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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: 19/805**

**Appeal** by Robert Whyte care of B and J Rochford of 19 Henry Street, Kenmare, County Kerry against the decision made on the 20<sup>th</sup> day of September, 2019 by Kerry County Council to grant subject to conditions a permission to H2 Properties Limited care of Cunnane Stratton Reynolds of 3 Molesworth Place, Dublin in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** The proposed development will consist of the redevelopment of existing service station to include the following: (1) the demolition of existing shop unit with steel lean-to shed at rear, fuel pumps with canopy over, two number timber sheds, portable toilet, car wash, car valeting canopy, compressor enclosure and steel container, (2) construction of new service retail building with a total gross floor area of 330.7 square metres incorporating retail sales area of 100 square metres which includes an off-license area of 12 square metres, along with deli/sandwich bar 65 square metres and seating area 20 square metres, toilets/staff facilities and store room, (3) two number fuel pump islands with canopy over, (4) refuse/ storage compound, (5) underground hydrocarbon inceptor, (6) modification of existing access/egress to the site from the public road, (7) advertising logo and

branding to building, and canopy, (8) provision of 20 number car parking spaces with all associated site works and boundary treatments, all at Kenmare Service Station, Killowen Road, Kenmare, 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 Retail Planning Guidelines for planning authorities issued by the Department, Environment, Community and Local Government in April, 2012, the Kerry County Development Plan 2015 - 2021, and the Kenmare Functional Area Local Area Plan 2010 – 2016, it is considered that the proposed redevelopment of the site to facilitate its continuing use as a service station would be in accordance with the mixed-use zoning of the site and the proposed provision of 100 square metres of net retail floor space would comply with the Guidelines. The proposed development would not seriously injure the visual or residential amenities of the area and would be acceptable in terms of pedestrian and 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, 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 amended as follows:
  - (a) details of the type, size, and siting of all externally mounted equipment on the proposed forecourt building shall be made explicit, and
  - (b) details of how the proposal would be externally illuminated shall be made explicit.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual and residential amenities of the area.

3. The deli/sandwich bar shall not be used for the sale of hot food off the premises (that is, a take-away).

**Reason:** In the interest of the residential amenities of the area.

4. Details of the materials, colours and textures of (a) the external finishes to the proposed forecourt building and (b) the surface finishes to the forecourt itself shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

5.
  - (1) All foul sewage and soiled water shall be discharged to the public foul sewer.
  - (2) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

**Reason:** In the interest of public health.

6. 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.

**Reason:** In the interest of sustainable waste management.

7. 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.

8. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the canopy, on the forecourt building or anywhere within the curtilage of the site) unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity.

9. The hours of operation shall be between 0600 hours and 2300 hours Monday to Saturday and between 0700 hours and 2300 hours on Sunday.

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

10. 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.

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

**Dated this            day of            2020.**