



An  
Bord  
Pleanála

## Inspector's Report ABP-302971-18.

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<b>Development</b>	The construction of a single storey discount foodstore
<b>Location</b>	Arbutus Drive and Park Road, Ardshanavooly, Killarney, Co. Kerry.
<b>Planning Authority</b>	Kerry County Council.
<b>Planning Authority Reg. Ref.</b>	18/337
<b>Applicant(s)</b>	Aldi Stores (Ireland) Limited
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Michael Hegarty
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	2 <sup>nd</sup> March 2019.
<b>Inspector</b>	Fiona Fair.

## 1.0 Site Location and Description

- 1.1. The appeal site (of stated area 0.972ha.) is located 1 Km east from Killarney Town centre Co. Kerry on the corner of Deerpark Road (also known as Arbutus Drive) and Park Road. The site is bounded to the east by Arbutus Drive, to the south by Park Road (R876 Regional Road) and two number two storey detached dwelling, to the west by detached and semi-detached dwellings in ArdshanaVooley housing estate and to the north by an existing Aldi store, adjoining vacant greenfield lands and further north a Tesco store with Petrol filling station, nearby Dealz and Marks & Spencers on a site that forms part of the Deerpark District Shopping Centre.
- 1.2. The Countess Shopping Centre is located across Park Road to the south, it comprises a late-night pharmacy, office space, caterworld and a computer sales and repairs unit. Permission has been granted on foot of Reg. Ref. 17/646 for a redevelopment of the Countess shopping centre site.
- 1.3. There are a number of small shop units (incl. Park Wellness and Medical Centre, a butcher's, a fish shop, a health store, a fruit and vegetable shop, a barber's and a blinds shop) with residential at first floor located across Arbutus Drive to the east, just north of the roundabout.
- 1.4. The site is currently greenfield, bounded by low stone walls. The proposed vehicular entrance to the site is west off Arbutus Drive, adjacent to the existing Aldi Store access point.

## 2.0 Proposed Development

- 2.1. The proposed development comprises:
  - Construction of a single storey discount foodstore (1,725 sqm gross and 1,254 sqm net) including the sale of alcohol for consumption off the premises,
  - 2 no. Single storey retail units (247 sqm gross),
  - Loading bay,
  - External plant enclosure,
  - Substation and switch room,

- 113 no. car parking spaces,
- Bicycle stands,
- Signage (1 no. Illuminated double sided sign, 1 no. Illuminated single sided sign, 3 no. Gable signs and 1 no. Entrance sign),
- All landscaping and boundary treatments, including plaza, site development and drainage works, including attenuation area,
- The proposed development will also include new vehicular and pedestrian access from arbutus drive, as well as new pedestrian access from park road

2.2. The following reports, of note, accompany the application:

- Traffic Impact Assessment (TIA)
- Planning Statement
- Engineering Planning Submission Report
- Retail Impact Assessment

### 3.0 Planning Authority Decision

#### 3.1. Decision

Subsequent to further information being requested with respect to:

- (i) Archaeology and pre-development testing
- (ii) Traffic Issues. TIA to be reviewed and resubmitted, TIA to take account of movements of traffic in and out of the Pinewood Estate, A Stage 1/2 Safety Audit, provision of loading bays to serve the smaller retail units, justification for car parking spaces of 113, and TIA to take account of the traffic figures for the existing Aldi Store which will be taken over by another operator.
- (iii) Retail Impact – cumulative impact assessment to be carried out
- (iv) Visual Impact along Park Road and comprehensive landscaping scheme. The scheme to show provision of an adequate screening buffer to the rear of the residential properties to the west and south west.

Kerry County Council Granted planning permission subject to 25 number conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- Planners Report: The report sets out that subject to compliance with conditions the proposed development would not impact negatively on the vitality and viability of Killarney town centre, would not be visually obtrusive or out of character with other properties in the area and would not seriously damage the amenities of the adjoining area.
- County Archaeologist: No objection subject to condition.
- Engineers Report: No objection subject to condition.
- Fire Authority: No objection

#### 3.2.2. Other Technical Reports

- HSE: No objection

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

A number of third party submission / objections were submitted to the planning authority concerns raised are similar in nature to those raised in the third party appeal summarised in detail below:

## 4.0 Planning History

#### 4.1.1. None directly relevant to the appeal site itself.

#### 4.1.2. Adjoining Planning Permissions of note Include:

- **Reg. Ref. 08/204860** Permission Granted for modifications to previously approved petrol filling station consisting of a revised location for 2 no. previously permitted unconstructed pumps (Pl. Ref. 01/3770), an extension to the canopy

and ancillary modifications to site access and layout, located to the north of the subject appeal site and existing Aldi Site on the Tesco site.

