

Forward/Strategic Planning
South Dublin County Council
County Hall Tallaght,
Dublin
D24 A3XC

15th September 2021

RE: Submission to the Draft South Dublin Development Plan 2022-2028

Dear Sir/Madam,

We make this submission to draft South Dublin Development Plan 2022-2028 on behalf of our clients, Circle K Ireland Energy Group Limited, Circle K House, Beech Hill, Clonskeagh, Dublin 4, and in relation to their service station at Parkway West, The Hill, Lucan Road Old, Dublin 20.

Our clients strongly oppose the proposed zoning of their service station at Parkway West, with a land use zoning that, firstly, does not reflect or properly account for the established and permitted commercial use of the site and secondly, restricts not just its ongoing commercial use but its future development potential.

Our clients cannot accept the proposed 'Residential and Open Space' zoning objectives which pose a fundamental risk to the operation of the service station and damages its future development prospects. In this respect, the proposed zoning is anti-competitive and contravenes the Retail Planning Guidelines in terms of its impact upon an existing retail outlet. It is not the purpose of the planning process to inhibit fair competition within the retail market. No other retail operator in South Dublin would accept such an outcome of the planning process.

The submission therefore strongly appeals for the service station site in its entirety to be zoned as a 'Local Centre' in light of the strong and sustained planning merits pertaining to its current use and strategic location serving the local needs of the surrounding community.

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

The submission is set out hereunder in detail. It is trusted that the 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,



Cathal Costello
Coakley O'Neill Town Planning Ltd.

1.0 Circle K Service Station, Parkway West, Dublin City

- 1.1 The subject service station site is 0.5ha in area and is located on the southern side of the R148 Chapelizod Bypass, to the southeast of Palmerstown Village which lies on the opposite side of the roadway. It comprises a single storey service building, located to the west on the site with forecourt area with canopy over.
- 1.2 It comprises a long-established service station, Circle K Parkway West, which incorporates a single storey amenity building, totalling 189sqm in area and located centrally on the site, with a canopied forecourt, fuel islands and associated parking, services and access routes surrounding same. The existing station provides a convenience retail use, along with other service station services.

