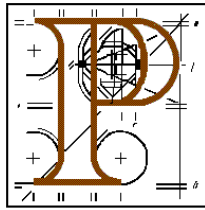


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Kerry County**

**Planning Register Reference Number: 15/1029**

An Bord Pleanála Reference Number: PL 08.246651

**APPEAL** by Lidl Ireland GmbH care of The Planning Partnership, via Fulcrum Unit 10a, South Ring Business Park, Kinsale Road Roundabout, Kinsale Road, Cork in relation to the application by Kerry County Council of the terms of the Development Contribution Scheme made for the area in respect of condition number 2 and the terms of the Supplementary Contribution Scheme in respect of condition number 3 and in relation to the inclusion of special contribution condition number 5 of its decision made on the 29<sup>th</sup> day of April, 2016.

**PROPOSED DEVELOPMENT:** Demolition of four number disused light industrial/commercial buildings and associated structures (totalling 4,805 square metres gross floor area and ranging in height between one and two storeys) and the construction of a licensed discount foodstore with ancillary infrastructure (all totalling 2,767 square metres gross floor area ranging in height equivalent from one to two storeys), and associated site development works, at a site of approximately 1.07 hectares located along Edward Street and adjacent to its intersection with McCowen's Lane, and bounded by Slatts car park. The construction of the proposed licensed discount foodstore comprise: a retail sales area with ancillary off-licence use (total net retail sales area of 1,716 square metres), bakery, public facilities (including lobby and toilets), entrance POD, storage (including cold storage), stairs and lift to mezzanine floor, lobby and delivery warehouse area, all at ground floor level (totalling 2,423 square metres ground floor area), staff welfare (including toilets, change rooms and staff canteen area), manager's office, IT, plant room, void and terrace spaces, and stairs from ground floor, all at first floor level (totalling 311 square metres first floor gross floor area), two number

building mounted corporate internally illuminated sign, two number free standing internally illuminated totem pole signs at entrances, three number wall mounted externally illuminated poster panel display, one number wall mounted externally illuminated information display board, one number finger post directional signs, one number trolley bay covered structure (33 square metres gross floor area), 131 number surface car parking spaces (six number disabled, five number parent and child and 122 number regular), 27 number bicycle parking spaces, primary vehicular and pedestrian access to the proposed development will be via an enhanced site entrance from Edward Street, secondary vehicular and pedestrian access to the proposed development will be via a new access at Slatt's car park, Daly's Lane, pedestrian access to the proposed development will be further enhanced via a plaza area along the intersection of Edward Street and McCowen's Lane and boundary treatments, hard and soft landscaping, services (including one number below ground attenuation tank) and all other ancillary and associated site development works above and below ground level, all at Edward Street and adjacent to the intersection with McCowen's Lane and bounded by Slatts car park, Daly's Lane, Tralee, County Kerry.

## DECISION

The Board considered, based on the reasons and considerations marked (1) set out below, that the terms of the Development Contribution Scheme for the area had been properly applied in respect of condition number 2 and directs the said Council under subsection (10) (b) of section 48 of the Planning and Development Act, 2000, as amended, to **ATTACH** the said condition number 2 and the reason therefor.

Furthermore, the Board considered, based on the reasons and considerations marked (2) set out below, that the terms of the Supplementary Development Contribution Scheme for the area had been properly applied in respect of condition number 3 and directs the said Council under section 49 of the Planning and Development Act, 2000, as amended, to **ATTACH** the said condition number 3 and the reason therefor.

The Board, in accordance with section 48 by section 30 of the Planning and Development, Act 2010, as amended, also directs the planning authority, based on the reasons and considerations marked (3) below, to **REMOVE** the said condition number 5 and the reason therefor.

### **REASONS AND CONSIDERATIONS (1)**

Having regard to the provisions of the Tralee Town Council Development Contribution Scheme, it is considered that the General Development Contribution Scheme was properly applied as the development comes within the scope of the Scheme and condition 2 was correctly applied.

### **REASONS AND CONSIDERATIONS (2)**

Furthermore, having regard to the provisions of the Tralee Town Council Development Contribution Scheme and the Kerry County Council Supplementary Development Contribution Scheme for the Tralee Ring Roads Project, it is considered that the Supplementary Development Contribution Scheme was properly applied as the development comes within the scope of the Scheme and condition number 3 was correctly applied.

### **REASONS AND CONSIDERATIONS (3)**

The Board considered that condition number 5 does not accord with the provisions of section 48 (2) (c) of the Planning and Development Act, 2000, with reference to the payment of a 'special contribution' and that the said condition is not amenable to being applied in accordance with the provisions of section 48 (12) of the Act, as amended. Furthermore, it is considered that an appropriate requirement to pay such a contribution could properly be included within a Development Contribution Scheme made under this section.

In deciding not to accept the inspector's recommendation to remove condition number 2, the Board considered that no exemption was applicable within the terms of General Development Contribution Scheme.

## **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.

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

**Dated this        day of                        2016.**