- **Reg. Ref. 17646** Permission Granted to demolish existing office building and permission to construct the following: (1) filling station and shop unit, (2) restaurant building, (3) building containing retail unit and 2 apartments and (4) building containing 4 retail units and 8 apartments, including carparking, ancillary services and traffic control measures at Avenue Park Road, Killarney. Located to the south of the subject appeal proposal at the Countess shopping centre site.

## 5.0 Policy Context

### 5.1. Retail Planning Guidelines, April 2012

#### **S. 4.9 Retail Impact Assessment, as set out in Chapter 3**

As set out in Chapter 3, the development plan will set out the most appropriate locations for the level of retailing appropriate to any particular city or town and in some cases will include the quantum of floorspace required.

However, where a planning authority considers an application for planning permission to develop a new retail development to be particularly large in scale compared to the existing city/town/district centre, or where a retail strategy or development plan has allocated a specific type and quantum of retail floorspace to a particular settlement and a proposed development absorbs on one site the bulk of that potential retail floorspace, the planning authority may request the applicant, by way of a Retail Impact Assessment (RIA) as set out in Annex 5, to demonstrate compliance with the development plan and that there will not be a material and unacceptable adverse impact on the vitality and viability of any existing centre. This is a matter for careful technical assessment and professional judgement.

The threshold at which an RIA will be required will be determined in the context of the development plan policies and objectives for retailing or may be raised by the planning authority in pre-application discussions or in the course of determining the

planning application. Through the RIA, the applicant must address the following criteria and demonstrate whether or not the proposal would:

support the long-term strategy for city/town centres as established in the --retail strategy/development plan, and not materially diminish the prospect of attracting private sector investment into one or more such centres;

- have the potential to Increase employment opportunities and promote economic -  
-regeneration;
- have the potential to increase competition within the area and thereby attract --  
further consumers to the area;
- respond to consumer demand for its retail offering and not diminish the range of -  
-activities and services that an urban centre can support;
- cause an adverse impact on one or more city/town centres, either singly or  
cumulatively with recent developments or other outstanding planning permissions  
(which have a realistic prospect of implementation) sufficient to undermine the  
quality of the centre or its wider function in the promotion and encouragement of  
the arts, culture, leisure, public realm function of the town centre critical to the  
economic and social life of the community;
- cause an increase in the number of vacant properties in the primary retail area --  
that is likely to persist in the long term;
- ensure a high standard of access both by public transport, foot and private car so  
--that the proposal is easily accessible by all sections of society; and/or
- link effectively with an existing city/town centre so that there is likely to be --  
commercial synergy.

Planning applications should be formulated in accordance with the framework of the specified criteria outlined above to enable the planning authority make a thorough and balanced assessment of the development proposal.

Where a development proposal fails to satisfy the sequential approach or is likely to have a significant adverse impact as demonstrated by an assessment of the above criteria, planning permission should be refused.

## 5.2. Southwest Regional Planning Guidelines 2010

## 5.3. Development Plans

### 5.3.1. The Kerry County Development Plan 2015 – 2021

5.3.2. Variation no. 4 of the Killarney Town Zoning Map, adopted December 17<sup>th</sup> 2018, amends the zoning of the appeal site to 'M3 District / Neighbourhood Centre'. The M3 District / Neighbourhood Centre objective seeks to facilitate:

'uses appropriate to the town centre in areas zoned mixed use. Proposed developments should improve the vitality and viability of the town centre and shall meet the needs of the town.'

