



An  
Bord  
Pleanála

## Board Order ABP-316259-23

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: 22/848**

**Appeal** by Kelliher's Feeds and Agricultural Supplies care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 13<sup>th</sup> day of March, 2023 by Kerry County Council to grant subject to conditions a permission to Harry Kelliher care of Stephen Kearney Engineering of Dunmara, 9 Schoolfield, The Spa, Tralee, County Kerry in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of a warehouse unit with all associated ancillary site works and permission to remove a section of north boundary wall which is a protected structure from the adjoining property, all at Ballymullen, 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 provisions of the Kerry County Development Plan 2022-2028 and the Tralee Development Plan 2009-2015, as extended and varied, as incorporated into the Kerry County Development Plan 2022-2028, 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 seriously injure the amenities of the area, would not unduly impact upon the character and setting of the former Ballymullen Jail and Archway (protected structure) 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.

## Conditions

1. The proposed 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 received by the planning authority on the 14<sup>th</sup> day of February, 2023, 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 the commencement of development and the proposed 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 used as a single unit for wholesale and distribution use as detailed in the further information response received by the planning authority on the 14<sup>th</sup> day of February, 2023. No change of use or subdivision of the unit shall take place without a prior grant of permission.

**Reason:** In the interest of orderly development.

3. Prior to commencement of development, the developer shall agree the hours of operation for the warehouse with the planning authority.

**Reason:** In the interest of orderly development.

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

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

5. The mitigation measures set out in Section 5.1 of the Archaeological and Historical Architectural Impact Report received by the planning authority on the 12<sup>th</sup> day of August, 2022 shall be complied with. A report on the results shall be submitted to planning authority upon completion.

**Reason:** In the interest of archaeological and historic architectural protection.

6. Details 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.

7. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
- (a) Details of all proposed hard surface and/or permeable surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the proposed development.
  - (b) Proposed locations of trees and other landscape planting in the proposed development, including details of proposed species and settings.
  - (c) Details of proposed street furniture, including bollards, lighting fixtures and seating.
  - (d) Details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

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

8. The construction of the proposed 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 proposed development, including hours of working, noise management measures, traffic management when accessing/egressing/traversing the site and via the adjoining business site to and from Ballymullen Road, and the off-site disposal of construction/demolition waste (as may be applicable).

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

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 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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Declan Moore

Member of An Bord Pleanála

duly authorised to authenticate  
the seal of the Board

Dated this 16<sup>th</sup> day of December 2024.