



An
Bord
Pleanála

Inspector's Report

ABP-315954-23

Development

Construction of a foodstore with ancillary infrastructure and associated site development works.

Location

Iveragh Road (N70 National Secondary Road), Laharan, Killorglin, Co. Kerry.

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

22461

Applicant

Lidl Ireland Gmbh.

Type of Application

Permission.

Planning Authority Decision

Grant permission

Type of Appeal

Third Party

Appellants

(1) Gene Aherne
(2) Anthon Schultes

Observers

None

Date of Site Inspection

12/06/2024

Inspector

Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.9156 hectares and is located at Iveragh Road (N70 National Secondary Road), Laharn, Killorglin, Co. Kerry. It is situated on the western side of the town of Killorglin circa 430m from the town centre.
- 1.2. The southern boundary of the site adjoins Iveragh Road. It is formed by a post and wire fence and hedgerow and there are a number of mature deciduous trees. This boundary extends for circa 82m. There is footpath running along the northern and southern side of Iveragh Road in the vicinity of the appeal site. There is a gated entrance onto Iveragh Road which provides access to the agricultural track which serves the farm buildings to the north. The western boundary of the site is undefined it extends for 102m. To the west of the site there are three separate houses with access onto the N70 and the grounds of Laune Rangers GAA Club is located to the west of these properties.
- 1.3. The northern boundary of the site extends for circa 96m and adjoins the existing agricultural land containing two farm sheds. The eastern boundary of the site extends for circa 106m. Laharn Drive a cul de sac containing 4 no. detached two-storey houses lies to the east of the site. Intermediate Secondary School Killorglin is situated to the north-east of the appeal site. The school building is located circa 120m from the site with the football pitch circa 14m from the north-east corner of the site.
- 1.4. To the south of the appeal site on the opposite side of Iveragh Road lies the retail warehouse complex, Boyle's Topline Killorglin. The premises contains a large retail warehouse unit which sells home, garden and building products. It is served by a large surface car park and goods storage yards.

2.0 Proposed Development

- 2.1. Permission is sought for construction of a new licenced discount foodstore with ancillary infrastructure and associated site development works (all totalling 2,224.5sq m gross floor space and ranging in height equivalent from 1 to 2 storeys), at a site of approximately 0.9156 hectares.

- 2.2. The development proposed is a licenced discount foodstore of 2,200sq m gross floor space. Comprising retail sales area with ancillary off-licence use and bakery (total net retail sales area of 1,398sq m). Entrance pod, public facilities (including lobby and toilets), staff facilities (including welfare lobbies toilets, cloak/changing rooms, staff canteen, meeting room and operational office), It room, plant room, delivery area and storage (including cold storage and deposit return scheme), an external covered trolley bay area with 8 no. bicycle parking spaces.
- 2.3. Rooftop photovoltaic solar panel array totalling 980sq m, corporate signage consisting of 2 no. building mounted corporate internally illuminated poster panel display boards, 3 no. wall mounted externally illuminated poster panel display boards, 1 no. externally illuminated poster display board and 1 no. free standing internally illuminated flagpole singe at entrance.
- 2.4. 131 no. surface car parking spaces (5 no. disabled, 5 no. parent and child, 2 no. EV charging and 119 no. regular). Boundary treatment, retaining walls, hard and soft landscaping (including raising of site levels) services (including site drainage accommodation works and under ground surface water attenuation storage), ESB substation.
- 2.5. All other ancillary infrastructure and associated site development works above and below ground floor level.
- 2.6. Primary vehicular and pedestrian access to the proposed licensed discount foodstore will be provided via a new site entrance from the Iveragh Road (N70 Secondary Road) and secondary pedestrian access will be provided via a separate new dedicated pedestrian entrance from the Iverage Road (N70 Secondary Road).

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission subject to 13 no. conditions.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

Further information was requested in relation to the following;

1.

(a) Road Safety Audit submitted with the application makes a recommendation in paragraph 2.1 that the separation between the new direct access onto the N70 and the opposing retail park entrance be increased. This recommendation does not appear to have been taken into account in the design of the development. The applicant was required to comment and address.

(b) Revised site layout plan is required to be submitted indicating that there is sufficient verge width at the same level as the existing N70 Road being made available.