### 5.3.3. Killarney Town Development Plan 2009 - 2015

5.3.4. Part of the site is zoned in the Town Development Plan as 'retail and associated town centre facilities.' The objective of the zoning is to encourage and promote the development of retail and associated facilities that would be complimentary to the commercial function of the lands zoned 'Town Centre'. The matrix of uses are the same as those of the 'town centre' zoning. Retail use is listed as a use which is permissible in principle under this zoning. Retail warehousing is not a permitted use under this zoning.

5.3.5. The lower portion of the site is zoned as a 'Neighbourhood Centre'. The objective here is to provide local community services / facilities including residential, retail and commercial development within easy walking distance of most residential areas. These centres will provide local employment opportunities and residential over shop/office use. These local centres are located to provide local services and activities within easy walking distance of most residential areas.

5.3.6. Policy RT-03 of the Killarney Town Development Plan 2009 – 2015 relates to Deerpark Shopping area. It states that: 'It is the policy of the Council:

- (a) To ensure that future retail development and expansion of Deerpark shopping area and on adjoining lands zoned for retail development in this location does not detract from the vitality and viability of the town centre.

(b) To enhance greater connectivity between town centre and the retail development at Deerpark and the adjoining retail operators so that further development opportunities occur in the corridor along Park Road as far as Deerpark.

#### **5.4. Natural Heritage Designations**

5.4.1. The site is not within a Natura 2000 site. The closest Natura site is Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment (incl. Flesk River) SAC (NPWS Code 000365) and Killarney National Park SPA (NPWS Code 004038) which are located within 1 Km of the site.

#### **5.5. Environmental Impact Assessment (EIA)**

5.5.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

The grounds of the appeal are summarised as follows:

##### **6.1.1. Excessive Scale**

- The excessive scale of the proposed development would not accord with the neighbourhood centre land use zoning objectives set out in the Killarney Town Development plan (KTP) and the district / neighbourhood centre zoning set out in the Draft Variation No. 4
- The potential retail impact of the proposed development would militate against the vitality and viability of the defined town centre and specifically the retail core.



- The proposed development will further enhance the expansion of an out of centre retail area in direct competition with the town centre of Killarney.

### 6.1.2. Land Use Zoning

- The TDP primarily zones the land for neighbourhood centre use.
- The zoning on the site in the draft Variation 4 was changed to M3 District / Neighbourhood Centre
- The scale of the development exceeds the individual unit limit restriction of 300 sq. m in a neighbourhood centre and the overall floor area restriction which should not normally exceed 1,500 sq. m in total
- The proposed development materially contravenes the floor area thresholds for retail provision in a neighbourhood centre as set out in the TDP.
- The RIS accompanying the planning application confirms by reason of established population catchment, that the Aldi store is intended to serve a retail function beyond that envisaged for neighbourhood centres in the RPG,
- The proposal represents the real potential for trade draw and adverse effects on the vitality and viability of the town centre.
- The expansion of the Deerpark District Centre is not advocated in the TDP save for the development of retail warehousing.
- Policy RT-03 expressly states that future retail development should not adversely impact on the vitality and viability of the town centre.
- The proposed development at an out of town location, zoned primarily for neighbourhood centre use, is intended to serve a local need and is intended to facilitate top-up shopping.

### 6.1.3. Retail Impact

- Killarney is a town of modest scale and retail function
- Based on the out of town location and nature of the proposal, the appellant considered that the integral component of the retail impact assessment in this

instance would be to ensure that the proposed development has adequately complied with section 4.9 of the RPG

- The applicant has failed to address the requirements of section 4.9 of the RPG
- It has not been demonstrated that the proposed development would not result in a material adverse impact on the vitality and viability of the town centre.
- The function of the proposed development is not local nor will it serve top up shopping.
- The development is of a county scale, serving a large and diverse rural hinterland and does not support the long-term strategy for Killarney town centre as set out in the TDP.
- The existing retail availability within the catchment continues to be substantially underestimated, notwithstanding the submission of a revised RIA at F.I. stage.
- The existing retail provision within the catchment does not include a Super Value and Aldi store already operating within Killorglin town.
- According to the RIA (Table 5) there is a demand for 16,991 sq. m of convenience floorspace up to 2020 resulting in a net residual requirement of 5,908 sq. m. However, if the correct figure of 16,372 sq. m of retail convenience floorspace in the town is used, there is inadequate capacity available to accommodate the proposed development with only 619 sq. m of residential floorspace remaining.
- The applicant has failed to justify or demonstrate the need for an additional convenience store in the town
- There is insufficient evidence available to justify the proposed development, particularly given its location on an out of centre site and failure of the applicant to utilise correct and up to date figures in the RIS.

