

SUBMISSION TO DRAFT CLARE COUNTY DEVELOPMENT PLAN 2023-2029

Maxol Service Station, Clareabbey, Clarecastle, Co. Clare

Maxol Limited

Issue: A

Customer Project Number: 5234

Customer Document Number:

Document Sign Off

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Issue A

File No: 5234

CURRENT ISSUE					
Issue No: A	Date: 21.03.22	Reason for issue: Submission to Draft Clare County Development Plan 2023-2029			
Sign Off	Originator	Checker	Reviewer	Approver	Customer Approval (if required)
Print Name	Mandy Coleman	Paddy Coleman		Mandy Coleman	
Signature	Authorised Electronically				
Date	21.03.22	21.03.22		21.03.22	

PREVIOUS ISSUES							
Issue No	Date	Originator	Checker	Reviewer	Approver	Customer	Reason for issue

1.0 INTRODUCTION

P. Coleman & Associates, Architects, Engineers and Planners have been appointed by Maxol Limited to prepare a submission to the Draft Clare County Development Plan 2023-2029 (Draft Plan) with specific reference to the land-use zoning and policy objectives proposed for Ennis town. Our Client is seeking to i) apply the proposed '*Mixed Use*' zoning objective to the full extent of the subject site and ii) modify Policy CDP7.21 to provide for retail floor area associated with Petrol Service Stations in excess of 100m² subject to normal planning and development considerations. We respectfully request that the Planning Authority take account of this submission.

The submission will be outlined as follows:-

Section 2: Subject Site

This section provides a description of the subject site and its context.

Section 3: Current Planning Context

This section outlines the current zoning and policy objectives for the subject site together with the planning history.

Section 4: Proposed Planning Context in Draft Plan

This section outlines the proposed land use zoning and policy objectives for the subject site as defined in the Draft Plan.

Section 5: Requested Amendments

This section sets out the case to i) apply the proposed '*Mixed Use*' zoning objective to the full extent of the subject site and ii) modify Policy CDP7.21 to provide for retail floor area associated with Petrol Service Stations in excess of 100m² subject to normal planning and development considerations.

Section 6: Conclusion

This section summarises our case as outlined in this submission.

2. SUBJECT SITE

The subject site is strategically located on the R458 immediately adjacent to the Clareabbey roundabout which is on the N85 Western Relief Road. The Clareabbey roundabout is the Gateway roundabout entrance to both Ennis and Clarecastle and to/from West and North Clare from the M18.

The subject site measure 0.5846 ha. in area and is occupied by the existing Maxol Service Station which is shown on the Site Location Plan in Figure 1 below. The service station was recently redeveloped and the new development provides a significant positive improvement on the character of the area from what was previously on the site in terms of visual appearance.

The subject site contains a large canopy above 4 islands with 8 no. fuel pumps, customer parking, servicing area, forecourt building with retail unit, food offers, customer seating, customer toilets, circular space, back of house and children’s play area (currently not in use).

The site is bounded to the north by the Clareabbey Roundabout on the intersection of the N85 Western Relief Road with the R458, to the south by private residential dwelling houses, to the west by agricultural lands and to the east by the R458. Access to the subject site is from the R458.