2. Submit an Appropriate Assessment Screening Report.

3. An archaeological impact assessment accompanies the application and notes that 'though there are no recorded monuments in proximity to the site, there is a potential for sub-surface archaeological features or strata to survive. Pre-development archaeological testing is required to be carried out across the site and a report on the results to be submitted to the Planning Authority.

4. The services report submitted states that the ditch is to be diverted however the Flood Risk Assessment submitted states that a culvert is to be installed at the head of the ditch. The applicant was required to clarify.

5. The applicant was required to clarify the amount of infill material intended to be brought onto the site.

6. Having regard to the location of the proposed site at the main entrance to Killorglin town from the west along the national secondary road the N70 it is recommended that further landscaping be put forward on site to better integrate the development into the area and improve visual impact.

3.2.2. Report of Planning Officer dated 8/02/2023 – Following the submission of a response to the further information the Planning Authority were satisfied that all issues had been addressed and a grant of permission was recommended.

3.2.3. Other Technical Reports

3.2.4. Kenmare Municipal District Engineer Roads, Transportation & Marine: Report dated 24/6/2022 - The submission from TII is noted. The Road Safety Audit submitted with the application makes a recommendation in paragraph 2.1 that separation between the new direct access (onto the N70) and the opposing retail park entrance be increased. This recommendation does not appear to have been taken into account in the design of the development. A revised site layout plan should be submitted indicating that there is sufficient verge width at the same level as the existing N70 road being made available to accommodate a 4m combined footpath/cycle lane.

3.2.5. Kenmare Municipal District Engineer Roads, Transportation & Marine: Report dated 8/2/2023 - All the recommendations of the Road Safety Audit shall be implemented by the developer. Any works on the N70 National Secondary Road associated with this development will require the developer's contractor to be in receipt of a Road opening License issued via the Map Road Licencing system.

3.2.6. Environmental Assessment Unit – Further information required.

3.2.7. Environmental Assessment Unit: Report dated 8/2/2023 - The AA screening report has been reviewed. They concluded that significant effects on European sites can be excluded. They concluded that the proposed development would not have any unacceptable direct, indirect or cumulative effects on local biodiversity. If permission is granted it is requested that a landscaping plan is conditioned.

3.2.8. Kerry National Roads Design Office – no observations.

3.2.9. County Archaeologist – Further information required.

3.2.10. Fire Authority – no objection.

3.3. Prescribed Bodies

3.3.1. Uisce Éireann - No objection.

3.3.2. Transport Infrastructure Ireland: Report dated 2/6/2022 - The Authority considers that the application is at variance with official policy in relation to control development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), as the proposed development by itself, or by the precedent which a grant of permission for it would set would

adversely affect the operation and safety of the national road network. The Authority is of the opinion that insufficient data has been submitted with the planning application to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site. The Authority considers that the proposed development would be at variance with national policy in relation to control of frontage development on national roads. It is noted that the Road Safety Audit submitted is incomplete as the Road Safety Audit Feedback form submitted with the RSA relates to a different development. The recommendation to increase the separation between the new direct access for the development and the opposing retail park access to address the risk of diagonal crossing on the N70 as identified in problem 2.1 of the RSA report does not appear to have been addressed on the drawings submitted for development.

- 3.3.3. Transport Infrastructure Ireland: Report dated 21/12/2022 - with reference to the further information submitted in connection with the planning application. The Authority's position remains as set out in the letter of 2nd June 2022.

3.4. Third Party Observations

- 3.4.1. The Planning Authority received 3 no. submissions/observations in relation to the application. The issues raised are similar to those set out in the appeal.

4.0 Planning History

- 4.1.1. None on site

5.0 Policy Context

5.1. Kerry County Development Plan 2022 - 2028

- 5.1.1. Chapter 3 refers to Core & Settlement Strategy
- 5.1.2. Section 3.5.1.2 refers to Key Towns and Regional Towns
- 5.1.3. The economic development of Kerry will be further enhanced through the development of its two key towns (Tralee / Killarney) and eight regional towns

(Ballybunion, Cahersiveen, Castleisland, Dingle/Daingean Uí Chúis, Kenmare, Killorglin, Listowel, Milltown). These towns seek to harness and develop the complementary strengths and synergies between the settlements and their functional hinterland, to create highly connected centres of scale, with the necessary critical mass, in terms of population and employment, to enable them to compete and grow to fulfil their potential and drive regional development in tandem with regional and national policy.