#### 6.1.4. **Opportunity Sites and Sequential Assessment**

- The appeal site is located in an out of centre location zoned for neighbourhood centre use in the TDP
- The TDP and the Draft Variation No. 4 identify a number of opportunity sites which are promoted for commercial and retail development within the town centre and in proximity to the town centre.
- The RPG make it clear that the preferred location for retail development should be within town centres and only where town centre and edge of centres locations cannot be provided within a reasonable timescale should out of centre locations be proposed.
- The applicant has failed to demonstrate that there are no other sites or potential sites within or closer to the town centre capable of being developed.
- The applicant is unwilling and inflexible to adapt the standard development format to a more suitable site in the town centre, as advised in Section 4.5 of the RPG's
- From the outset, the sequential assessment prepared by the applicant discounts a number of sites within the town centre of 0.5 ha in area on the basis that the sites are too small.
- Three of the defining criteria set out in the Sequential Assessment analysis is the 'extent of road frontage', 'visibility' and 'flat topography'.
- It is noted that the applicant concentrates heavily on the extent of road frontage; visibility; and flat topography as the main reason for other sites being unsuitable, incl. the site on Park Road / Torc site and St. Finan's.
- It is submitted that there are at least two alternative suitable sites at (i) Mission Road / Beech Road and the Killarney Coach Parking site / Aras on Phadraig.

#### 6.1.5. **The appeal is accompanied with:**

- Aerial Photo's identifying the appeal site in the context of the town centre and opportunity sites for consideration in sequential assessment.

- Draft notification of Decision to Grant planning Permission Reg. Ref. 18/337

## 6.2. Applicant Response

A response was received from the First Party it is summarised as follows:

- The appeal is motivated by anti-competition
- The applicant is happy with the decision of the p.a. and the conditions attached thereto.
- The development is plan-led,
- It is consistent with national and local retail policies
- A robust assessment of available capacity which demonstrates, by reason of nature and scale, that there would be no impacts upon the town centre and that no alternative sites exist.
- The proposal is for a replacement, modern, fit for purpose, appropriately scaled store that is aligned with Aldi's current brand format, and two ancillary retail units, in the same accessible location as the current Aldi Store, albeit on a site of a higher profile, in a designated and established district / neighbourhood retail area.
- The current Aldi store will become available for either another convenience operator, or alternatively other retail / other uses, subject to planning permission.
- The proposed development will contribute to a more compact urban area and by reason of the works to the public realm required under condition no. 3, as well as the proposed plaza areas onto Park Road, will make a contribution to addressing climate change through a significantly improved pedestrian environment for the local area.
- The proposed development presents a modern retail store in an established retail location, it conforms to the objectives of the NPF.
- The location of the proposed development is sustainable and accessible, connectivity will be further improved on foot of the enhanced public realm and pedestrian plaza works.

- The objective states that supermarkets more than 2,500 sq. m are not normally permitted. The council planner has concluded that, as the proposed Aldi store has a GFA of 1,725 sq. m, the proposed development incl. a discount store and two small retail units is acceptable within this M3 zoning.
- The proposal represents an increase in the total net retail floorspace of 404sq. m. taken together with the proposed two retail units 247 sq. m, the total net retail floorspace proposed is 1,501 sq. m (GFA of 1,972 sq. m)
- This is not a significant retail development, particularly in the context of the M3 District / Neighbourhood Centre zoning objective.
- The proposed development complies with the policies and objectives of the Killarney Town Development Plan 2009, as copper fastened by the provisions of Variation no. 4 of the Town Plan
- The Aldi store sells primarily convenience goods, in addition to ancillary weekly specials, as opposed to comparison goods more suited to a town centre location.
- The applicants RIA confirms that there will be €181,325,196 expenditure in the defined catchment (as illustrated in Map 9 of the RIA) in 2020 (design year) and indicates that there will be, in principle, a deficiency of 5,908 sq. m net convenience floorspace in the identified catchment in 2020, with no impact on the significant market share of existing convenience retail operators in the town.
- The RIA demonstrates that the defined catchment has sufficient expenditure capacity to justify the proposed floorspace, without impact on the town centre.
- The proposed development will provide for competition in the retail sector and the attractiveness and connectivity of the area for those living in and visiting Killarney.
- The proposed development seeks the expansion of the existing Aldi Store in an established retail location.
- Notwithstanding the provision of section 4.4 of the RPG, 2012, the applicant has submitted substantial information and evidence to justify the rationale for

