



An  
Bord  
Pleanála

**Board Order**  
**ABP-314343-22**

---

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: 22/309**

**Appeal** by BioAtlantis Limited care of Lynch and Associates of The Corner House, South Square, Macroom, County Cork against the decision made on the 18<sup>th</sup> day of July, 2022 by Kerry County Council to refuse permission for the proposed development.

**Proposed Development:** Construction of a goods intake building and associated drainage located on the southern side of the facility at Clash Industrial Estate, 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.**

## Reasons and Considerations

Having regard to the Kerry County Development Plan 2022-2028 including the Tralee Town Development Plan, to policy objective KCDP 9-80 to promote the growth of the manufacturing sector in Kerry by responding to the varying needs and requirements of the different components within the sector, to policy objectives KCDP 9-81 and KCDP 9-83 to support the existing diverse nature of the marine sector in Kerry including its sustainable growth and development at appropriate locations subject to normal planning and environmental considerations, the existing use of the site, and the design 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 residential properties in the vicinity, and would be consistent with the development plan objectives for the M4 zone (Mixed Use - Built up area). The proposed development 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 noted that (i) the proposed development related solely to the construction of a goods intake facility and associated services, (ii) the actual intake of goods (including raw seaweed) and its processing was previously considered and permitted under planning authority register reference 17552, (iii) forty eight predominantly environmental conditions apply to register reference 17552 including thirty one conditions to inter alia prevent odour nuisance, and (iv) the applicant provided further information in relation to all queries raised by the planning authority. The Board was, therefore, satisfied that no other material issues existed that would warrant a refusal of the proposed development of a goods intake facility.

## 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 development shall comply with the conditions of the grant of permission made under planning authority register reference 17552, save for any changes arising from this application.

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

3. All goods, including raw materials, manufactured goods, packaging, crates etc. shall be stored or displayed only within the enclosed facility.

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

4. 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.

5. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann.

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

6. 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.

7. 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.

*Eamonn James Kelly*

**Eamonn James Kelly**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

Dated this *25<sup>th</sup>* day of *March*, 2024.