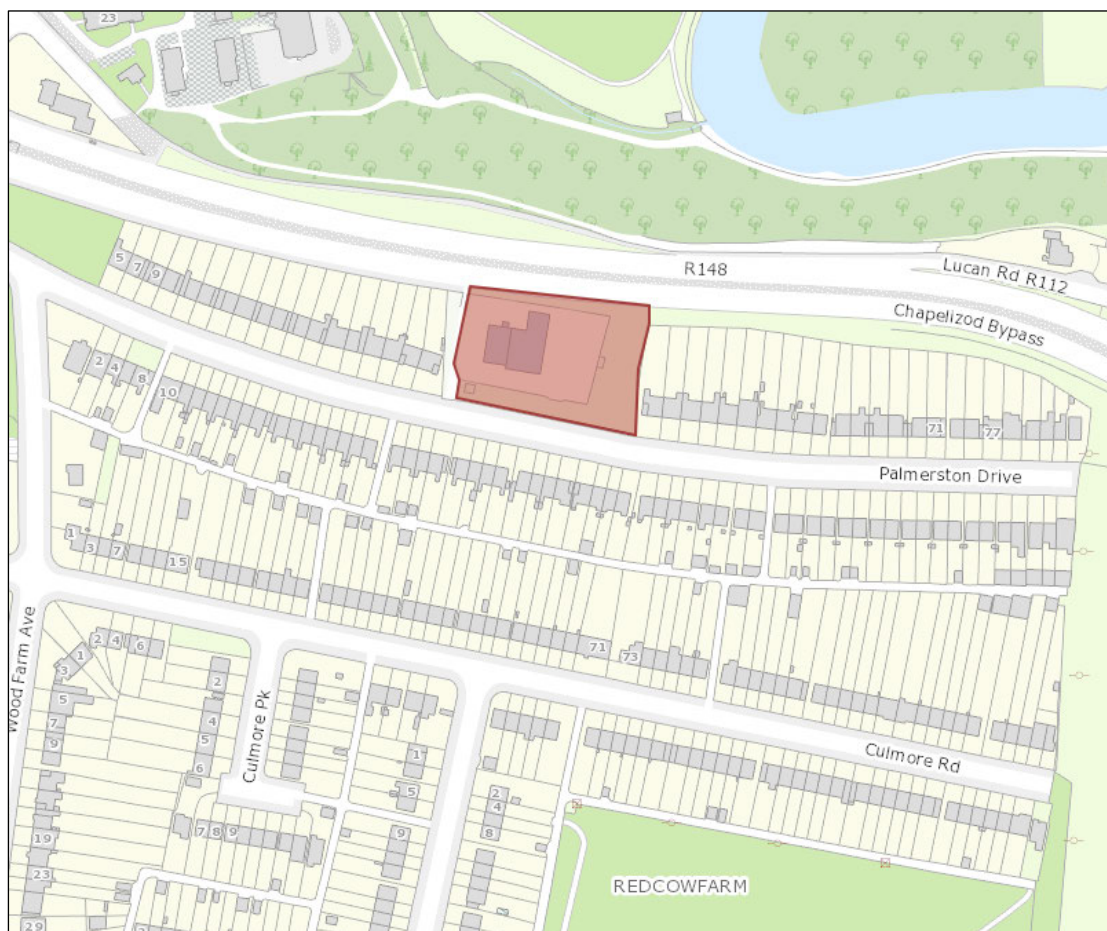


Figure 1: Site Location (generally outline in red, source MyPlan, annotated Coakley O'Neill)

- 1.3 A residential estate, Palmerstown Drive, is located to the south and rear of the station with Nos. 39 and 41 adjoining its boundary. Pedestrian access, via a public right of way on the western side of the station, is available from this side of the station. Otherwise, all access is via the Bypass to the north.

Current Planning Policy

- 1.4 In the current South Dublin County Development Plan, 2016, the existing service station site is partly zoned 'RES' or 'Residential' and partly zoned 'OS' or 'Open Space' which has had the effect of undermining the operation and development of the service station with respect to the normal expected range of uses at such facilities. The objectives for these land uses are as follows:

Objective for 'RES' is to protect and/or improve residential amenity.

Objective for 'OS' is to preserve and provide for open space and recreational amenities

- 1.5 Within 'RES' zones, the following land uses are currently permitted, not permitted, or open for consideration:

Not permitted: *Abattoir, Aerodrome/Airfield, Boarding Kennels, Concrete/Asphalt Plant in or adjacent to a Quarry, Conference Centre, Fuel Depot, Heavy Vehicle Park, Hospital, Industry-Extractive, Industry-General, Industry-Special, Nightclub, Offices over 1,000 sq.m, Outdoor Entertainment Park, Refuse Landfill/Tip, Refuse Transfer Station, Retail Warehouse, Rural Industry-Food, Science and Technology Based Enterprise, Scrap Yard, Shop-Major Sales Outlet, Social Club, Transport Depot, Warehousing, Wholesale Outlet, Wind Farm.*

Open for consideration: *Advertisements and Advertising Structures, Allotments, Agriculture, Bed & Breakfast, Betting Office, Camp Site, Car Park, Caravan Park-Residential, Cemetery, Childcare Facilities, Community Centre, Crematorium, Cultural Use, Doctor/Dentist, Education, Embassy, Enterprise Centre, Funeral Home, Garden Centre, Guest House, Health Centre, Hotel/Hostel, Home Based Economic Activities, Industry-Light, Live-Work Units, Motor Sales Outlet, Office-Based Industry, Offices less than 100 sq.m, Offices 100 sq.m - 1,000 sq.m, Off-Licence, Petrol Station, Place of Worship, Primary Health Care Centre, Public House, Recreational Facility, Recycling Facility, Restaurant/Café, Service Garage, Shop Neighbourhood, Sports Club/Facility, Stadium, Veterinary Surgery.*

Permitted in principle: *Housing for Older People, Nursing Home, Open Space, Public Services, Residential, Residential Institution, Retirement Home, Shop-Local, Traveller Accommodation.*

- 1.6 Within 'OS' zones, the following land uses are currently permitted, not permitted, or open for consideration:

