

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Kerry County

Planning Register Reference Number: 15/1068

An Bord Pleanála Reference Number: PL 08.246446

APPEAL by Joe O'Connor care of planning-appeals.ie of Tirnaneil, Monaghan against the decision made on the 22nd day of March, 2016 by Kerry County Council to grant subject to conditions a permission to Corrib Oil Company Limited care of APS Consulting and Engineering Limited of Brierfield, Moylough, Ballinasloe, County Galway in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Construction of a development including a two storey retail/office building (circa 868 square metres) and a petrol filling station including (i) a single storey building (circa 640 square metres) comprising of retail area with ancillary off-licence use, ancillary food offer counter, seating area, toilets, offices and ancillary storage and food preparation areas; (ii) construction of a new forecourt with six number pump islands and canopy over; (iii) installation of three number 40,000 litres and one number 20,000 litres underground fuel storage tanks, associated pipework and above ground fill points; (iv) installation of one number car wash facility and a single storey car wash building; (5) installation of two number freestanding pole signs and (6) construction of all ancillary site features including screened storage compound, signage, boundary treatments, drainage systems, landscaping, car parking and associated site works at John Joe Sheehy Road, Tralee, 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 pattern of development in the area, the Tralee Town Development Plan 2009–2015 (as extended), the Retail Planning Guidelines and to the mix of uses and the quantum of development proposed and to the edge of centre location of the site, it is considered that the proposed development, subject to compliance with the conditions as set out below, would be acceptable in terms of visual and residential amenity of the area, would not constitute a traffic hazard and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board concurred with the planning authority and accepted that petrol stations are not normally permitted within the zoning but having regard to the context of the site considered that it was not a prime retail location but rather an edge of centre one and that the proposed mix of uses represented an acceptable level of development for the site and was in compliance with the zoning provisions of the Tralee Town Development Plan 2009–2015 (as extended).

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 29th day of January, 2016 and the 24th day of February, 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 signage shall be restricted to one stand-alone monolith sign. Details indicating compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to commencement of works on site.

Reason: In the interest of orderly development.

3.
 - (a) Prior to the commencement of development, a revised site layout shall be submitted for the written agreement of the planning authority indicating an additional four number parking spaces to serve the proposed development.
 - (b) 14 number cycle-stands shall be provided.
 - (c) All proposed car parking spaces shall be properly delineated in approved material prior to the occupation of the development.
 - (d) All disabled parking spaces shall be clearly indicated as such.

Reason: In the interest of orderly development and traffic safety.

4. Security shutters, if required, shall be located behind the window/doors and shall be the lattice see-through type. Details of same shall be submitted for the prior approval of the planning authority and shall be in compliance with the provisions of the planning authority's "Shopfront Design Guidelines and Policy" document.

Reason: In the interest of visual amenity.

5.
 - (a) Details of the indicated proposed signage and associated lighting shall be submitted for the approval of the planning authority prior to the occupation of the development. No internally illuminated signage, other than proposed totem pole, shall be provided on site.
 - (b) Other than signage agreed under (a), notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, no signs, symbols, emblems, nameplates or other advertising devices shall be erected or displayed externally on the site, save with the prior written approval of the planning authority.

Reason: In the interest of visual amenity.

6. Notwithstanding the provisions of the planning and Development Regulations, 2001, as amended, no further structures (including lift structures), plant, antennae or railings shall be erected on the roof of any part of the development and no ventilation equipment shall be erected on the roofs or facades, without a prior grant of planning permission.

Reason: In the interest of visual amenity.

7. Best practices in pollution control measures shall be implemented during the construction and operation phases, as appropriate, so as to ensure that silt and pollutants are prevented from entering watercourses.

Reason: In the interest of environmental protection.

8. The landscaping scheme shown on drawing number 15452-2-101 as submitted to the planning authority on the 1st day of December, 2015, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

9. 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, noise management measures and off-site disposal of construction/demolition waste.

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

10. (a) Development access shall be constructed as per drawing number 2055-02-03 received by the planning authority on the 24th day of February, 2016.

(b) According to the revised Stage 1 Road Safety Audit dated 20th November 2015, all recommendations within the revised safety audit shall be implanted by the developer.

- (c) All road openings shall be subject to a licence from the planning authority and shall be subject to the usual fees and conditions.
- (d) All works to roadway, footpaths and road markings, shall be carried out by the developer, in agreement with the Area Engineer of the planning authority.
- (e) Details of all works on the public road shall be agreed in advance with the planning authority.
- (f) The existing public lights on the R-878 (John Joe Sheehy Rad) along the southern boundary shall be relocated by the developer, to an agreed location. Details shall be submitted to, and agreed in writing with, the planning authority at construction stage.
- (g) The boundary with the public road and footpath shall be set back in accordance with the layout drawings.
- (h) Formation of the splayed entrance and exit shall not cause surface water or seepage water to flow onto the road surface. No water from the proposed development shall be allowed to flow onto the public road.
- (i) Formation of splayed entrance and exit shall not interfere with the roadside drainage, which shall be maintained, repaired or made good.
- (j) The developer shall institute appropriate measures to prevent material being drawn from the site onto the public road during construction stage. No earth, soil or other material from this site shall be drawn or deposited onto the public road.
- (k) The developer shall make good any damage caused to the public road as a result of their works to the satisfaction of the planning authority.
- (l) Any on-site lighting shall be cowled and directed away from the public road and shielded horizontally and vertically to prevent glare or light spillage outside the site.

Reason: In the interest of traffic safety.

11. Prior to commencement of development, a revised site layout plan, incorporating an amenity trail/cycle path within the site, shall be submitted to, and agreed in writing with, the planning authority. The proposed amenity trail/cycle path shall be not less than three metres wide, surface in macadam finish and link with existing and planned future sustainable transport infrastructure in the area.

Reason: In the interest of the proper planning and sustainable development of the area.

12. 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: In the interest of public health.

13. 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.

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

Dated this day of 2016.