



An
Bord
Pleanála

Board Order
ABP-314925-22

Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: 21/1195

Appeal by Andrew Duggan care of Leahy Planning Limited of Mill Road House, Mill Road, Ennis, County Clare against the decision made on the 5th day of October, 2022 by Kerry County Council to grant subject to conditions a permission to Florence and Padraig McCarthy care of Hickey Design and Associates Limited of 10 Priory Paddocks, Muckross Road, Killarney, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolish existing shop and store and construct a three-storey building containing a shop and two number offices and all ancillary services and areas at Dodd's Lane, High Street, Killarney, County Kerry as revised by the further public notices received by the planning authority on the 8th day of September, 2022.

MC

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 nature and scale of the proposed development, the provisions of the current Kerry County Development Plan and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or general amenities of the area or of property in the vicinity, would not be detrimental to the character of the area and would be acceptable in terms of water services, environment and traffic 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 and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received on the 25th day of August 2022, 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. Prior to the commencement of development, the developer shall submit revised plans, to be agreed in writing with the planning authority, to clearly provide for toilet facilities on each office floor and secure parking for eight bicycles at ground level to serve the overall development.

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

3. 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 traffic management, delivery of materials to the site and noise management measures.

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

4. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 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.

6. The hours of operation for the shop shall not operate outside the hours of 0900 hours and 1600 hours Monday to Saturday. The shop shall not operate on Sundays or public holidays.

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

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

Reason: In the interest of public health.

8. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be located underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

9. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations (which includes at the proposed offices) due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

10. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

11. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place at roof level, including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

12. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no change of use or subdivision of units hereby permitted shall take place within the curtilage of the site, without a prior grant of planning permission.

Reason: In the interest of development control.

13. The shop shall be used solely for the purposes as detailed in the planning application and no processing of fish or related products shall occur at the site. Odour control measures as set out in the Odour Management Plan, submitted to the planning authority on the 25th day of August 2022, shall be fully implemented and agreed with the planning authority.

Reason: In the interest of public health and development control.

14. 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, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and orderly development.

15. 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



Mary Cregg

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

Dated this 18th day of January 2024.