Not permitted: *Abattoir, Advertisements and Advertising Structures, Aerodrome/ Airfield, Betting Office, Boarding Kennels, Caravan Park-Residential, Concrete/Asphalt Plant in or adjacent to a Quarry, Conference Centre, Doctor/Dentist, Embassy, Enterprise Centre, Fuel Depot, Funeral Home, Health Centre, Heavy Vehicle Park, Hospital, Industry Extractive, Industry-General, Industry- Light, Industry-Special, Live-Work Units, Motor Sales Outlet, Nightclub, Nursing Home, Office-Based Industry, Offices less than 100 sq.m, Offices 100 sq.m -1,000 sq.m, Offices over 1,000 sq.m, Off-Licence, Petrol Station, Primary Health Care Centre, Public House, Refuse Landfill/Tip, Refuse*

Transfer Station, Residential Institution, Retail Warehouse, Retirement Home, Rural Industry-Food, Science and Technology Based Enterprise, Scrap Yard, Service Garage, Shop-Major Sales Outlet, Shop Neighbourhood, Social Club, Transport Depot, Veterinary Surgery, Warehousing, Wholesale Outlet, Wind Farm.

Open for consideration: *Agriculture, Bed & Breakfast, Camp Site, Carpark, Cemetery, Childcare Facilities, Crematorium, Education, Garden Centre, Guest House, Home Based Economic Activities, Hotel/Hostel, Housing for Older People, Outdoor Entertainment Park, Place of Worship, Public Services, Recycling Facility, Residential, Restaurant/Café, Shop-Local, Stadium, Traveller Accommodation.*

Permitted in principle: *Allotments, Community Centre, Cultural Use, Open Space, Recreational Facility, Sports Club/Facility.*

Proposed Planning Policy

- 1.7 In the Draft Plan, the site is again to be zoned for 'Residential' and 'Open Space' uses, as illustrated below.

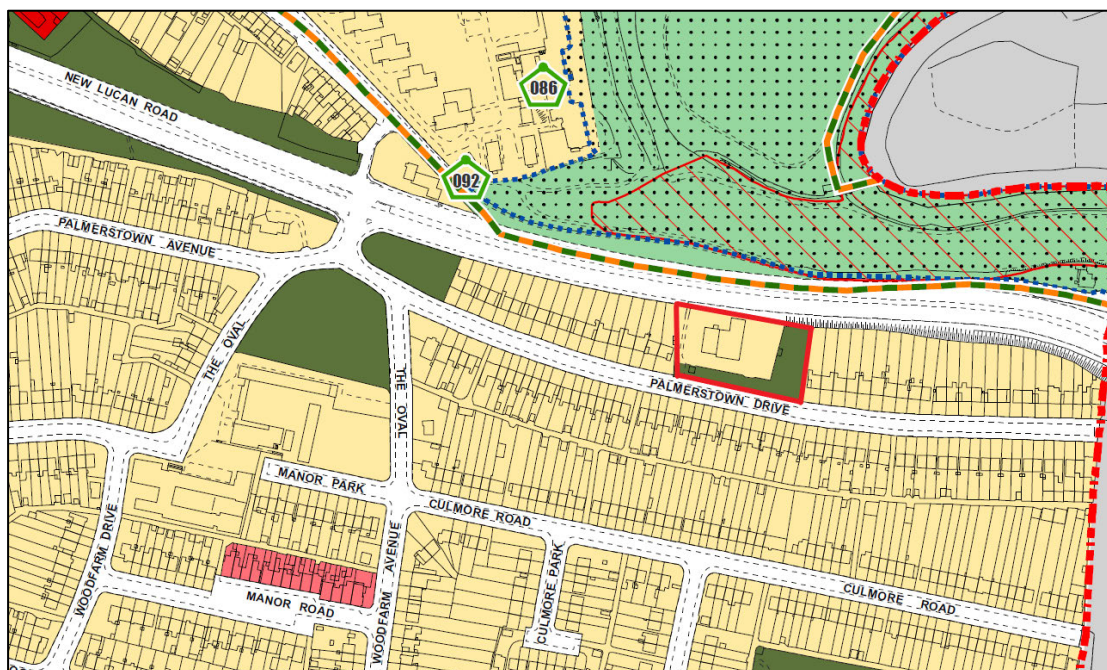


Figure 2: Proposed Site Zoning, Draft South Dublin County Development Plan, annotated Coakley O'Neill