seeking permission to develop the site. The sequential test prepared by the Applicant provides clear evidence for the final selection of the proposed site.

- 8 potential sites were examined as part of the sequential test of these the proposed site was deemed most suitable, available and viable, primarily by reason of size and availability.
- The proposed development is located on lands within a designated District / Neighbourhood Centre, and given the existing presence of an Aldi foodstore being in operation nearby, the proposed development is considered to be suitably located, readily available for development and a viable development option.
- The proposal accords with the Plan which states that there is scope to improve Killarney's retail function without undermining the role of other centres of population in the County, and also without exacerbating problems of congestion in the town centre.
- The proposed development has the potential to provide much needed public realm improvements for the area and enhance pedestrian connectivity along the commercial core of the town centre and further reduce over reliance on car travel.

### **6.3. Planning Authority Response**

None

### **6.4. Observations**

None

### **6.5. Further Responses**

None

## 7.0 ASSESSMENT

I consider the key issues in determining this appeal are as follows:

- **Principle of the Proposed Development and Compliance with Policy**
- **Impact Upon Vitality and Viability of the Town Centre / Sequential Test and Opportunity Sites**
- **Appropriate Assessment**

### 7.1. Principle of the Proposed Development and Compliance with Policy

- 7.1.1. The appeal site is located within 1 Km of Killarney Town Centre. The proposed development seeks the expansion / replacement, of an existing Aldi Store and two ancillary retail units (Aldi store of 1,725 sq. m gross and 1,254 sq. m Net, Unit 1 of 132 sq. m and Unit 2 of 115 sq. m), in an established, serviced, built-up, designated 'District / Neighbourhood Centre' and retail location.
- 7.1.2. It is submitted that the proposal is for a modern, fit for purpose, appropriately scaled store that is aligned with Aldi's current brand format, in the same accessible location as the current Aldi Store, albeit on a site of a higher profile. The existing Aldi store will become available for either another convenience operator, or alternatively other retail / other uses, subject to planning permission.
- 7.1.3. A detailed description of the proposed development is set out in section 2.0 of this report above. The Deerpark and Countess Road retail areas are located close to the centre of Killarney Town. There are a number of existing and permitted developments in the wider area. It is noteworthy that there are, to date two non-enacted, grants of planning permission at the Countess shopping centre site, located to the south of the subject appeal proposal, the applicant's is named as Mike Hegarty Jnr.
- Reg. Ref. 17646 Permission Granted to demolish existing office building and permission to construct the following: (1) filling station and shop unit, (2) restaurant building, (3) building containing retail unit and 2 apartments and (4) building containing 4 retail units and 8 apartments, including carparking, ancillary services and traffic control measures.

- Reg. Ref. 16235
  - Permission Granted to (1) demolish existing office building (2) Change of use of existing shop units in Countess Shopping Centre as follows: (i) unit no. 1 from financial services to retail, (ii) unit no. 4 from financial services to restaurant, (iii) alter layout of units 2 and 3 as detailed on plans and (c) construct car parking, traffic control measures, drainage and all ancillary measures.
  - Permission Refused to construct a drive through restaurant, construct service station and canopy to front of existing supermarket, construct building containing 4 no shop units and 12 no 2 bedroom apartments.

7.1.4. As per the Killarney Town Development Plan 2009 – 2015 part of the site is zoned as ‘retail and associated town centre facilities.’ The objective of the zoning is to encourage and promote the development of retail and associated facilities that would be complimentary to the commercial function of the lands zoned ‘Town Centre’. The matrix of uses are the same as those of the ‘town centre’ zoning. Retail use is listed as a use which is permissible in principle under this zoning. Retail warehousing is not a permitted use under this zoning.