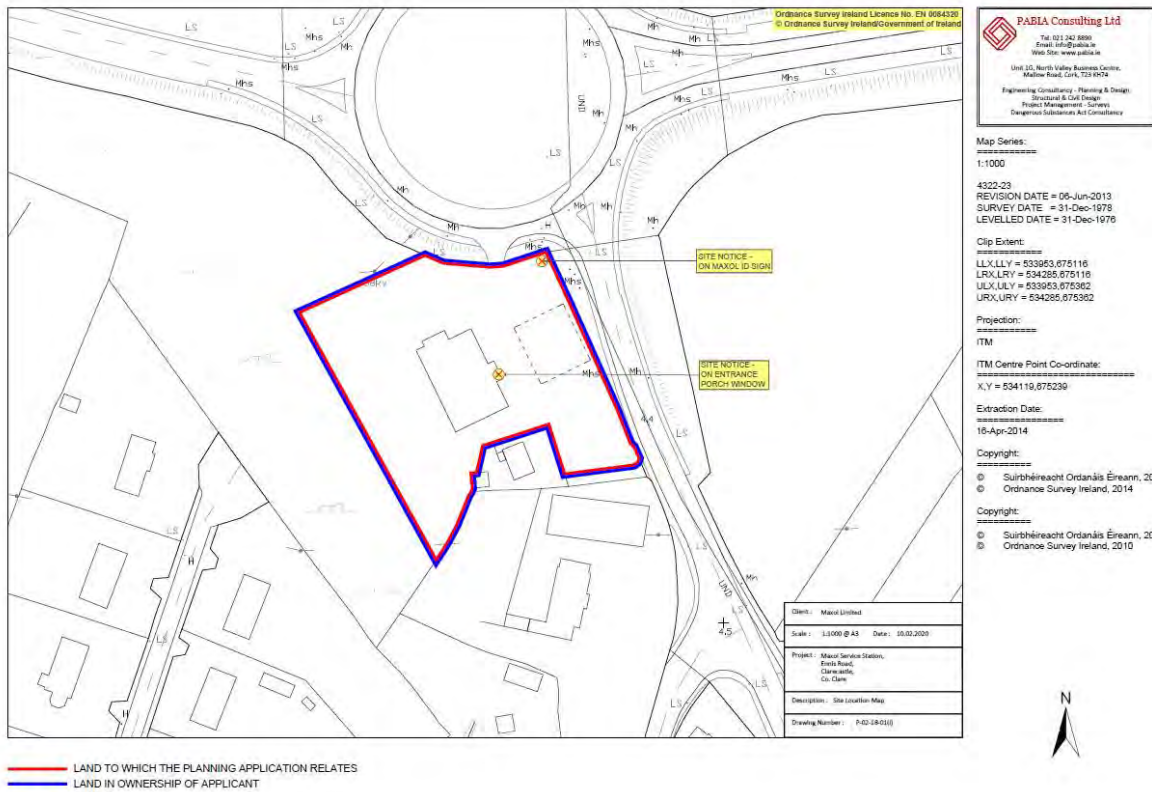


Figure 1 – Site Location Plan



Figure 2 – Aerial Image of Site outlined in red.

3.0 PLANNING CONTEXT

3.1 Current Local Planning Context

The subject site is within the functional area of Clare County Council. All development is governed by the Statutory Development plan for the area which is the Clare County Development Plan 2017-2023 (CCDP). The service station and forecourt building is an established use on the site and is also a conforming use within the Statutory Development Plan for the area.

3.1.1 Zoning

There are two zoning objectives on the subject site, *'Mixed Use'* and *'Existing Residential'* as shown in Figure 3 below.



Figure 3– Zoning as per Clare County Development Plan 2017-2023

These two zonings would have represented the uses of the site at the time the CCDP was adopted which included the old Maxol Petrol Station (on a smaller site) and an existing residential dwelling house to the rear (now included in the Maxol redeveloped site).

3.1.2 Policy

The following policy in the CCDP is of relevance to this submission.

Policy CDP 7.21 Petrol Filling Stations

It is an objective of the Development Plan to consider development proposals for petrol filling stations, and associated shops with a floor space no greater than 100m² (net), on their individual merits, subject to traffic impact considerations and the location, health and scale of existing retail services in the area.

3.2 Planning History

The following planning history relates to subject site:-

Planning Ref	Applicant	Development Description	Decision
96/843	Maxol Ltd.	Alterations to existing service station including demolition of existing building/shop, canopy, pump islands, tanks, car wash and construction of new forecourt building/shop, pump and service islands, canopy, auto bank, car wash, underground tanks and ancillary works including signs and biocycle treatment unit at Ennis Road, Clarecastle.	Granted 3/09/97 subject to 14 planning conditions
98/1835	Maxol Ltd.	Retention of alterations to existing Service Station including retention of Forecourt building/shop, pump and service islands, canopy, autobank, car wash, underground tanks and ancillary works including signs, lamp standards, recycling plant and building, bio-cycle treatment unit/soakways, boundary walls, bottle gas cage, condensers and site entrance/exits at Ennis Road, Clarecastle.	Granted 10/06/1999 subject to 16 planning conditions
03/2843	Maxol Ltd.	Alterations to existing forecourt building/shop to include a change of use of part shop/storage area to retail/deli prep use (including selling fresh food ancillary to shop); also new external store and related ancillary works at Maxol Filling Station, Ennis Road, Clarecastle.	Granted 21/03/2004 subject to 5 planning conditions
15/429	Maxol Ltd.	Proposed development which includes (1) Demolition of existing forecourt building, canopy, fuel tanks and all associated structures; (2) Demolition of adjoining disused dwelling, associated sheds, boundary walls and structures (3) Provision of new forecourt building with 100sq.m retail shop, including 20sq.m off licence area ancillary to retail shop, 171.61sq.m self-service food and seating area/deli-counter plus transaction area, food prep areas, office, stores and toilet facilities; (4) Sale of specially prepared hot and cold food for consumption both on and off the premises from the self- service food areas/deli-counters;(5) New forecourt layout including canopy, fuel pumps, underground tanks, automatic roll-over car wash, solid fuel store, carwash water pump room and bin compound; (6) Ancillary signage, both illuminated and non-illuminated and (7) All associated site works and boundary adjustments to adjoining retained dwelling at Ennis Road, Clarecastle.	Application withdrawn following First Party Appeal to ABP.