- 1.8 A wide range of uses are generally not permitted within Residential zones, including:

Abattoir, Aerodrome/Airfield, Boarding Kennels, Concrete/Asphalt Plant in or adjacent to a Quarry, Conference Centre, Data Centre, Fuel Depot, Heavy Vehicle Park, Hospital, Industry-Extractive, Industry-General, Industry Special, Nightclub, Offices over 1,000 sq.m, Outdoor Entertainment Park, Refuse Landfill/Tip, Refuse Transfer Station, Retail Warehouse, Rural Industry-Food, Science and

Technology Based Enterprise, Scrap Yard, Shop-Major Sales Outlet, Social Club, Transport Depot, Warehousing, Wholesale Outlet, Wind Farm, Work-Live Units.

- 1.9 A wide range of uses are generally not permitted within Open Space zones, including:

Abattoir, Advertisements and Advertising Structures, Aerodrome/ Airfield, Betting Office, Boarding Kennels, Caravan Park-Residential, Concrete/Asphalt Plant in or adjacent to a Quarry, Conference Centre, Data Centre, Doctor/Dentist, Embassy, Enterprise Centre, Fuel Depot, Funeral Home, Health Centre, Heavy Vehicle Park, Hospital, Industry-Extractive, Industry-General, Industry- Light, Industry-Special, Live-Work Units, Motor Sales Outlet, Nightclub, Nursing Home, Office-Based Industry, Offices less than 100 sq.m, Offices 100 sq.m -1,000 sq.m, Offices over 1,000 sq.m, Off-Licence, Petrol Station, Primary Health Care Centre, Public House, Refuse Landfill/Tip, Refuse Transfer Station, Residential Institution, Retail Warehouse, Retirement Home, Rural Industry-Food, Science and Technology Based Enterprise, Scrap Yard, Service Garage, Shop-Major Sales Outlet, Shop Neighbourhood, Social Club, Transport Depot, Veterinary Surgery, Warehousing, Wholesale Outlet, Wind Farm, Work-Live Units.

- 1.10 The effect of the proposed Draft Plan zonings, therefore, will be a continued restriction of the operation and development of the permitted and established service station use, all on the basis of zoning objectives which do not properly reflect this use.
- 1.11 It is clearly evident to us that the proposed residential and open space zonings do not reflect the nature of the established and permitted service station use at the subject site.
- 1.12 The proposed zoning objectives are therefore, in our view, neither accurate nor reasonable.

Discussion and Submission

- 1.13 This submission argues that 'local centre' zoning objective should be applied to the site of the existing Circle K Parkway West service station.
- 1.14 The subject site fronts onto Chapelizod Bypass. It comprises a Circle K Service Station. It is located adjacent to residential properties. The Planning Authority will note that the station is strategically located relative to existing and proposed population and employment areas, is extremely accessible by car, bicycle and on foot.
- 1.15 The Council will note that the existing service station has been in operation at the subject site since the 1960s. It has been operated both independently and by several fuel operators, including Maxol, ESSO, Topaz and now Circle K. Throughout this period the station has operated a local convenience shop, demonstrating that the station provides a 'Local Centre' function for the surrounding area.
- 1.16 The station has been subject to intermittent redevelopment and upgrading through these years, as evidenced in the site's planning history and it should be noted that this history identifies and highlights the value and necessity of the site as a local service to the surrounding population.
- 1.17 Into the future, the site will continue to operate as a fuel station, but the focus will be on seeking to expand the range of services, including additional retail floorspace, expanded food court/restaurant/cafe uses and other active ground floor uses.



Figure 3: Site context illustrating strong residential character of area surround service station.

