

**Annette Ryan**

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**From:** Alan O'Callaghan | Coakley O'Neill <[REDACTED]>  
**Sent:** Thursday 8 December 2022 12:44  
**To:** Development Plan  
**Subject:** Submission to Proposed Amendments to Clare County Development Plan 2023 - 2029  
**Attachments:** Final\_Submission\_to\_Clare\_CDP\_Amendments\_08.12.2022.pdf

To whom it may concern,

I wish to make a submission on behalf of our clients, Circle K Ireland Energy Ltd. to the **Proposed Amendments to Clare County Development Plan 2023 – 2029**.

I note the deadline for submissions as the 3<sup>rd</sup> January 2023. Please find attached submission to form part of final Development Plan.

If you could confirm proof of submission lodgement and revert back to me at your earliest convenience that would be greatly appreciated.

Kind Regards,  
Alan O'Callaghan MPlan MIPI

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Having regard to the General Data Protection Regulation ("GDPR"), which came into effect on 25 May 2018, and which governs the collection, storage and processing of personal data, we can advise that any data we have on our clients is securely stored and is not used for any purpose other than for the purpose of updating our clients on relevant planning matters. Should any client no longer wish to receive these communications, he or she can advise us accordingly.



Planning Department,  
Clare County Council,  
Áras Contae an Chláir  
New Road,  
Ennis,  
Co. Clare

8<sup>th</sup> December 2022

**RE: SUBMISSION TO THE PROPOSED AMENDMENTS TO CLARE COUNTY DEVELOPMENT PLAN 2023-2029**

Dear Sir/Madam,

We make this submission to the **Proposed Amendments to the Clare County Development Plan 2023-2029** on behalf of our clients, Circle K Ireland Energy Group Limited, Circle K House, Beech Hill, Clonskeagh, Dublin 4, and in relation to general policies relating to service station development.

Our clients welcome the opportunity to make a submission to the proposed amendments.

The initial submission (**Submission No: S2/897**) to the Draft Plan addressed proposed development management standards set out for services stations under CDP Objective 7.21 in Volume 1, Chapter 7 and raised concerns over the possible unwarranted restrictions imposed on our clients' service station sites, with respect to expanding their retail offering and the net floor space for same.

We respectfully ask that the points made herein are reflected in the new Development Plan, upon it being adopted.

The context of our submission to the Draft Plan is set out hereunder in detail, followed by a synopsis of the Chief Executive's report on same. It is trusted that this subsequent submission will be seen as a constructive and productive contribution to the preparation of the final Plan, and, in this regard, we request that it is given favourable consideration.

Please forward all correspondence in relation to this submission to this office.

Yours sincerely,



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Alan O'Callaghan  
Coakley O'Neill Town Planning Ltd

## INTRODUCTION

- 1.1 Circle K are the largest operator of service stations in the Country. They operate an extensive folio of service stations within the administrative boundary of Clare County Council, all providing a diverse range of local services to their respective surrounding community catchments.
- 1.2 In this regard, Circle K has engaged, and will continue to engage, positively and proactively with the planning process. Their business has developed by working within the relevant planning legislation and the objectives and concepts outlined in the various planning policy documentation are incorporated into the Circle K development process at a very early stage and significantly inform decisions made on the appropriateness of development proposals.
- 1.3 The company is committed to the retail fuel business and is very passionate in their endeavours. They have an ambitious investment programme in relation to the construction of new service stations across the country and in particular are looking to progress both the development of new service stations and the redevelopment of existing stations over the coming years.
- 1.4 As outlined above, during the Draft Clare County Development Plan 2023 – 2029 public consultation period, a general submission was made in relation to policies and objectives concerning service station sites. This submission was premised on the sequential approach applying to service station sites with a retail floorspace above 100m<sup>2</sup>.
- 1.5 Hereunder, we outline the context of this submission and its subsequent summary that forms part of the Chief Executive's Report, in addition to his recommendations.

### Proposed Amendments to Clare County Development Plan 2023 – 2029

- 1.6 The context of the submission made to Clare County Council is attached as part of Appendix 1 of this submission (**Submission No: S2/897**). The response by the Chief Executive is also detailed below in Section 1.9 and 1.10.
- 1.7 In this regard, it was highlighted that **Development Plan Objective: Petrol Filling Stations CDP7.21** was in contravention of the **Retail Planning Guidelines, 2012**.

