TIA and RSA required.

Further to west, a 10.46ha landbank is zoned Business and General Employment. **Special Objective CK-B-01** (Vol. 5) states Business Development incorporating high quality building design, subject to comprehensive landscaping proposals, satisfactory surface water and effluent disposal, and agreed access strategy in accordance with Spatial Planning and National Roads Guidelines, to include provision for Western Relief Road. TIA and RSA required.

Objective CS 2-6: West Cork Strategic Planning Area

- (a) Recognise the importance of the role to be played by Clonakilty as a 'Key' town in the implementation of the National Planning Framework and RSES for the Southern Region to focus growth in West Cork
- (b) Recognise the importance of upgrading the N71 to the development of Clonakilty, the overall economic potential of the West Cork Strategic Planning Area and the facilitation of a balanced economic strategy for the County

Chapter 12:

Objective TM 12-1: Integration of Land Use and Transport includes (j) the strategic transport function of national roads will be maintained and protected in accordance with national policy.

Objective TM 12-8: Traffic/Mobility Management and Road Safety includes

- a) Where traffic movements associated with a development proposal have potential to have a material impact on safety and free flow of traffic on National Roads, a Traffic and Transport Assessment (TTA) and Road Safety Audit will be required. Where a Local Transport Plan exists, it will inform any TTA
- b) Support demand management measures to reduce car travel and promote best practice mobility management and travel planning via sustainable transport modes
- c) For developments of 50 employees or more, developers will be required to prepare Mobility Management Plans (travel plans)
- e) Improve the standards and safety of public roads and protect investment of public resources in the provision, improvement and maintenance of the public road network

Objective TM 12-9: Parking Secure the appropriate delivery of car parking and bicycle spaces and facilities in line with the Standards set out in Section 12.24 of this document: a) All non-residential development proposals will be subject to maximum parking standards as a limitation to restrict parking provision to achieve greater modal shift.

Section 12.24 includes **Table 12.6. Car Parking Requirements for New Developments (Maximum per sq. m.)**. The parking standard for

- retail convenience is 1 space per 20sqm
- restaurants/cafés/takeaways is 1 space per 5 (net sqm)

Objective TM 12-13: National, Regional and Local Road Network includes

b) Support the maintenance of the efficiency and safety of the existing national primary and secondary roads network by targeted transport demand management and infrastructure improvements.

d) Support the projects identified in the RSES as strategic regional priorities to achieve NSO Enhanced Regional Accessibility, including improvements to the N71

Vol. 5: West Cork

Section 2.6.46 outlines the Development Plan will support implementation of key recommendations in Clonakilty Traffic and Transportation Study (finalised in 2011), where appropriate, including protection of indicative route corridor for N71 Western Relief Road scheme.

Figure 5.2.3– Clonakilty Transport Diagram shows the N71 Western Relief Road Scheme to run on an east/west alignment from approximately south of Clonakilty Car Centre (on N71) westward to the existing N71 (Skibereen Road).

Development Plan Mapping:

The opposite (northern) side of the N71 forms part of the Clonakilty development boundary. The western boundary of the Special Objective CK-B-01 lands also forms part of the town development boundary.

The site is within a High Value Landscape.

Flood Zone A is indicated partially within the eastern and southern areas of the site, and elsewhere in the immediate vicinity, such as along N71 to the east and on the opposite (northern) side of N71 (Skibereen Road).

Flood Zone B is indicated within part of the site and some of the surrounding area.

5.2. Section 28 Guidelines

5.2.1. Spatial Planning and National Roads Guidelines for Planning Authorities, 2012

These Section 28 Guidelines state (at Section 1.4) that strategic traffic, in the context of national roads, primarily comprises major inter-urban and inter-regional traffic which contributes to socio-economic development, the transportation of goods and products, especially traffic to/from the main ports and airports. Any local transport function of national road bypasses and relief roads in respect of the urban areas they pass through is, and must continue to be, secondary to the role of these roads in catering for strategic traffic.

The planning system must ensure that the strategic traffic function of national roads is maintained by limiting the extent of development that would give rise to generation of short trip traffic on national roads or alternatively by ensuring that the trip demand from future development will primarily be catered for on the non-national network.

5.2.2. Retail Planning Guidelines for Planning Authorities, 2012

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.

It states (at Section 4.11.9 Retailing and Motor Fuel Stations Convenience) that shops are part of the normal ancillary services provided within motor fuel stations. Shop floorspace should not exceed 100sqm net. Where floorspace in excess of this is sought, sequential approach shall apply. In considering applications, attention should be given to safety aspects of circulation and parking within the forecourt.