7.1.5. The lower portion of the site is zoned as a ‘Neighbourhood Centre’. The objective here is to provide local community services / facilities including residential, retail and commercial development within easy walking distance of most residential areas. These centres will provide local employment opportunities and residential over shop/office use. These local centres are located to provide local services and activities within easy walking distance of most residential areas.

7.1.6. Policy RT-03 of the Killarney Town Development Plan 2009 – 2015 relates to Deerpark Shopping area. It states that: ‘It is the policy of the Council:

- (a) To ensure that future retail development and expansion of Deerpark shopping area and on adjoining lands zoned for retail development in this location does not detract from the vitality and viability of the town centre.
- (b) To enhance greater connectivity between town centre and the retail development at Deerpark and the adjoining retail operators so that further



development opportunities occur in the corridor along Park Road as far as Deerpark.

7.1.7. Variation no. 4 of the Killarney Town Zoning Map, adopted December 17<sup>th</sup> 2018, amends the zoning of the appeal site to 'M3 District / Neighbourhood Centre'. The M3 District / Neighbourhood Centre objective seeks to facilitate:

'uses appropriate to the town centre in areas zoned mixed use. Proposed developments should improve the vitality and viability of the town centre and shall meet the needs of the town.'

7.1.8. The Retail Chapter of the Plan recognises that '...The Deerpark area, which although separate from the town centre has an important complimentary role...whilst the traditional town centre may not in itself offer a wide range of well-known brands in modern shopping facilities, the Deerpark Centre provides complimentary shopping facilities that significantly improve the town's retail offer'.

7.1.9. The first party have submitted a Retail Impact Assessment (RIA) which demonstrates that the defined catchment has sufficient expenditure capacity to justify the proposed floorspace, without impact on the town centre. Impact Upon Vitality and Viability of the Town Centre and Sequential Test / Opportunity Sites is assessed in greater detail below.

7.1.10. I agree with the planning authority that the proposed modern and simple design of the retail stores is acceptable. An attempt has been made to create a more urban architectural form of development which enhances the character and context of the local area. The design offers an open façade to Park Road with an enhanced public realm area between the new units and Park Road. In total five number pedestrian points will serve the development on the southern and eastern boundaries, linking the development with the Countess Shopping Centre, the Central Point Neighbourhood Centre, the Deerpark Retail Park and Killarney town centre. I also agree that the use of this area as public realm rather than car parking is preferable and will enhance public realm, aid accessibility and connectivity.

7.1.11. It is overall concluded that the proposed development is located on lands within a zoned 'District / Neighbourhood Centre' and given the nature and scale of the proposed use, primarily convenience with associated smaller comparison retail, the

principle of the proposed development is considered to be acceptable and in compliance with Development Plan Policy.

## **7.2. Impact Upon Vitality and Viability of the Town Centre / Sequential Test and Opportunity Sites.**

7.2.1. The Kerry County Development Plan 2015 – 2021 identifies Killarney as a Hub in the settlement hierarchy, envisaged as a focused engine of growth in the County. The aim is to position Hub towns as sufficiently sized urban zones to attract additional employment and population, which will increase their competitiveness and attractiveness as national and regional investment locations.

7.2.2. Killarney is recognised for its importance in tourist retailing and is well connected by public transport and also serves large population catchments. The town is identified as having a significant retail base, including both convenience and comparison goods. The Plan states that ‘the provision of additional large-scale comparison shopping should be encouraged to locate in these two hub town centres’ (Tralee and Killarney).

7.2.3. Section 6.10 ‘Future Retail Development’, set out in Chapter 6 Retail Development, of the Killarney Town Development Plan 2009 – 2015 sets out that new retail development in Killarney:

- Will not undermine the role of other existing centres in the County
- Will not exacerbate problems of congestion in the town centre
- Will reinforce the retail hierarchy through appropriate scale, type and location so as to not undermine the vitality or viability of Killarney; and
- Will be accessible to all sections of society and is of a scale which allows for the continued prosperity of the town centre and the existing retail facilities.