*Development Plan Objective: Petrol Filling Stations CDP7.21*

*It is an objective of Clare County Council to consider development proposals for petrol filling stations, **and associated shops with a floor space no greater than 100m<sup>2</sup> (net), on their individual merits**, subject to traffic impact considerations and the location, health, and scale of existing retail services in the area.*

- 1.8 The submission identified that, as currently worded, **Objective CDP 7.21** allows for the consideration of shops associated with petrol filling stations with a floor space of up to 100m<sup>2</sup> (net) only. It recommended that **Objective CDP 7.21** should be rephrased to state that "[petrol filling station] development



incorporating in excess of 100m<sup>2</sup> net retail sales area is acceptable in principle, subject to sequential testing and other normal planning and development considerations" in order to be consistent with the **Retail Planning Guidelines, 2012**.

1.9 To quote at length, the Chief Executive notes the following:

*I wish to thank Coakley O'Neill Town Planning for the submission, made on behalf of Circle K Ireland Energy Group Limited and address the issues raised as follows:*

*It is acknowledged that Section 4.11.9 (Retailing and Motor Fuel Stations) of the 'Retail Planning Guidelines for Planning Authorities (2012)' makes provision for petrol filling station proposals incorporating more than 100m<sup>2</sup> net retail floorspace to be permitted subject to compliance with the sequential approach to development which is necessary to ensure that "the shopping element of the station would not seriously undermine the approach to retail development in the development plan."*

*In order to ensure that the Development Plan is fully consistent with the 'Retail Planning Guidelines for Planning Authorities (2012)' it is appropriate that recommended that Objective CDP7.21 is reworded. With regards to the further points I-III noted above, it is not appropriate for the Draft Development Plan to single out petrol filling station retail formats for protection or enhancement as suggested. Such an approach would be contrary to the overarching objective of the 'Retail Planning Guidelines' to enhance the vitality and viability of city and town centres by applying a sequential approach to retail development. In accordance with the Retail Planning Guidelines, the Draft Development Plan encourages the retention and enhancement of existing retail services within designated centres regardless of format (refer to Objectives CDP7.3 - CDP7.9). In addition, Section 7.3.6 (Small Villages) of the Draft Development Plan recognizes the important retail service function fulfilled by petrol filling stations in existing villages and supports the enhancement of such facilities. No further amendments are considered to be necessary in this respect.*

1.10 His subsequent recommendation is as follows:

*In order to ensure that the Development Plan is fully consistent with the 'Retail Planning Guidelines for Planning Authorities (2012)' it is recommended that Objective CDP7.21 is reworded to explicitly confirm that petrol filling station proposals incorporating more than 100m<sup>2</sup> (net) retail floorspace will be considered in line with the sequential approach as well as normal planning and environmental considerations. Amend Volume 1 Chapter 7 Objective CDP7.21 'Petrol Filling Stations' as follows:*

*"To consider development proposals for petrol filling stations, and associated shops with a floor space ~~no greater than~~ up to 100m<sup>2</sup> (net), on their individual merits, subject to normal planning and environmental considerations ~~traffic impact considerations and the location, health and scale of existing retail services in the area~~. Where permission is sought for associated shops with a floorspace is in excess of 100m<sup>2</sup> (net), the sequential approach shall also be applied."*

- 1.11 This change to the wording of **Objective 7.21** from what was outlined in the draft Plan is welcomed by our clients. It now affords them the full scope to expand their retail offering at the existing service station sites subject to normal planning conditions. These sites will continue to primarily operate as fuel service stations.
- 1.12 The focus in the future will be on expanding the range of services, including potential additional retail floorspace, expanded foodcourt/restaurant/cafe uses and other active ground floor uses. This is in line with customer and market expectations and the changing nature of forecourt retailing. While most of their service station sites provide a retail floorspace of 100m<sup>2</sup> or less, the revision of Objective 7.21, now allows for the sequential approach to be applied to proposals with an increase in floorspace in excess of 100m<sup>2</sup>
- 1.13 For these reasons Circle K wish to voice their support for the change in wording of **Objective 7.21** from what was prescribed in the draft Development Plan as outlined above and respectfully ask Clare County Council to adopt this into the final **Clare County Development Plan 2023 – 2029**.

### Conclusion

- 1.14 In conclusion, our clients welcome the opportunity to make a submission to the proposed amendments to the **Draft Clare County Development Plan 2023 – 2029**, building on their initial submission made during the public consultation phase on the draft Plan.
- 1.15 Circle K wish to express their support to the proposed amendments in relation to general policies concerning service stations. As outlined above, this allows them the scope to expand their retail offering to the local community catchment subject to normal planning conditions. The sites will continue to operate primarily as fuel filling stations.
- 1.16 We wish to note that it is not the case that the Retail Planning Guidelines have a strict 100m<sup>2</sup> cap. The Guidelines explicitly mention the following in section 4.11.9

***...where permission is sought for a floorspace in excess of 100 M2, the sequential approach to retail development shall apply.***

- 1.17 One of the key messages of the Guidelines is the promotion of competition:

*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*

- 1.18 To conclude, our clients fully endorse the proposed changes to the draft Plan as detailed above, as it now fully aligns with the policies and objectives detailed in the **Retail Planning Guidelines, 2012**.
  