5.1.4. Chapter 4 refers to Towns and Villages

5.1.5. Section 4.4. refers to Retail

5.1.6. Section 4.4.4.1 refers to Retail Hierarchy. In terms of the Retail Hierarchy Killorglin is designated a Regional Town.

5.1.7. Section 4.4.4.1.2 – Regional Towns - The Regional Towns of Ballybunion, Cahersiveen, Castleisland, Dingle/Daingean Uí Chúis, Kenmare Killorglin, Listowel and Milltown are economically vibrant and vary in terms of scale of retail provision and size of catchment. Generally, these towns have good transport links to larger towns and cities. Many of these regional towns have important connections to key towns which are located within the Key towns and have an important role in Inter-Urban Networks. Where the town is not close to a Key town and there is a large catchment there should be a good range of comparison shopping with a mix of uses and services. These towns should contain at least one supermarket and smaller scale comparison department store to cater for local needs.

5.1.8. Regional Towns - It is an objective of the Council to: KCDP 4-61 - Facilitate appropriately scaled improvements to the quantum and quality of retail offer and function in the Regional Towns, and ensure their sustainable development by consolidating, intensifying, and enhancing their existing core retail areas, and by directing new retail opportunities into town centres.

5.1.9. Regional Towns - It is an objective of the Council to: KCDP 4-62 - Ensure that the Regional Town Centres have a retail offer that is sufficient in terms of scale, type, and range without adversely impacting on or diverting trade from the higher order retailing locations.

- 5.1.10. Section 4.4.4.3.2 refers to Edge of Centre and Out of Centre Retailing - Edge-of-centre sites are generally no more than 300-400m from the primary retail areas in the town whereas out-of-centre retail development is clearly separated from the town centre but within the urban areas identified in the Development Plan. Retail developments of this nature will be directed to town centre locations where it can be demonstrated that there will not be a negative impact on the vitality and viability of the town centre. Proposals for edge-of centre and out of centre retail developments will be assessed having regard to the considerations set out in 'Retail Planning – Guidelines for Planning Authorities 2012'. In the interest of protecting and enhancing the vitality and viability of town and village centres, it is not envisaged that out-of-centre retail developments will be permitted during the lifetime of this Plan.
- 5.1.11. It is an objective of the Council to: KCDP 4-69 - Apply the sequential test to new retail development proposals for edge-of-centre and out of centre retail developments and to assess the impact on the existing town centre having regard to the criteria and considerations set out in 'Retail Planning – Guidelines for Planning Authorities 2012'.

5.2. Kenmare Municipal District Local Area Plan 2024 - 2030

- 5.2.1. The Kenmare Municipal District Local Area Plan 2024-2030 was adopted on the 12th of April 2024 and came into effect on the 24th of May 2024. It replaces the previously adopted LAP's contained in the Kenmare Functional Area LAP 2010-2016, Killorglin Functional Area LAP 2010-2016, the Cahersiveen, Waterville & Sneem Functional Area Plans 2013-2019 and this also replaces the West Iveragh LAP 2019- 2025.
- 5.2.2. Section 3.2.3 of the Kenmare Municipal District Local Area Plan 2024-2030 contains the Killorglin LAP.
- 5.2.3. The site at Iveragh Road, Laharan, Killorglin is located within the town boundary and is zoned Objective C1.1 – Commercial, Retail.
- 5.2.4. Section 3.2.3.5.1 refers to Retail Development - Killorglin is classified as a regional town in the second tier of settlements in the settlement hierarchy contained in the KCDP. This category of town provides basic convenience shopping, either in small supermarkets or convenience shops and in some cases, lower order comparison shopping such as hardware, pharmaceutical products and clothes.