Annex 1 (Glossary) outlines Net Retail Floorspace 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.'

Forecourt Retailing is described as 'mini-supermarket linked to petrol filling stations'.

5.3. Natural Heritage Designations

The site is not located within or adjacent to a European site. The nearest European sites are:

- Clonakilty Bay SPA (Site Code 004801) is approx. 1.4km to east.
- Galley Head to Duneen Point SPA (Site Code 004190) is approx. 5km to south
- Seven Heads SPA (Site Code 004191) is approx. 9km to south east
- Clonakilty Bay SAC (Site Code 00091) is approx. 1.4km to east.
- Kilkeran Lake and Castlefreke Dunes SAC (Site Code 001061) is approx. 6.7km to south west
- Courtmacsherry Estuary SAC (Site Code 001230) is approx. 9.7km to east

- Clonakilty Bay pNHA (Site Code 000091) is approx. 1.4km to east
- Gallanes Lough pNHA (Site Code 001052) is approx. 2.7km to north east

5.4. EIA Screening

- 5.4.1. Having regard to the nature and scale of the proposed development, which is for the creation of a new vehicular access road from an existing vehicular entrance at a vacant service station site to the existing, operational Maxol service station, the construction of staff parking on the vacant site with a pedestrian access to the Maxol site, and replacement of a gantry sign in an established commercial/industrial area within the Clonakilty development boundary, there is no real likelihood of significant effects on the environment arising from the subject development. The need for Environmental Impact Assessment can, therefore, be excluded at pre-screening and a screening determination is not required. See Form 1.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of this first party appeal may be summarised as follows:

- 2no. service stations were previously operating. Applicant owns both, seeks to improve site layout of remaining service station and ensure southern site is commercially viable, and continues to seek occupant for southern site.
- Maxol site requires more parking and circulation improvements as current layout results in significant amount of informal car parking.
- At FI stage demolition of canopy at unoccupied service station was proposed and underground tanks have been decommissioned.

Car Parking Provision

- Proposal does not materially contravene Development Plan in respect of parking provision and therefore Section 37(2)(b) does not apply. If Board considers that it materially contravenes Development Plan, contends that Table 12.6 and Objective TM 12-9 are unclear as they apply to service stations, and Section 37(2)(b)(ii) would apply.
- There is option to amend the scheme by condition.
- There are currently 36no. car parking spaces across the 2no. sites, 25no. of which are on Maxol site and 11no. at the unoccupied site.
- Traffic and Transport Assessment (TTA) noted that up to 12no. cars were parking in undesignated areas in the Maxol site.
- Car Parking Assessment justifies requirement for min. 37no. spaces to serve Maxol site. FI proposes 29no. parking spaces within extended Maxol site and 6no. within southern site to serve eventual facility there.

Material Contravention of Development Plan Objective TM-12

- Interprets that planning authority are referring to (a) of Objective TM 12-9 in refusal reason
- There is evidence of demand for c.31-36 spaces at Maxol site, particularly at peak times, using non-designated spaces, compared to existing 25no.
- Service stations are not a listed use in Table 12.6. Applying Table 12.6 maximum permissible is 37no. spaces:
 - Max. 15no. spaces allowed for shop retail (inc. storage)

- Max. 17no. spaces allowed for café/restaurant use
- Max. 5no. spaces allowed for Potential Vehicle Repair Garage (southern site), based on 1no. space per 50sqm of 255sqm GFA in industry (light and general) category
- 1no. EV charging space
- Council incorrectly applies retail use standard to the entire building. This does not reflect permitted land uses nor Development Plan standards. The 2008 permission identified a restaurant/café area within building.
- Quantum of proposed parking spaces is required to reflect Development Plan standards, to ensure surplus parking to avoid informal parking

Site Improvements

- Site improvements include clearly marked pedestrian routes and signage, pedestrian crossings, increased provision of accessible parking spaces, EV charging space and secure staff and customer cycle parking.
- 62no. cycle parking spaces surpasses requirement of 28no. spaces.

Vitality of Clonakilty Town Centre

- Proposal does not increase area of permitted retail and restaurant/café, improves car and cycle parking, and will not compromise town centre vitality.
- Site location is highly accessible on N71, is within 15 minute walk of town centre, and is likely to primarily serve road users travelling from West Cork to Cork city who are unlikely to be visiting the town centre.