- 1.19 For these reasons, Circle K respectfully ask Clare County Council to adopt the proposed amendment to **Objective 7.21 – Petrol Filling Stations** as outlined above into the final version of the **Clare County Development Plan 2023 – 2029**.

**APPENDIX 1 – SUBMISSION TO DRAFT CLARE COUNTY DEVELOPMENT PLAN 2023 – 2029**



Planning Department,  
Clare County Council,  
Áras Contae an Chláir  
New Road,  
Ennis,  
Co. Clare

28<sup>th</sup> March 2022

**RE: SUBMISSION TO THE DRAFT CLARE COUNTY DEVELOPMENT PLAN 2023-2029 – CIRCLE K GENERAL**

Dear Sir/Madam,

We make this submission to the draft Clare County Development Plan 2023-2029 on behalf of our clients, Circle K Ireland Energy Group Limited, Circle K House, Beech Hill, Clonskeagh, Dublin 4, and in relation to general policies relating to service station development.

The submission addresses proposed development management standards set out for services stations under CDP Objective 7.21 in Volume 1 of the Draft Plan and raises concerns over the possible unwarranted restrictions imposed on our clients' service stations with respect to expanding their retail offering and the net floor space for same at service stations.

We respectfully ask that the points made herein are reflected in the new Development Plan, when adopted.

The submission is set out hereunder in detail. It is trusted that it will be seen as a constructive and productive contribution to the preparation of the final Plan, and, in this regard, we request that it is given favourable consideration.

Please forward all correspondence in relation to this submission to this office.

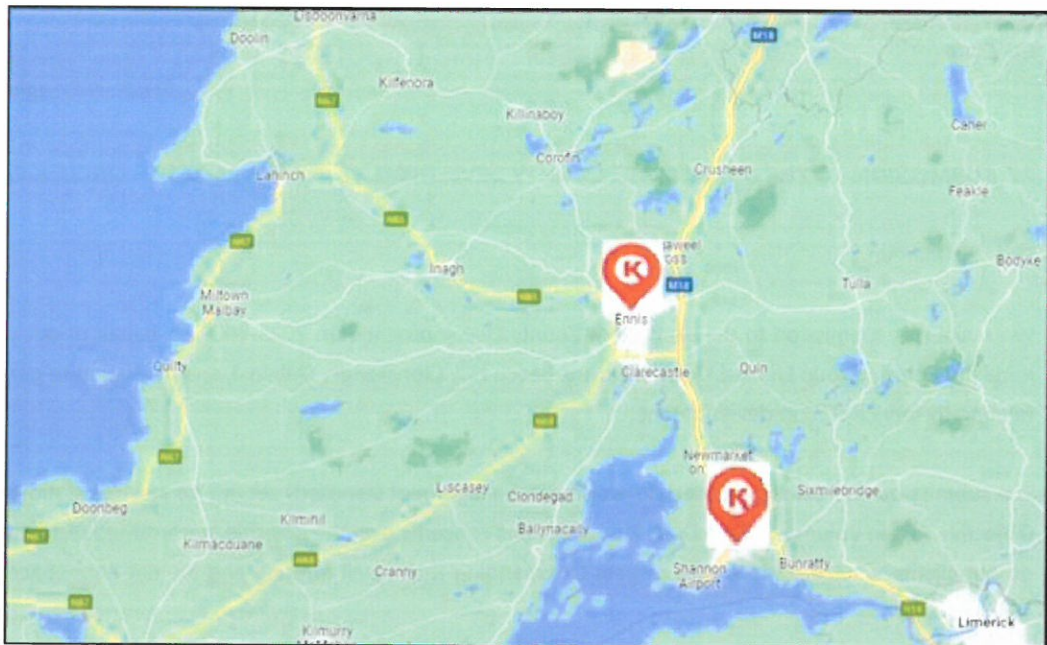
Yours sincerely,



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Alan O'Callaghan  
Coakley O'Neill Town Planning Ltd.

- 1.1 Circle K are the largest operator of service stations in the country. As shown below, they operate two stores in County Clare.
- 1.2 In light of this, our clients have a significant interest in the proposed policies and objectives regulating the future development of these uses in the new Clare County Development Plan.



**Figure 1: Circle K Service Stations Clare (source: Circle K Site Locator)**

- 1.3 County Development Plan Objective 7.21 of the Draft Plan specifically addresses the net retail floor space permissible for service stations.
- 1.4 Our clients have no issue with the vast majority development management standards set out in the policy. Circle K design and manage their sites to the highest standards in terms of customer expectation and health and safety. Sites are operated and developed with accessibility, sustainability and safety in mind and comply with all statutory regulations. Buildings are designed to a high architectural standard.
- 1.5 The following requirement however is of significant concern to our clients as it will have serious adverse impacts on the future potential redevelopment of a number of service station sites within the Clare area.