Planning Ref	Applicant	Development Description	Decision
16/764	Maxol Limited	Proposed development which includes (1) Demolition of existing forecourt building, canopy, fuel pumps, pump islands, fuel tanks & all associated structures; (2) demolition of adjoining disused dwelling, associated sheds, boundary walls & structures; (3) provision of new forecourt building with 100.0 sqm retail shop including 20.0sqm. off licence area ancillary to retail shop, 189.4sqm. self-service café/deli food area comprising 3no. food offers with 62.19sqm food preparation areas & 127.21sqm seating area, office, stores & toilet facilities; (4) sale of specially prepared hot & cold food for consumption both on & off the premises from the self-service café/deli food area; (5) new forecourt layout including canopy, fuel pumps, 4 no. underground fuel tanks, solid fuel store, water tank/pump room & bin compound; (6) ancillary signage, both illuminated & non-illuminated; (7) all associated site works & revised layout to R458 along site frontage & (8) boundary adjustments to adjoining retained dwelling at Ennis Rd, Clarecastle	Granted 02/02/2017 subject to 17 planning conditions.
20/830	Maxol Limited	revised location of 3 no. underground double skin fuel tanks (1 x 60,000-litre & 2 x 40,000-litre tanks), revised tanker offloading location & all associated underground fuel pipework infrastructure; (2) revised surface water drainage layout including relocation attenuation tank; (3) 600mm reduction in floor level of the forecourt building and commensurate revised levels in all surrounding forecourt area; (4) revised layout of back of house area for ancillary uses (201.55sq.m); (5) change of use of part of second food offer area & ladies/gents wc area to children's play area (48.25sqm); (6) increased entrance porch floor area of 9.91sqm; (7) elevation changes to forecourt building exterior; (8) 6 no. free-standing advertising signs around forecourt area and 1no . fixed information sign at each of 4no. forecourt pump islands, from those previously approved under planning permission file ref no 16/764; and permission file ref no 16/764; & PERMISSION is sought for (9) an enclosed delivery off-loading yard plus 23no. additional carparking spaces in a revised site layout to side & rear of the forecourt building on an enlarged site area; (10) additional attenuation chamber and drainage for enlarged site area; (11) additional directional and advertising signage; (12) additional and relocated light poles and CCTV cameras in the enlarged site area (13) all associated ancillary site works at Maxol Service Station, Ennis Road, Clarecastle, Co. Clare.	Granted 10/02/2021 subject to 8 planning conditions.

Planning Ref	Applicant	Development Description	Decision
21/1045	Maxol Limited	for relocation and refurbishment of Maxol café / deli area, including food preparation and clean-up areas with chiller / freezer rooms (Area 65.55sqm); change of use of children's play area to restaurant use (Area 48.25sqm); provision of a second hot-food takeaway offering including order/sales counters, kitchen and clean-up area, chiller/freezer rooms, store and supervisor office (Area 95.44sqm incorporating change-of-use area 48.25sqm); revised circulation area (Area 87.61sqm); revised seating area (Area 74.93sqm) and revised Maxol back-of-house area including ATM room, manager office, staff facilities and electrics room (Area 93.62sqm); sale of hot food for consumption both on and off the premises; provision of external customer seating area at northern elevation of forecourt building (26 seats); provision of additional external corporate signage to forecourt building on eastern elevation (Area 0.57sqm); installation of dedicated grease trap for the new hot-food area under previously approved parking area at rear of existing forecourt building; provision of an additional M&E switch room (Area 12.69sqm) and all necessary air-handling / ventilation / extract-air equipment at rear of existing building; lowering section of stone wall on northern and eastern boundaries to 450mm overall height around Maxol ID totem sign and all associated site works at Maxol Service Station, Ennis Road, Clarecastle, Co. Clare.	Currently on Appeal

Figure 4 – Planning History

4.0 DRAFT CLARE COUNTY DEVELOPMENT PLAN 2023-2029 (Draft Plan)

4.1 Zoning

The Draft Plan proposes no change to the *‘Mixed Use’* or *‘Existing Residential’* zoning objectives on the subject property. It would appear from our overlay of the subject site boundaries onto the new proposed zoning map that part of the property to the rear is also included in the *‘Agricultural’* zoning objective. See Figure 5 below.