Future Use of Unoccupied Service Station

- FI site layout provides a clear physical separation between the Maxol site, whilst allowing a shared access from the southern access/egress point.
- Preference would be for vehicle repair garage or other use that would complement the existing cluster of vehicle-related businesses.
- FI site plan will facilitate the use of the currently unoccupied adjacent site.

Signage and Access

- As refusal reason does not refer to additional signage and revised access from south, applicant considers these were acceptable to the local authority.

6.2. **Planning Authority Response**

None

6.3. **Observations**

None

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Compliance with Cork County Development Plan 2022-2028 – Land Use Zoning and Site Layout
- Car Parking Provision
- Traffic Safety
- Impacts on Town Centre
- Signage
- Material Contravention

7.2. **Compliance with Cork County Development Plan 2022-2028 – Land Use Zoning and Site Layout**

7.2.1. The planning authority's refusal reason includes that the proposed development would compromise the re-use of the vacant service station.

7.2.2. The appeal site comprises 2no. separate premises, the more northerly operational Maxol service station and the more southerly unoccupied former service station. The Maxol premises is an established use, and I note that 'service station' is an

Appropriate Use on Objective ZU 18-10 zoned lands.

- 7.2.3. The overall site is zoned Objective ZU 18-10: Existing Mixed/General Business/Industrial Uses in the Development Plan which is to facilitate development that supports in general the employment uses of Existing Mixed/General Business/Industrial Areas, and development that does not support, or threatens the vitality or integrity of the employment uses of these areas shall not be permitted.
- 7.2.4. The proposed development seeks to significantly alter the overall layout and relationship of both sites to each other. The proposal to modify the existing wide vehicular entrance on the eastern N71 frontage of the unoccupied southern site to access the Maxol site has the effect of reducing the site area associated with the unoccupied site, and to thereby essentially extend the Maxol premises into this adjoining site. This is due to both the creation of a new access route through the unoccupied site, and to the provision of cycle and car parking spaces located on this part of the overall site but intended to serve the enlarged Maxol service station.
- 7.2.5. While access to 6no. car parking spaces and 10no. cycle spaces west of the access route is indicated to be via a low level gate, and bollards are proposed along the western side of the new access route, I would have concerns that use of part of the unoccupied site as an access route and provision of parking to serve a separate commercial site would militate against the achievement of the land use zoning objective of the southern site which is to facilitate development that supports employment uses of Existing Mixed/General Business/ Industrial Areas.
- 7.2.6. In this regard I note that Appropriate Uses on the Objective ZU 18-10 zoning include service station, and that the proposed development would provide parking to serve this established use on an adjoining site. The description of development proposes pedestrian access between the southern and northern parts of the site. On site inspection I noted that there is pedestrian access between the two premises, due to the presence of lightweight bollards at their shared boundary near the N71 roadside frontage. However, given that the Maxol site is a distinct site which is not functionally connected to the unoccupied site, I consider that it has not been demonstrated that the proposal would facilitate development that supports employment uses as set out in Objective ZU 18-10 of the current Development Plan. Refusal of permission is recommended on this basis.

7.2.7. For completeness, I note that the appeal submission outlines that both the Maxol site and the unoccupied site are owned by the applicant, who has been unable to find an occupier. The FI response and appeal submission outline that it is the applicant's preference for the southern site to accommodate a vehicle repair garage. While Appropriate Uses under the Objective ZU 18-10 include vehicle servicing/maintenance garage, no planning application has been sought or granted for this use on the southern unoccupied site. Accordingly, notwithstanding that the applicant's intentions regarding this site are outlined, it remains that this stated potential use of the site does not form part of the proposed development and as such does not form part of the assessment of this appeal.

7.3. Car Parking Provision

General

- 7.3.1. An overview of existing and proposed car and cycle parking provision, is set out in Table 1 (at Section 2.4) of this report. For clarity, Table 1 outlines parking provision located on the two distinct sites, namely the northern Maxol site and the southern, unoccupied site. In contrast, documentation received on the application and appeal largely refers to car parking provision in the context of parking spaces to serve the Maxol service station, and to serve the unoccupied site, also described as 'potential vehicle repair garage'. Where relevant in my assessment of car parking provision, I differentiate between location and use (intended occupiers) of parking spaces.
- 7.3.2. The existing site plan indicates that there are 25no. car parking spaces on the Maxol site and 11no. on the southern (unoccupied) site.
- 7.3.3. I estimate the FI site plan indicates 22no. parking spaces on the Maxol site and 14no. on the southern site, a total of 36no. spaces. In contrast, Table 9-4 of the FI Traffic and Transportation Assessment states a combined total of 35no. spaces.