- 5.2.5. Killorglin has a good variety of small shops mainly catering for the local market and some shops that cater specifically for the tourist market. The main shopping area is concentrated on Upper and Lower Bridge Street and Main Street. There are presently two supermarkets in the town, Supervalu and Aldi, both of which are located on the western side of the town centre. The location of these two convenience shopping outlets so close to the town centre is a vote of confidence in the future of Killorglin town centre and helps to ensure that the town core area remains a vibrant busy shopping area. Killorglin's proximity to both Killarney and Tralee, which have a wider range of retail outlets results in a certain amount of revenue leakage to these larger urban centres.
- 5.2.6. The future challenge for the town in terms of retail development is to ensure that the vitality and viability of the retail core area in the town centre is maintained and is not undermined by out-of-town centre developments or by substantial retail leakage to Tralee and Killarney. The creation of an attractive shopping environment with a wide variety of shops to cater not only for the needs of local shoppers but also for the tourist market is important for the future viability of the town centre. The location of new retail developments in the town centre of high architectural design and layout which integrates fully with the existing built environment will be encouraged. The retail vacancy rate in Killorglin Town Centre is 33.8% (KCC 2019, unpublished). Opportunities therefore exist within the town centre for the reuse of existing vacant buildings. Any retail development that takes place in Killorglin should take place in the town centre in order to encourage its regeneration and development as a vibrant town centre.

5.3. Ministerial Guidelines

Retail Planning Guidelines for Planning Authorities – Department of Environment Community and Local Government (April 2012)

- 5.3.1. The Guidelines acknowledge that the retail sector is a key element of the national economy in terms of employment, economic activity and the vitality of cities and towns. A key aim of the Guidelines is that the Planning Authority planning system

should promote and support the vitality and viability of city and town centres in all their functions.

5.3.2. Section 2 outlines five key objectives which are intended to guide and control retail development, namely: -

- Ensuring that retail development is plan-led;
- Promoting city/town centre vitality through a sequential approach to development;
- Securing competitiveness in the retail sector by actively enabling good quality development proposals to come forward in suitable locations;
- Facilitating a shift towards increased access to retailing by public transport, cycling and walking in accordance with the Smarter Travel strategy; and
- Delivering quality urban design outcomes.

5.3.3. Section 4.4 contains guidance on the sequential approach to retail development. It outlines an order of priority for retail development, directing the retail development should be located in city and town centres (and district centres if appropriate) and that edge-of-centre or out-of-centre locations should only be considered where all other options have been exhausted.

5.3.4. For proposals in edge-of-centre and out-of-centre locations, it must be demonstrated that there are no sites or potential sites either within the city or town centre (or designated district centre) or, as relevant, on the edge of the given centre that are (a) suitable (b) available and (c) viable. Advice is also provided in relation to the issues of suitability, availability and viability.

5.3.5. Section 4.11.1 states that large convenience stores comprising supermarkets, superstores and hypermarkets should be located in city or town centres or in district centres or on the edge of these centres and be of a size which accords with the general floorspace requirements set out in the development plan/retail strategy. The guidelines define a supermarket as a single level, self-service store selling mainly food, with a net retail floorspace of less than 2,500sq m.

Retail Design Manual

- 5.3.6. The companion document to the Retail Planning Guidelines promotes high quality urban design in retail development, to deliver quality in the built environment. It sets out 10 principles of urban design to guide decisions on development proposals.

5.4. National Biodiversity Action Plan 2023 - 2030

- 5.4.1. Ireland's 4th National Biodiversity Action Plan (NBAP) sets the national biodiversity agenda for the period 2023-2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature.
- 5.4.2. The targets set out in the Plan are in the context of five objectives that lay out a clear framework for our national approach to biodiversity.
- Objective 1: Adopt a Whole of Government, Whole of Society Approach to Biodiversity.
 - Objective 2: Meet Urgent Conservation and Restoration Needs.
 - Objective 3: Secure Nature's Contribution to People.
 - Objective 4: Enhance the Evidence Base for Action on Biodiversity.
 - Objective 5: Strengthen Ireland's Contribution to International Biodiversity Initiatives.

5.5. Climate Action Plan 2024

- 5.5.1. The Climate Action Plan 2024 (CAP24) is the third annual update to Ireland's Climate Action Plan.
- 5.5.2. The purpose of the Climate Action Plan is to lay out a roadmap of actions which will ultimately lead us to meeting our national climate objective of pursuing and achieving, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022.