- 1.18 The current zoning objectives in place for the site reflect those now again proposed. Yet, it is evident that the proposed 'Residential' and 'Open Space' zonings do not consider the nature of the established and permitted service station use at the subject site.
- 1.19 Moreover, and more importantly in many ways, these zoning objectives do not allow for any reasonable expansion and growth of these uses and therefore unduly curtails any practical development of the services provided at the station.
- 1.20 This is evidenced by the most recent planning decision on the subject site – a refusal of permission by An Bord Pleanála on the basis that the additional 33sqm of retail floorspace proposed at the site was not justified (Appeal Case Ref: ABP-309286-21).
- 1.21 This planning application was submitted to South Dublin County Council on 28th August 2020. No third-party submissions were made. Further Information was requested but ultimately permission was refused. This decision was appealed to an Bord Pleanála, where permission was recommended by the Board Inspector however not accepted by the Board. Some of the key conclusions from the Inspectors report are noteworthy nonetheless:
- *In the present case it is noteworthy that there is an existing petrol station/retail use on site which serves a clientele who at least in part are on their way to the outer suburbs or rural areas and who do not want to enter a neighbourhood centre for fuel. Additionally, I consider that diverting traffic off the N4 into Palmerstown village would be an appropriate objective. **On that basis I consider that the proposed use is not contrary to the sequential test, nor will it detract from the viability or vitality of Palmerston village centre.***
 - *It is noteworthy in this instance that **there were no observations made to the planning authority or the Board objecting to the proposed development despite the proximity of housing development on Palmerstown Drive.***
 - *Having regard to the foregoing I conclude that the proposed development, subject to conditions, will not seriously injure the amenity of adjoining property and will not contravene the Development Plan policy in relation to impacts on adjoining sensitive uses.*
- 1.22 The inspector recommended permission having regard to;
- *the existing and permitted motor fuel/retail use of the site,*
 - *the modest scale of the proposed extension and the increase in the retail sales floor area,*
 - *to the location of the application site on a major exit from Dublin city centre and its relative remoteness from Palmerstown village centre,*
 - *the site layout and separation distances of the redeveloped building off the site boundaries,*
- 1.23 This assessment from the Inspector clearly identifies the case for this site as a local centre providing the necessary services to the surrounding population and those who commuting to and from surrounding areas of employment.

- 1.24 The open space zoned area on our clients lands is not accessible and therefore of little value as public open space. The area's value as a buffer between the service station and adjoining residential uses does not require an open space zoning objective. It can be resolved through the proper assessment of any development proposals made at the service station, as is common within urban areas such as this.
- 1.25 On this basis, our clients cannot accept zoning proposals that risk fundamentally undermining the ongoing operation of the service station and damage both its current valuation and future development prospects. It is an established and permitted retail outlet.
- 1.26 In this respect, it is submitted that the proposed 'Residential' and 'Open Space' zoning objectives are anti-competitive and contravene the Retail Planning Guidelines in terms of its impact upon an existing retail outlet.
- 1.27 While located within a residential area, this does not preclude the site's zoning as a local centre. Indeed, it is entirely appropriate that these centres should be located within such areas so as to serve their local populations, and as evidenced by such zonings already being in place across the county.
- 1.28 In this context, it is our submission that the existing service station at Parkway West on the Lucan Road requires an appropriate zoning objective that properly reflects its existing and permitted retail use and, on this basis, merits inclusion within a Local Centre zone.

Conclusion

- 1.29 In conclusion and with regard to nature of this submission's request and the subject site, we ask the Planning Authority to note:
- **The service station's location within a strongly residential area of the city.**
 - **Its current commercial use and the fact that it has been part of the local retail resource for an extended period of time.**
 - **The proposed 'Residential' and 'Open Space' zoning objectives for the site fail to properly reflect its current and permitted use.**
- 1.30 On these grounds our clients' site presents a strong credible case for a zoning designation that allows for the continued operation and development of the permitted service station use, something which is directly undermined by the proposed 'Residential' and 'Open Space' zoning in the Draft Plan.
- 1.31 The reality is that this Circle K service station is already an established use. Its rezoning will therefore reflect its established use and will enable it to expand its services in a reasonable manner.
- 1.32 Furthermore, the site's designation for a local centre demonstrates a strong compliance with national, regional, and local planning policy with regard to the sustainable development of compact urban centres of sufficient critical mass to support their strategic roles within wider settlement structures.

- 1.33 In conclusion, our clients strongly oppose the proposed zoning of their service station with land use zonings that, firstly, does not reflect or properly account for the established and permitted commercial use of the site and secondly, restricts its ongoing commercial use and future development potential.
- 1.34 The submission therefore strongly appeals for the service station to be zoned as a Local Centre in light of the strong and sustained planning merits pertaining to its current use for a range of such uses.