7.2.4. Section 6.10.9 of the Town Plan 2015 sets out that ‘The Planning Authority shall assess these developments against a general criterion consistent with the Retail Planning Guidelines and the sequential testing. Any proposals should demonstrate the following:

- Supports the long term strategy for the town
- Considers any adverse impact on the town centre, either singly or cumulatively
- Does not undermine the quality of the town centre or its role in the economic and social life of the community.
- Does not reduce the array of activities and services that a town centre can support.
- Does not generate an increase in the number of vacant properties in the town likely to persist in the long term.
- Ensures a high standard of accessibility by all modes of transport, foot, private car, bicycle, public and private vehicular and park and ride facilities.
- Links effectively with the existing town centre in the generation of commercial synergy.'

7.2.5. I refer the Board once again to Policy RT-03, set out above in the preceding section of this report, which relates specifically to the Deerpark shopping centre.

7.2.6. National policy is set out in the Retail Planning Guidelines for Local Authorities 2012, which sets out the context for both development plans and planning control. The Guidelines emphasise that '**Enhancing the vitality and viability of city and town centres in all their functions through sequential development is an overarching objective in retail planning**' (page 10). Within the context of the Guidelines, I would consider the site to be 'edge of centre' in that it is well within the urban boundaries of the town, but a 1 Km walk from the core Main Street. In terms of the Sequential Test (section 4.4 of the Guidelines) the planning authority should be satisfied that there are not '**no sites or potential sites including vacant units within a city or town centre or within a designated district centre that are (a) suitable (b) available and (c) viable...**'

7.2.7. The Killarney Town Development Plan (2015) states that there is scope to improve Killarney's retail function without undermining the role of other centres of population in the County, and also without exacerbating problems of congestion in the town centre. As set out above, the appeal site is zoned M3 'District / Neighbourhood Centre' which allows for mixed uses similar to Town Centre / Core Retail Areas. The zoning matrix table which accompanies the Killarney Municipal District LAP 2018 – 2024 states that Supermarkets of greater than 2,500 sq. m are not normally

permitted on M3 zonings. The proposed development is for a foodstore of 1,725 sq. m.

- 7.2.8. Notwithstanding the provision of section 4.4 of the RPG, 2012, the applicant has submitted substantial information and evidence to justify the rationale for seeking permission to develop the site. The sequential test carried out on foot of a further information request by the planning authority identified a total of 10 no. sites, including the subject site, that were considered to be potentially capable of accommodating the proposed development. I see no evidence to contradict the sequential test prepared by the applicant which deems the selection of the proposed site most suitable, available and viable, primarily by reason of size and availability. I also do not consider that there are suitable sites available within the immediate environs of Main Street for a foodstore of this nature.
- 7.2.9. The proposal represents an increase in the total net retail floorspace of 404sq. m. taken together with the proposed two retail units 247 sq. m, the total net retail floorspace proposed is 1,501 sq. m (GFA of 1,972 sq. m). The Aldi store sells primarily convenience goods, in addition to ancillary weekly specials, as opposed to comparison goods more suited to a town centre location.
- 7.2.10. The applicants RIA confirms that there will be €181,325,196 expenditure in the defined catchment (as illustrated in Map 9 of the RIA) in 2020 (design year) and indicates that there will be, in principle, a deficiency of 5,908 sq. m net convenience floorspace in the identified catchment in 2020, with no impact on the significant market share of existing convenience retail operators in the town.
- 7.2.11. The RIA also demonstrates that the defined catchment has sufficient expenditure capacity to justify the proposed floorspace, without impact on the town centre. The scale of the proposed foodstore is not such that it is likely to be a draw from other centres (except perhaps the smaller villages in the vicinity). As such, I would consider a foodstore of this scale (cognisance being had to its replacement nature) to be appropriate for the town, and would aid in protecting its viability and vitality, in addition to providing a service to those locals who do not have access to cars.
- 7.2.12. I would conclude that with regard to national policy and development plan policy on retailing, the proposed development is consistent with the sequential test and would

serve the needs of the town and would strengthen its Hub status within the County hierarchy.