Staff Car Parking

- 7.3.4. I note that the description of the proposed development includes '(ii) construct staff parking on the Derelict Service Station site with a pedestrian access to the Maxol Service Station site on the northern boundary of the existing vacant Service Station.' (emphasis added)

- 7.3.5. While the FI Car Parking Assessment refers very briefly to staff parking (whereby, based on survey, it assumes that 1% of the users that stay longer than 4 hours could be staff of the existing Maxol service station), there is limited information on file relating to staff parking. Plans and particulars on file primarily emphasise issues at the Maxol site relating to customer parking, particularly at peak times, and informal parking at undesignated areas, as distinct from staff parking.
- 7.3.6. Furthermore, the number and location of staff car parking spaces is not annotated on the FI site plan.
- 7.3.7. However, as per the description of development, I note that the parking proposed at the southern unoccupied site is intended for staff, as distinct from customers, of the Maxol premises. I draw the Board's attention to Development Plan Objective TM 12-8: Traffic/Mobility Management and Road Safety which includes
- b) Support demand management measures to reduce car travel and promote best practice mobility management and travel planning via sustainable transport modes
 - c) For developments of 50 employees or more, developers will be required to prepare Mobility Management Plans (travel plans)
- 7.3.8. With regard to (c), having regard to the scale of the Maxol premises, I do not consider that it would have minimum 50 employees, and as such, I do not consider that the requirement set out at (c) would apply in this particular case.
- 7.3.9. However, with regard to Objective TM 12-8(b), and having regard to all information on file, including the submitted Car Parking Assessment, I do not consider that there is sufficient information on file to demonstrate that the proposed staff parking would be in compliance with this objective. Refusal on this basis is recommended.
- 7.3.10. Furthermore, in contrast to stated staff parking as per description of development, the grounds of appeal outline at Table 3.1 that 6no. spaces are proposed at 'Potential Vehicle Repair Garage (southern site)'. It outlines that this number of spaces is based on the 255sqm GFA (existing building) and the Development Plan standard for this use (comprising 5no.), plus 1no. EV space.
- 7.3.11. I consider that this calculation of 6no. spaces on the southern site, specifically associated with 'Potential Vehicle Repair Garage', would be inconsistent with the stated use of staff parking spaces 'on the Derelict Service Station site'. I draw the

Board's attention to the matter of no planning permission being in place for a vehicle repair garage at the southern site. As such, I do not consider the calculation of 6no. spaces associated with a notional vehicle repair garage to be relevant in this case.

- 7.3.12. In particular, as these 6no. spaces are intended to be used by staff of the Maxol service station, as per the description of development, I consider it reasonable to conclude that these spaces would not therefore be available to others, such as customers of the Maxol service station.
- 7.3.13. In addition, the allocation of a further 8no. parking spaces along the N71 frontage at the southern (unoccupied) site for either/both Maxol staff or customers is not annotated on the FI site plan. I note that the FI Car Parking Assessment which focuses on parking availability relating to customer use concludes that the existing Maxol service station car parking layout requires a redesign to accommodate additional parking and to mitigate against informal parking.
- 7.3.14. However, as the description of development refers to staff parking only at the 'Derelict Service Station site', I do not consider that provision of 8no. customer parking spaces at this location would be consistent with the description of development.
- 7.3.15. I note that in the event that a grant of permission were to be considered for the proposed development, a condition could be attached confirming all 14no. parking spaces at the southern (unoccupied) part of the site are to be used for staff parking only. However, while the inclusion of such a condition would ensure that the use of the parking spaces is consistent with the description of development, in my opinion this number of staff parking spaces would appear excessive in the context of the site location and the nature and scale of the existing Maxol service station, and would not be in compliance with Objective TM 12-8(b) discussed above. Accordingly, I do not consider that the attachment of such a condition would be appropriate in this case.
- 7.3.16. The matter of quantum of parking spaces is discussed further in the following section.
- 7.3.17. For clarity, I note that the planning authority's refusal reason and the submitted grounds of appeal do not specifically refer to the matter of staff parking. Having regard, however, to the description of development which expressly seeks to *inter alia* 'construct staff parking on the Derelict Service Station site', I do not consider that

this is a new issue.