Figure 5 – Proposed Zoning – Draft Clare County Development Plan 2023-2029

The 'Mixed Use' zoning has the following stated objective:-

The use of land for 'mixed use' developments shall include the use of land for a range of uses, making provision, where appropriate, for primary and secondary uses e.g., commercial/retail development as the primary use with residential development as a secondary use. Secondary uses will be considered by the local authority having regard to the particular character of the given area. On lands that have been zoned 'mixed-use' in or near town or village centres, a diverse range of day and evening uses is encouraged and an over-concentration of any one use will not normally be permitted.

The 'Existing Residential' zoning objective states as follows:-

'The objective for land zoned 'existing residential' is to conserve and enhance the quality and character of the areas, to protect residential amenities and to allow for small scale infill development which is appropriate to the character and pattern of development in the immediate area and uses that enhance existing residential communities. Existing residential zoned land may also provide for small-scale home-based employment uses where the primary residential use will be maintained'.

The 'Agricultural' Zoning objective states as follows:-



“This zone is for the use of land for agricultural purposes and farming-related activities and to preserve the amenity of the town or village setting. Individual dwellings for permanent occupancy of established landowners(i.e., within family ownership for the preceding 10 years) and their immediate family members will be open for consideration subject to normal site suitability considerations. Immediate family members would include:

- *Parents*
- *Children*
- *Siblings*

4.2 Policy

The Draft Plan states the following in relation to Petrol Filling Stations:-

“Small shops associated with petrol filling stations can be a cost-effective way of providing the equivalent services of a local shop. It is considered appropriate for petrol filling stations to provide limited retail facilities on site provided they are of a small scale and ancillary to the main purpose of the filling station. The Council will consider proposals on a case-by-case basis and may limit the range of retail goods available for purchase at petrol filling stations in order to protect the viability and vitality of existing retail centres. Such facilities will generally not be acceptable in rural areas where the maximum speed limit applies”.

CDP7.21 – Petrol Filling Stations

“It is an objective of the Development Plan to consider development proposals for petrol filling stations, and associated shops with a floor space no greater than 100m² (net), on their individual merits, subject to traffic impact considerations and the location, health and scale of existing retail services in the area”.

5.0 REQUESTED AMENDMENT

1. Apply the proposed ‘Mixed Use’ zoning objective to the full extent of the subject site and
2. Modify Policy CDP7.21 to provide for retail floor area associated with Petrol Service Stations in excess of 100m².

5.1 Apply the proposed ‘Mixed Use’ zoning objective to the full extent of the subject site

Maxol Ltd fully support the designation of the ‘Mixed Use’ zoning objective on the subject site and request that it be extended to include the full extent of the subject site – See Figure 6 below.



Figure 6 – Proposed Zoning Request

Maxol Service Station as approved under Planning Permission Ref: P16/764 and P20/830 is on lands zoned as “Mixed Use” and “Existing Residential” under the CCDP. The ‘Existing Residential’ zoning objective applied to the portion of the site which accommodated the dwelling house and which was approved and demolished under Planning Permission Ref: P16/764 and therefore this zoning objective is now of no relevance. In addition, there is no agricultural use on the subject site so the ‘Agriculture’ zoning of part of the site for this use is not considered appropriate. The principle of the petrol station use on the full site was considered acceptable under the above referred to planning permissions and also in the assessment of Planning Application Ref: P21-1045 where the Assessing Planner stated the following in the Development Management Report:-

“The site is zoned ‘Existing Residential’ and ‘Mixed Use’ in the CDP. As there is no established residential use on the site and having regard to the established use of the site, I consider it reasonable to assess the subject application having regard to the ‘Mixed Use’ zoning of the CDP”.



The proposed extension of the 'Mixed Use' zoning objective to the full extent of the subject site reflects the existing and permitted commercial and retail use and is in line with National Planning Policy guidance on the development and regulation of service station uses.

