



Planning and Development Acts 2000 to 2018

Planning Authority: Kerry County Council

Planning Register Reference Number: 18/208

Appeal by Patrick Henderson of Faha East, Killarney, County Kerry against the decision made on the 4th day of October, 2018 by Kerry County Council to grant subject to conditions a permission to PSIC Investments Holdings Limited care of MRG Consulting Engineers of 4 Day Place, Tralee, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: (1) Change of use of existing retail unit to restaurant/cafe use, (2) construction of a take-out booth and alteration of existing windows to the western gable of subject unit, (3) reversal of existing traffic flow and alteration of road alignment adjacent to the unit to facilitate take-out use (4) carrying out of all associated site works to enable the foregoing to proceed, including the erection of various associated free standing and fixed signage and ordering elements along the route to the take-out booth, and the repositioning of parking spaces. (5) erection of various elements of signage on the subject unit, all at the former Xtra-vision unit at Manor West, Rathass, 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 neighbourhood centre zoning of the site in the current Tralee Town Development Plan, the mix of uses and pattern of development in the vicinity and to the nature and scale 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 and pedestrian safety. 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 1st day of August, 2018 and 7th day of September, 2018, 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. No advertisement or advertisement structure, other than those shown on the drawings submitted with the application, shall be erected or displayed on the building or within the curtilage of the site in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

3. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

4. The hours of operation shall be between 0800 hours and 2200 hours Monday to Sunday, only.

Reason: In the interest of the amenities of property in the vicinity.

5. All car parking spaces along the front (northern) site boundary shall be splayed in the direction of the one-way system within the development.

Reason: In the interest of traffic safety.

6. A site layout drawing with all road markings and signage within the overall Manor West Neighbourhood Centre shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All agreed road markings and signage shall be in place prior to the opening of the proposed development.

Reason: in the interest of traffic safety.

7. The exit point of the one-way system shall be reduced to 3.5 metres in width and shall incorporate a footpath area along the northern (front) elevation of the building. A site layout plan with the necessary alterations shown thereon shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

9. 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 the 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.

Dave Walsh

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

Dated this day of 2019.