Quantum of Parking Spaces

- 7.3.18. The existing site plan indicates that there are 25no. spaces at various locations within the Maxol site, and 11no. car parking spaces at the unoccupied site.
- 7.3.19. The FI site plan would provide 36no. car parking spaces, comprising
- 22no. car parking spaces at and in the vicinity of the Maxol forecourt
 - 14no. spaces on the unoccupied southern site, of which 6no. are located west of the proposed access route and 8no. bound the N71 roadside frontage.
- 7.3.20. Development Plan Table 12.6 Car Parking Requirements for New Developments does not include any specific parking standard for service station/forecourt retail/café uses. The parking standards for -
- retail convenience is 1 space per 20 sqm
 - café/restaurant/take-away is 1 space per 5 (net sqm)
- 7.3.21. I note that the previous planning permissions granted at the Maxol site pre-date the Retail Planning Guidelines 2012. However, I consider it relevant to highlight that Annex 1 of the Guidelines outlines Net Retail Floorspace as ‘the area within the shop or store which is visible to the public and to which the public has access, including..... serving counters and the area behind used by serving staff....., but excluding storage areas, circulation space to which the public does not have access to, cafes, and customer toilets.’ (emphasis added) I consider on this basis that the café area within the forecourt building can be assessed as a distinct use for the purposes of car parking provision.
- 7.3.22. Table 3.1 contained in the appeal submission outlines how the Development Plan Table 12.6 Car Parking Requirements for New Developments are applied to the subject case. It concludes that 37no. spaces are permissible, and that 35no. are proposed. However, there is no associated drawing on file showing the corresponding specified floor areas (retail and restaurant/café) within the existing Maxol service station.
- 7.3.23. With regard to the retail use, submitted Table 3.1 outlines that 299sqm shop retail (including storage) results in a maximum permissible 15no. spaces. The applicant

considers that 'convenience retail' refers to gross floor area, and sets out the rationale for this calculation to be based on 240sqm net, plus 50% of the 118sqm storage area at southern end of building (excluding staff facilities and public toilets), thereby resulting in 299sqm GFA retail space in the forecourt building.

7.3.24. I note the various planning permissions relating to redevelopment and further amendments of Maxol service station, which are set out at Section 4.0 of this report.

7.3.25. P.A. Ref. 50007/10 relates to a retention permission for a range of alterations to the redevelopment of the Maxol premises previously permitted by P.A. Ref. 08/50028. Drawing No. T0701-05 (on P.A. Ref. 50007/10) shows the food hall public area (café area) as 82.80sqm, slightly below the 85sqm outlined in the Table 3.1 in the subject appeal. Based on the information viewed on P.A. Ref. 50007/10, I estimate that the maximum car parking standard relating to the café use to be 17no. spaces.

7.3.26. However, drawings on subsequent P.A. Ref. 50014/10 (proposed change of use from retail to retail and off-licence (25.81sqm)) show a significantly larger 215.7sqm retail sales area and a smaller seating area, the area of which is not specified. In this regard therefore, the subsequent proposed change of use application would appear to be based on drawings which differ from the P.A. Ref. 50007/10 retention permission.

7.3.27. In the absence of drawings which clearly delineate the areas to which (a) retail convenience and (b) café use applies within the forecourt building, I consider that notwithstanding the description of such uses in the appeal submission, there is insufficient information on file to demonstrate that the proposed development would be in compliance with Table 12.6 of the Development Plan. In this regard I consider that it has not been demonstrated that the proposed development would be in compliance with Objective TM 12-9 (a). Refusal of permission is recommended on this basis.

7.3.28. In addition, submitted Table 3.1 also sets out the proposed provision of 6no. parking spaces relating to potential vehicle repair garage, as outlined previously. As no planning permission is in place for such a development, and as the use of such parking spaces would be inconsistent with the stated 'staff parking' relating to the Maxol service station, I consider that these 6no. parking spaces associated with a potential development should not form part of the assessment of car parking

provision on the overall site.

7.3.29. In terms of detail, I note that the FI site plan shows a low level gate and a delineated walkway within the unoccupied site. However, there does not appear to be any other demonstrable measures to prevent informal parking elsewhere on that site. In this regard, I note that while 6no. car spaces and 10no. cycle spaces are indicated at the northern end of the unoccupied site, where it bounds the Maxol site, and pencil bollards are indicated along the access route, no other structures/measures are indicated that would prevent access across much of the remainder of the unoccupied site. In the event the Board was minded to grant permission for the proposed development, it may wish to consider the inclusion of a condition requiring measures which prevent vehicular access/parking on the remaining area of this site.

