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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: 22461**

**Appeal** by Gene Aherne of Hillside Farm, Dromnevane, Kenmare, County Kerry and by Anton Schultes of Lonhart, Killorglin, County Kerry against the decision made on the 9<sup>th</sup> day of February 2023 by Kerry County Council to grant subject to conditions a permission to Lidl Ireland Gmbh care of The Planning Partnership, The Coach House, Dundanion, Blackrock Road Road, Cork in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construct a new licenced discount foodstore with ancillary infrastructure and associated site development works (all totalling 2224.5 square metres gross floor space and ranging in height equivalent from 1 to 2 storeys), at a site of approximately 0.9156 hectares. The development of the proposed licenced discount foodstore (2,200 square metres gross floor space) will consist of a retail sales area with ancillary off-licence use and bakery (total net retail sales area of 1,398 square metres), entrance pod, public facilities (including lobby and toilets), staff facilities (including welfare lobbies toilets, cloak/change rooms, staff canteen, meeting room and operational office), IT room, plant room, delivery area and storage (including cold storage and deposit return scheme), and external covered trolley bay

area with eight number bicycle parking spaces (57.39 square metres external covered floor area); rooftop photovoltaic solar panel array totalling 980 square metres; corporate signage consisting of two number building mounted corporate internally illuminated signs, three number wall mounted externally illuminated poster panel display boards, one number externally illuminated poster display board and one number free standing internally illuminated flagpole sign at entrance; 131 number surface car parking spaces (five number disabled, five number parent and child, two number EV charging, and 119 number regular). Boundary treatments, retaining walls hard and soft landscaping (including raising of site levels) services (including site drainage accommodation works and underground surface water attenuation storage) ESB substation (24.5 square metres gross floor space), and all other ancillary infrastructure and associated site development works above and below ground floor level. Primary vehicular and pedestrian access to the proposed licenced discount foodstore will be provided via a new site entrance from the Iveragh road (N70 National Secondary Road); and secondary pedestrian access will be provided via a separate new dedicated pedestrian entrance from the off the Iverage road (N70 National Secondary Road), all at Iveragh Road (N70 National Secondary Road), Laharan, Killorglin, County Kerry. The proposed development was revised by further public notices received by the planning authority on the 13<sup>th</sup> day of January 2023.

## **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 provisions of the Kerry County Development Plan 2022 – 2028 and the Kenmare Municipal District Local Area Plan 2024-2030 and Section 3.2.3 which refers to Killorglin, and in particular the C1.1 'Commercial, Retail' zoning objective and the provisions of Objective KCDP 4-61 of the County Development Plan which refers to regional towns and sets out that it is an objective of the Council to facilitate appropriately scaled improvements to the quantum and quality of retail offer and function in the Regional Towns, and the relevant provisions of the Retail Planning Guidelines for Planning Authorities and having regard to the pattern of existing development in the area and the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be detrimental to the character and amenities of the area would not seriously injure the residential amenities of the area and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Appropriate Assessment Screening**

The Board agreed with the Inspector that having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), and concluded that the project, either individually or in combination with other plans or projects, would not be likely to give rise to significant effects on European Sites namely, Castlemaine Harbour Special Area of Conservation (Site Code 000343) and Castlemaine Harbour Special Protection Area (Site Code 004029) or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a Natura Impact Statement) is not therefore required.

This determination is based on:

- (i) Objective information presented in the Screening report.
- (ii) Standard pollution controls that would be employed regardless of proximity to a European Site and effectiveness of same.
- (iii) Distance from European sites.
- (iv) The absence of a meaningful pathway to any European site.
- (v) Taking into account the screening determination by the planning authority.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

## 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 14<sup>th</sup> day of December 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. Details (including samples) of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the requirements of the planning authority and in all respects with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).

**Reason:** In the interest of pedestrian and traffic safety.

4. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure a satisfactory completion and maintenance of the development in the interests of visual amenity.

5. No additional signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

**Reason:** In order to protect the visual amenities of the area.

6. The proposed unit shall not be open to the public outside the hours 0800 to 2200. Deliveries shall not take place before the hour of 0700 Monday to Saturday inclusive, nor before the hour of 0800 on Sundays and public holidays, nor after 2200hrs on any day.

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

7. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless agreed in writing with the planning authority.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

8. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting.

**Reason:** In the interest of amenity and public safety.

9. All service cables associated with the proposed development (such as electrical and telecommunications) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

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

10. Water supply and drainage arrangements, including the disposal of surface water from the site, shall be in accordance with the detailed requirements of the planning authority.

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

11. The applicant shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.

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

12. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency'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 file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to 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.

13. The construction of 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. The plan shall provide a demolition management plan, together with details of intended construction practice for the development, including a detailed traffic management plan, hours of working, and noise management measures.

**Reason:** In the interest of public safety and residential amenity.

14. A plan containing details for the management of waste (and, in particular, recyclable materials) 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.

15. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 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 amenities of property in the vicinity.

16. 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.

  
**Liam Bergin**

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

**Dated this 19<sup>th</sup> day of Dec 2024.**