### **7.3. Appropriate Assessment**

- 7.3.1. The site is not located within a Natura 2000 site. The closest Natura site is Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment (incl. Flesk River) SAC (NPWS Code 000365) and Killarney National Park SPA (NPWS Code 004038) which are located within 1 Km of the site.
- 7.3.2. AA screening was carried out by the planning authority the report on file concludes that there would be no significant effect upon any Natura 2000 site features and that appropriate assessment is not required.
- 7.3.3. Having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. No Appropriate Assessment issues arise and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

## **8.0 CONCLUSION / RECOMMENDATION**

- 8.1.1. I recommend that planning permission be Granted subject to the following conditions.

## **9.0 REASONS AND CONSIDERATIONS**

- 9.1.1. Having regard to the nature and scale of the proposed development, to the zoning of the site for District / Neighbourhood Centre uses and the existing pattern of development in the vicinity, it is considered that the proposed development, subject to compliance with the conditions set out below, would be in accordance with national guidance on retailing and with the provisions of the retail strategy of the Killarney Town Development Plan 2009 – 2015 and the Kerry County Development Plan 2015 – 202, would not seriously injure the amenity of the area, would be acceptable in terms of traffic safety and convenience to road users, would not impact upon the vitality and viability of the Town Centre and would be acceptable in terms of

sequential test / opportunity sites. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 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 19/09/2018, 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 buildings and related structures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. Water supply and drainage arrangements, including the attenuation and 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 and environmental protection.

4. Any damage to the adjoining roadways as a result of the proposed development shall be made good at the developer's expense to the written satisfaction of the Planning Authority.

**Reason:** In the interest of orderly development and public safety.

5. 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) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

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

6. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual 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 authorised by a further grant of planning permission.

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

8. No amalgamation of units or subdivision of any unit shall take place without a prior grant of planning permission.

**Reason:** To control the layout and scale of the development in the interest of protecting the vitality and viability of the town centre.

9.

- (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with details submitted to the planning authority on the 19/09/2018 and the detailed standards of the planning authority for such road works. These works shall be in place prior to any of the commercial units being made available for occupation.
- (b) All the recommendations of the stage 1/2 Road Safety Audit shall be implemented in full. A stage 3 Safety Audit shall be carried out at the completion of the proposed development with the recommendations acted upon.
- (c) All works to be carried out in accordance with Design Manual for Urban Roads and Streets (DMURS). All site works shall be in accordance with the Department of the Environment, Heritage and Local Government Publication 'Site Development Works for Housing Areas' and the details submitted in the application.
- (d) All footpaths and pedestrian facilities shall facilitate disabled and universal access.
- (e) Traffic calming measures in the form of a 'table – top' at the junction of the proposed development with Arbutus Drive Road shall be carried out by the developer in accordance with the drawings submitted. Precise details of same shall be agreed in writing with the planning authority prior to commencement of works. The 'table – top' shall be in place prior to any of the commercial units being made available for occupation.



(f) The existing stone wall which bounds the site and the public footpath along Park Road and Arbutus Drive road shall be set back where required, to provide a minimum set back of 3 m from the kerblines to allow for a cycleway/footpath. The applicant shall provide and or upgrade the footpath / cycleway. The design of the cycleway shall be in compliance with the National Cycle Manual and agreed with the planning authority. The stonework of the new parts of the boundary wall shall be in keeping with the stonework of the existing wall.

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

10. The site shall be landscaped in accordance with the landscaping scheme submitted to the planning authority on the 19/09/2018. All landscaping shall be in place prior to any of the commercial units being made available for occupation.

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

11. The C19th large grave ledger encountered as part of the pre-development archaeological testing on site shall be fully recorded and researched. Measures for the interpretation and presentation of the ledger within the proposed development shall be agreed with the planning authority.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

12. 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:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) Off-site disposal of construction/demolition waste
- (l) All hours of work;

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of amenities, public health and safety.

13. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The agreed lighting system shall be fully

implemented and operational, before any of the commercial units are made available for occupation.

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

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the 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.

16. The developer shall pay the sum of of €62,500 (sixty two thousand five hundred euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of works to the Park Road, Arbutus Drive Road and Pinewood areas; specifically:

- (a) Contribution towards implementation of traffic lights
- (b) Contribution towards the costs of the overlay of this junction with HRA
- (c) Contribution towards the upgrade of the pedestrian crossing

This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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Fiona Fair  
Planning Inspector  
01.05.2019