7.4. Traffic Safety

- 7.4.1. Grounds of appeal include noting the refusal reason did not refer to revised access from south, and which the applicant considers was acceptable to the local authority.
- 7.4.2. The Second Area Engineer's report recommended a grant of permission subject to conditions, including that the existing entrance at the north eastern corner of the site be closed up. The Cork National Roads Office endorses this recommendation.
- 7.4.3. Plans and particulars lodged with the FI response include a Traffic and Transportation Assessment and a Stage 1 RSA. RSA Item 3.10 identifies insufficient entry/exit signs at the north eastern entrance to the Maxol service station. It recommends existing signs be removed and replaced with road markings and signage that comply with Traffic Signs Manual, and a stop sign should be provided at the egress.
- 7.4.4. I note the north eastern site entrance is approx. 14m west of the N71/R588 roundabout. The subject site is within the 60kph zone, with the 50kph zone commencing a short distance further east on Western Road.
- 7.4.5. The FI site plan shows measures such as signposts added and tactile paving at this entrance. Traffic directional arrows indicating traffic flowing in both north and south bound directions along the new access road. This access road would allow for northbound traffic continuing to drive in front (south) of or in very close proximity to the northeastern entrance. In this regard, and notwithstanding the measures outlined

in the RSA, I consider that the new traffic arrangements from the eastern (Mayor's Walk) N71 providing access to car parking and also to the forecourt area have potential to give rise to a multiplicity of traffic movements at and in the vicinity of the northeastern site entrance. On the basis of the information on file I consider that it has not been adequately demonstrated that the internal traffic circulation shown on the overall site plan, in conjunction with the use of the northeastern site entrance, would be acceptable in terms of traffic safety.

7.4.6. I note the importance of the N71 as a strategic route is emphasised in the Development Plan, such as Objective TM 12-13: National, Regional and Local Road Network (a) and (b).

7.4.7. For completeness, I note that the Town Engineer's Planning Report on P.A. Ref. 50007/10 outlines that the developer constructed the roundabout and associated footpaths and crossing points as part of the previous development and the Council in conjunction with the NRA upgraded public lighting in the area. No development charges were levied on the previous development considering the substantial cost incurred by the developer associated with upgrading the road.

7.4.8. Accordingly, it is apparent that there have been significant changes in recent years to the road layout in the immediate vicinity of the site, a location at which there is also a number of large commercial/industrial premises. Having regard to the nature of the proposed development at the subject site and to its immediate environs, I consider that in the event the Board was minded to grant permission, that the north eastern site entrance should be closed up on traffic safety grounds, i.e., there would be no net reduction in the number of access/egress points to/from the N71. This matter could be addressed by condition.

7.5. Impacts on Town Centre

7.5.1. The planning authority's refusal reason includes that the proposed development may undermine the vitality and viability of existing retail/town centre uses in Clonakilty.

7.5.2. I note that no increase in floor area of the forecourt building is sought in the proposed development. In addition, in terms of parking, the description of development refers to staff parking only. The plans and particulars on file which outline a rationale for increased parking for customers of the Maxol service station

are noted. However, as no customer parking is expressly sought in the proposed development, and as no extension to the service station building is sought, I consider that the proposed development would not, if permitted, adversely impact on the vitality and viability of Clonakilty town centre.

7.6. Signage

- 7.6.1. Grounds of appeal include noting that the refusal reason does not refer to additional signage, and which the applicant considers was acceptable to the local authority.
- 7.6.2. I note the Objective TCR 9-20: Shopfronts and Signage (c) seeks to ensure that corporate logos, lighting, designs and colours are not used at the expense of the streetscape. The subject site is not located within the Clonakilty Architectural Conservation Area.
- 7.6.3. While the description of development refers to proposed replacement of gantry sign, on site inspection I noted that there is no existing sign near the site entrance on Mayor's Walk (N71). There is a large Maxol gantry sign at the northeastern corner of the site, close to the roundabout.
- 7.6.4. The proposed Maxol gantry sign would be 6.2m in height and internally illuminated, located north of the modified entrance. While large, having regard to the nature of the service station premises it would serve, I consider that the provision of the signage, by itself, would be acceptable at this location and would not adversely impact on the visual amenities of the area. I note that taken in conjunction with the existing gantry sign at the roundabout there would be two such signs on the overall site. However, in the event that the Board was minded to grant permission, and considers the closing up of the existing entrance on the N71 near the roundabout to be appropriate in this instance, I consider that the provision of the additional gantry sign at the single entrance to the Maxol premises would be acceptable.