5.2 Modify Policy CDP7.21 to provide for associated shops in excess of 100m².

Our Client has a significant concern in relation to the wording of Policy CDP7.21 which in their opinion it will have a serious adverse impact on the future potential redevelopment of a number of service station sites in the County.

According to our Client this policy provision is clearly anti-competitive and directly in contravention of the Retail Planning Guidelines, to which the Planning Authority must have regard to in the preparation of the development plan.

While most of petrol stations generally have shops with a net retail area of less than 100sqm., in some instances they do not. Such instances would be where the service station is located within an urban area with a lack of proper retailing facilities. In these cases, the service station effectively becomes a local neighbourhood shop fulfilling an important local service function. Unfortunately, this function is not fully recognised or acknowledged by Planning Authorities in the preparation of their Development Plans and planning application assessments.

There appears to be confusion on the interpretation of the reference to 100sqm. in the Retail Planning Guidelines as being an absolute cap on the extent of net retail floorspace that can be incorporated into service station developments, as set out in the Draft Plan under Policy Objective CDP7.21. However, this is not the case. One of the key messages of the Guidelines is the promotion of competition where it states:-

'Strong competition is essential to reduce retail costs and ensure that savings are passed on to retail customers through lower prices. Competition also promotes innovation and productivity.'

The planning system should not be used to inhibit competition, preserve existing commercial interests or prevent innovation. In interpreting and implementing these Guidelines, planning authorities and An Bord Pleanála should avoid taking actions which would adversely affect competition in the retail market.'

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'.



The Minister's forward to the Guidelines advises:

Experience also indicates that a strong and competitive retail sector demands a proactive approach in planning, listening carefully to the messages from both the retail sector and communities and responding appropriately in managing and reshaping our cities and towns in response.

One of the guidelines five policy objectives is

Securing competitiveness in the retail sector by actively enabling good quality – development proposals to come forward in suitable locations.

The imposition of the 100sqm. floor space cap on retailing services at service stations is in contravention of this objective and has no policy basis whatsoever with reference to the guidelines.

The Guidelines do not preclude retail developments in excess of 100sqm. net, rather they state that in respect of any development in excess of 100sqm. that the sequential approach will apply, and the retail element should be assessed in the same way as would an application for retail development.

*The floorspace of the shop should not exceed 100m² net; **where permission is sought for a floorspace in excess of 100m², the sequential approach to retail development shall apply**, i.e. the retail element of the proposal shall be assessed by the Planning Authority in the same way as would an application for retail development (without petrol/diesel filling facilities) in the same location. **(Emphasis added).***

Additionally, the Guidelines make it clear that retail proposals must only be justified sequentially and not with reference to the potential for impacts on towns or village centres.

Our Client is of the opinion that Policy CDP7.21 set out in the Draft Plan is contrary to the above Guidelines. We refer to Section 12 of the Planning and Development Act, 2000, as amended, relating to the preparation of Development Plans, where it sets out a requirement that such plans are consistent with:-

'.....specific planning policy requirements specified in guidelines under subsection (1) of section 28'.

Not only must the Plan be consistent with these Guidelines, but the Guidelines themselves take precedent.

It is our Client's opinion that Policy CDP7.21 should explicitly state that retail proposals at service stations in excess of 100sqm. are permitted in principle, subject to the Applicant demonstrating sequentially that the proposal is in accordance with the proper planning and sustainable development of the area.

The role of service station retailing has changed. Many stations facilitate multi-trip usage in terms of customers getting both fuel and local convenience items in one trip which has reduced the number of trips required to be taken, new planning policies should reflect the current market dynamics to take account of the changes in the market and provide support for the local service function many of these service stations provide.

6.0 CONCLUSION

Our Client requests that the proposed *'Mixed Use'* zoning objective be applied to the full extent of the subject site. The *'Existing Residential'* zoning proposed on part of the subject site is of no relevance given there is no existing residential use on the site. There is no *'Agriculture'* use on the subject site which has full approval as a Service Station. Zoning the full extent of the subject site which is fully occupied by the Maxol Service Station as *'Mixed use'* would provide continuity in the zoning of the existing permitted use on this site.

Our Client also requests that Policy Objective CDP7.21 be modified to provide for the principle of retail floor area associated with Petrol Service Stations in excess of 100m² subject to normal planning and development considerations.

Our Client requests that the Planning Authority kindly consider and adopt the above submission in the preparation of the Clare County Development Plan 2023-2029.