

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Kerry County

Planning Register Reference Number: 15/454

An Bord Pleanála Reference Number: PL 08.246283

APPEAL by Aisling Sheahan care of Frank Coffey of Daly's Lane, Killorglin, County Kerry and by William Murphy care of Noonan Consulting Engineers Limited of Langford Street, Killorglin, County Kerry against the decision made on the 16th day of February, 2016 by Kerry County Council to grant subject to conditions a permission to Harvest Trustees Limited care of J.A. Gorman Consulting Engineers Limited of Unit 1, Block B, Forest Park, Mullingar, County Westmeath in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Demolition of existing shop building, forecourt, pumps and canopy and decommissioning and removal of existing fuel storage tanks and pipework, proposed redevelopment of the site to include: (i) new forecourt, pumps and canopy, (ii) three number 40,000 litre underground fuel storage tanks, associated pipework and overground fill points, (iii) retail building 215 square metres (net retail floorspace of 100 square metres including three square metres off licence, deli/sandwich bar 21 square metres and associated seating area 26 square metres) and (iv) advertising-logo and branding on building, canopy and main ID sign, along with all associated site works, landscaping and boundary treatments at Flesk Road, Dromhale, Killarney, County Kerry.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the established use on the site, the pattern of development in the area and the extent of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 20th day of January, 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be modified and reduced in scale by the removal of the southern 4.7 metres (measured externally) portion of the proposed retail building as shown on Drawing Number P2245_C004 (Rev: 1) received by the planning authority on the 20th day of January, 2016. Revised drawings showing compliance with this modification shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to prevent overdevelopment of a restricted site and in order to protect the residential amenities of the adjoining dwelling.

3. The area marked in yellow on Drawing Number P2245_C004 (Rev: 1) received by the planning authority on the 20th day of January, 2016 shall be clearly demarcated on site as an area where the parking of vehicles is not permitted.

Reason: In order to protect the amenities of and access to the adjoining dwelling.

4. Details including samples of the materials, colours and textures of all the external finishes to the proposed building and other structures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

5. The opening hours of the hereby permitted filling station shall be from 07.30 hours to 21.00 hours Monday to Saturday and 09.00 hours to 20:00 hours on Sundays and Bank Holidays. No operations shall take place outside these times.

Reason: In the interest of protecting adjoining residential amenities.

6. The site shall be landscaped in accordance with a scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. Details of site boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the amenities of adjoining properties.

8. The vehicular access arrangements, internal road network and car parking layout to service the proposed development shall comply with the requirements of the planning authority for such works.

Reason: To ensure a satisfactory standard of development.

9. Lighting shall be in accordance with a scheme, which shall be designed to minimize glare and light pollution, and which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of amenity and public safety.

10. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

11. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

12. The proposed totem sign shall not exceed 5.8 metres in height in accordance with the revised plans and particulars received by the planning authority on the 20th day of January, 2016 in response to their request for further information.

Reason: In the interest of visual amenity.

13. Notwithstanding, the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no advertisement signs other than those hereby permitted, advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

14. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, traffic management measures, noise management measures and off-site disposal of construction and demolition waste.

Reason: In the interest of public safety and residential amenity.

15. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

17. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of upgrading of the footpath network on Muckross Road. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.