7.7. Material Contravention

- 7.7.1. The planning authority's reason for refusal states the proposed development would materially contravene Objective TM 12-9 of the Cork County Development Plan 2022-2028. This includes sub-sections (a) – (i), of which (a) only is outlined below:

Objective TM 12-9: Parking Secure the appropriate delivery of car parking and bicycle spaces and facilities in line with the Standards set out in Section 12.24 of this

document:

(a) All non-residential development proposals will be subject to maximum parking standards as a limitation to restrict parking provision to achieve greater modal shift.

Section 12.24 includes Table 12.6 Car Parking Requirements for New Developments (Maximum per sq. m.)

7.7.2. The planning authority's decision does not specify which sub-sections (a) – (i) apply in its decision. I consider (a) to be the most relevant to the subject case.

7.7.3. I have set out at Section 7.3 an assessment of car parking provision for the proposed development. The assessment considers that

- the proposed provision of staff parking, as per description of development, is not adequately demonstrated on the plans and particulars on file,
- the floor areas of various uses within the existing Maxol service station forecourt building, on which the parking standards are based, have not been provided on the file. As such there is insufficient information on file to demonstrate that the proposed development would be in compliance with Table 12.6, and it has not been demonstrated that the proposed development would be in compliance with Objective TM 12-9 (a).

7.7.4. In my opinion, it has not been sufficiently demonstrated that the proposed development would materially contravene Development Plan Objective TM 12-9 (a).

7.7.5. In my opinion the Board should not, therefore, consider itself constrained by Section 37(2) of the Act.

7.7.6. Notwithstanding the matters outlined above if however the Board considers that a material contravention arises in this instance, and wishes to consider this under Section 37(2) of the Act, I highlight Section 37(2)(a) and (b) of the Act state the following:

(2) (a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

(b) Where a planning authority has decided to refuse permission on the grounds that

a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

it complies with any of the 4no. criteria set out under Section 37(2)(b).

These criteria are assessed as follows:

(i) the proposed development is of strategic or national importance,

The proposed development comprising revised vehicular access, staff parking and replacement of gantry sign is not considered to be of strategic or national importance.

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,

The grounds of appeal outline that the proposal does not materially contravene the Development Plan in respect of parking provision, and if the Board considers it a material contravention, applicant contends that Table 12.6 and Objective TM 12-9 are unclear as they apply to service stations, and Section 37(2)(b)(ii) would apply.

I do not consider that Table 12.6 and Objective TM 12-9 are unclear as they apply to service stations. I note that while Table 12.6 does not include a specific parking standard for a service station, standards for retail convenience and restaurant/café/take-away are listed.

Accordingly, I consider that the subject development does not meet the criteria set out under Section 37(2)(b)(ii).

(iii) Permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

I do not consider that there are grounds under which permission for the subject development should be granted having regard to strategies, guidelines, policies or statutory obligations outlined above.

(iv) permission for the proposed development should be granted having

regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

Cork County Development Plan 2022-2028 came into effect on 6 June 2022.

With regard to permissions granted in the area since the making of the Development Plan, an online planning search on the planning authority's and Board's websites (viewed on 8 January 2025) indicate that the only relatively large development permitted in the vicinity is ABP-318260-23 (P.A. Ref. 23/20) in 2024. This is an approx. 93-unit residential scheme at The Miles, Clonakilty, approx. 0.7km south west of the appeal site. This permitted development is of residential nature, is not accessed directly from the N71, and in my view is not comparable to the subject appeal and would not set a precedent.

Accordingly, I consider that it has not been demonstrated that the subject development meets the criteria set out under Section 37(2)(b)(iv) of the Act.

- 7.7.7. Having considered the file, and the provisions of the Development Plan, I do not consider that any one or more of the criteria set out under Section 37(2)(b) of the Act are met, and I therefore conclude that there are no grounds for the Board to grant permission in accordance with Section 37(2)(a) when the planning authority's refusal is on the grounds of it being a material contravention of Development Plan Objective TM 12-9.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is not located in or adjacent to a European site. The nearest European sites to the subject site are Clonakilty Bay SPA (Site Code 004801) and Clonakilty Bay SAC (Site Code 00091) approx. 1.4km to east. A number of other European sites are more distant, being minimum 5km from the subject site and are outlined at Section 5.3 of this report.
- 8.3. The proposed development comprises
- (i) Creation of vehicular access road from the south eastern corner of the

vacant service station site to the existing Maxol service station site

- (ii) Construction of staff parking on the derelict service station site with a pedestrian access to the Maxol service station site on the northern boundary of the existing vacant service station
- (iii) Replacement of the existing gantry sign on the eastern boundary of the vacant service station site.