***Development Plan Objective: Petrol Filling Stations CDP7.21***

***It is an objective of Clare County Council to consider development proposals for petrol filling stations, and associated shops with a floor space no greater than 100m<sup>2</sup> (net), on their individual merits, subject to traffic impact considerations and the location, health, and scale of existing retail services in the area.***

- 1.6 Our clients take issue with this policy provision as it is clearly anti-competitive and can be seen to be in contravention of the **Retail Planning Guidelines, 2012**, to which the Planning Authority must have regard in the preparation of the development plan.
- 1.7 While the company's stores generally have a net retail area of less than 100m<sup>2</sup>, 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.
- 1.8 All too often it has been Circle K's experience that this function is not recognised or acknowledged by planning authorities in the preparation of their development plans and in decisions made on planning applications.
- 1.9 A confusion most often arises due to an incorrect interpretation of the reference to 100m<sup>2</sup> 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.
- 1.10 **It is not the case** that the Retail Planning Guidelines have a strict 100m<sup>2</sup> cap. The Guidelines explicitly mention the following in section 4.11.9:

***...where permission is sought for a floorspace in excess of 100 M<sup>2</sup> , the sequential approach to retail development shall apply.***

- 1.11 One of the key messages of the Guidelines is the promotion of competition:

*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.*

- 1.12 The Minister's foreword 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.*



- 1.13 One of the Guidelines policy objectives is:

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

- 1.14 In the words of the draft Plan:

***To consider development proposals for petrol filling stations, and associated shops with a floor space no greater than 100m<sup>2</sup> (net)***

We wish to highlight that there is no mention of any proposals for service/filling stations with a net retail floor space in excess of 100m<sup>2</sup> being subject to the sequential approach as outlined in the Retail Planning Guidelines in the draft Plan.

- 1.15 Yet, the national Guidelines clearly do not preclude retail developments in excess of 100m<sup>2</sup> net, rather, they state that in respect of any development in excess of 100m<sup>2</sup> net the sequential approach will apply, and the retail element should be assessed in the same way as would an application for retail development. To quote directly:

***The floorspace of the shop should not exceed 100 M2 net; where permission is sought for a floorspace in excess of 100 M2, 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.***

- 1.16 Additionally, the national guidelines are clear that the retail proposal must only be justified sequentially and not with reference to the potential for impacts on town or village centres.
- 1.17 It is submitted therefore that the proposed policy objective set out in the Draft Plan represents a clear departure from national guidance to which the Planning Authority must have regard. Not only must they be consistent with these national guidelines, but the guidelines themselves will take precedence.
- 1.18 In this regard, the Planning Authority will note that Section 12 of the Planning and Development Act, 2000, as amended, relating to the preparation of Development Plans, sets out a requirement that such plans are consistent with the:

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

- 1.19 Given the extent of misinterpretation, it is suggested that clarification is given to explicitly state that retail proposals at service stations in excess of 100m<sup>2</sup> are permitted in principle, subject to the applicant being able to demonstrate sequentially that the proposal is in accordance with the proper planning and development of the area.



- 1.20 Further, given the changing nature of forecourt retailing, we suggest that new planning policies should reflect the current market dynamics to encompass the changes in the market, acknowledge the emergence of new players, and reflect the different petrol retail formats, particularly sustainable urban stations.
- 1.21 With reference to this request and the location of service stations in sustainable urban locations, it is submitted to the Council that Circle K service stations are located within established urban centre locations in the county and should not therefore be inhibited by any restrictive policies in terms of their retail development. Their location in itself justifies retail development.
- 1.22 It should also be acknowledged that a significant proportion of both Circle K and other stations exist in sustainable locations in terms of their proximity to established residential areas and that service stations facilitate multi trip usage with customers getting both petrol and local convenience items in the one trip. The provision of multi-services on the one site has the benefit of reducing the number of trips required to be taken. Thus, in our view, there are a large proportion of service stations that promote the sustainable location of local facilities and services close to residential populations.
- 1.23 On the basis of the above, our clients requests the consideration of following:
- **Recognition that the nature of the service station market has evolved considerably and acceptance of their various forms and locations.**
  - **Support for the important local service function performed by urban stations and the sustainability of those established in residential neighbourhoods.**
  - **Acknowledgement of the expectations and requirements of the modern consumer in determining appropriate policies for this type of retailing.**
  - **Incorporation of reference, in accordance with the Retail Planning Guidelines, to development in excess of 100m<sup>2</sup> net retail sales area being acceptable in principle, subject to sequential testing and other normal planning and development considerations.**