8.4. The subject site is located near the Clonakilty development boundary, at the western side of town. It is on a corner site with frontage to east and north to the N71. There is an existing operational Maxol service station at the northern part of the site, and an unoccupied former filling station at the southern part of the overall site. Both premises appear to be entirely hardsurfaced.

8.5. CLONAKILTY STREAM_010 is shown to run in a south to north direction along the western boundary of the vehicle repair/car parts and Clonakilty Car Centre premises to the south of the site, then continuing in a west to east direction proximate to the southern site boundary before continuing in a northbound direction to the River Feagle (CLONAKILTY STREAM _010) south of the Dunnes Stores premises, as viewed on www.catchments.ie (accessed on 6 January 2025). The www.catchments.ie website indicates that CLONAKILTY STREAM _010's Live Status is Moderate. The River Feagle discharges to Clonakilty Harbour, a transitional waterbody, whose Live Status is Poor, approx. 1.4km east of the subject site.

8.6. CLONAKILTY STREAM _010 is not indicated on the drawings on file, nor does there appear to be any information to outline the extent to which this stream is culverted in the vicinity of the subject site. I note that the online Development Plan mapping indicates that Flood Zone A follows the route of this stream, and Flood Zone B also applies to a limited extent to its immediate vicinity.

8.7. I note the information received with the application and appeal and the information with regard to waterbodies in the vicinity of the subject site as viewed on www.catchments.ie. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not

have any appreciable effect on a European site. The reason for this conclusion is as follows:

- The nature of the proposed works on operational and unoccupied service stations, and which are of small scale
- The location of the development in a serviced urban area, and distance from the nearest European sites

I consider that the proposed development would not be likely to have a significant effect individually, or in combination with other plans or projects, on a European site and appropriate assessment is therefore not required.

9.0 Recommendation

It is recommended that permission is refused for the reasons set out below.

10.0 Reasons and Considerations

1. The subject site is zoned Objective ZU 18-10: Existing Mixed/General Business/Industrial Uses in the Cork County Development Plan 2022-2028 which is to facilitate development that supports in general the employment uses of Existing Mixed/General Business/ Industrial Areas, and development that does not support, or threatens the vitality or integrity of the employment uses of these areas shall not be permitted. Having regard to the nature and scale of the proposed development, it is considered that the use of part of the southern, unoccupied service station site as an access route and the provision of parking spaces on this site to serve a separate, adjoining site would militate against the achievement of the land use zoning objective of the southern site which is to facilitate development that supports employment uses. The proposed development would not comply with Objective ZU 18-10 and would, therefore, be contrary to provisions of the current County Development Plan and to the proper planning and sustainable development of the area.
2. Having regard to the nature and scale of the proposed development, in

particular the description of development which comprises *inter alia* provision of staff parking on the unoccupied service station site, the Board is not satisfied that it has been demonstrated that the proposed development would comply with Objective TM 12-8: Traffic/Mobility Management and Road Safety (b) of the Cork County Development Plan 2022-2028. Furthermore, the Board is not satisfied that the nature of the proposed development comprising staff parking has been adequately detailed on the plans and particulars on file. In this regard and with regard to existing uses within the Maxol forecourt building, the Board is not satisfied based on all information on file that it has been adequately demonstrated that the proposed development would not be in conflict with the Development Plan maximum car parking standards, and therefore it has not been demonstrated that the proposed development would comply with Objective TM 12-9 (a) of the Development Plan. The proposed development would, therefore, if permitted, be contrary to the provisions of the current County Development Plan and to the proper planning and sustainable development of the area.

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.

Cáit Ryan
Senior Planning Inspector

09 January 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-319712-24		
Proposed Development Summary	(i) Create vehicular access road from southeastern corner of vacant service station site to existing Maxol service station site (ii) Construct staff parking on derelict service station site with pedestrian access to Maxol service station, and (iii) replace existing gantry sign		
Development Address	Miles, Clonakilty		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	X	
	No	No further action required	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			Proceed to Q3.
No	X		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			

Yes			Preliminary examination required (Form 2)
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5. Has Schedule 7A information been submitted?			
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)	
Yes		Screening Determination required	

Inspector: _____ **Date:** _____