5.6. Natural Heritage Designations

- 5.6.1. Castlemaine Harbour SAC (Site Code 000343) is located 900m from the appeal site.

5.6.2. Castlemaine Harbour SPA (Site Code 004029) is located 2.2km from the appeal site.

5.7. EIA Screening

5.7.1. The proposed development comprises new licenced discount foodstore with ancillary infrastructure and associated site development works (all totalling 2,224.5sq m gross floor space and ranging in height equivalent from 1 to 2 storeys) on a 0.9156 hectare site.

5.7.2. The development subject of this application falls within the class of development described in 10(b)(iv) Part 2, Schedule 5 of the Planning and Development Regulations, 2001, as amended. EIA is mandatory where urban development would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

5.7.3. Whilst within the town of Killorglin it is not in a business district. The site is, therefore, materially below the applicable threshold of 10 hectares.

5.7.4. The proposal for licenced discount foodstore is located within the development boundary of Killorglin on lands zoned Objective 'C1.1' – Commercial, Retail, in the Kenmare Municipal District Local Area Plan 2024-2030. The site comprises a greenfield site. It is noted that the site is not designated for the protection of the landscape or of natural or heritage. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other existing development in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. It is detailed in Section 3.2.3.10 of the Kenmare Municipal District Local Area Plan that the town of Killorglin is served by the Mid-Kerry Water Supply Scheme and by a public foul sewer and that the sewerage treatment plant at Ballykissane has a design capacity of 5000 PE. The capacity of the system is sufficient at the present time. The issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive. The application is accompanied by a Retail Impact Assessment, Archaeological Assessment, Flood Risk Assessment, Stage 1 Road Safety Audit, Traffic and Transport Assessment, Lighting Impact Assessment Report and

Preliminary Construction Environmental Management Plan. These address the issues arising in terms of the sensitivities in the area.

5.7.5. Having regard to;

the nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

- the location of the site on lands within the development boundary of Killorglin on lands zoned under the provisions of the Kenmare Municipal District Local Area Plan 2024 - and the results of the strategic environmental assessment of the Kenmare Municipal District Local Area Plan, undertaken in accordance with the SEA Directive (2001/42/EC).
- the location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of development in the area.
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),

5.7.6. The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and the need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. See Appendix 2 attached to this Report for the preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

Third party appeals have been submitted by (1) Gene Aherne and (2) Anton Schultes

(1) Gene Aherne

- The development of the new accesses and the intensification of existing accesses onto the national road would give rise to the generation of additional turning movements which would introduce additional safety risk to users.
- In relation to road safety the planning authorities, the NRA and RSA must guard against a proliferation of roadside developments accessing national roads as part of the overall effort to reduce road fatalities and injuries.
- Having regard to the nature of the development it is considered that the proposed development would have an adverse impact on the vitality and viability of Killorglin town centre. The proposed development would create a counter attraction to the existing town centre services.
- It is submitted that the proposed development would seriously injure the visual amenities of the area and that it would not be acceptable in terms of pedestrian and traffic safety.
- The appellant requests that the Board refuse permission for the proposed development for the reasons set out in the appeal.

(2) Anthon Schultes

- In the submission lodged by the appellant in relation to the planning application Reg. Ref. 22/461 the matters concerning potential negative impacts on the surrounding area were raised. Including access to the proposed development from the existing busy road, impact upon residential amenity of surrounding properties, the design of the scheme in the context of the surrounding landscape and the lack of demand for such a development in

Killorglin. It is highlighted that Killorglin is already serviced by Aldi and Supervalu supermarkets.

- The appellant stated the issues raised in the submission on the application remain the subject of the appeal. They request that the Board take these issues into consideration.
- It is stated that having regard to the assessment of the proposed development by the Council and the limited consideration given to the submission made on the application, the applicant remains of the opinion that the proposed development is not in accordance with the proper planning and sustainable development of the area.
- The submission from Transport Infrastructure Ireland dated 2/6/2022 and 2/2/2023 are highlighted. They stated that 'the proposed development by itself, or by the precedent which a grant of permission for it would be set, would adversely affect the operation and safety of the national road network.
- The reasoning of TII remains the same in their submissions. That insufficient data was submitted with the application to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site. That the proposed development is at variance with official policy in relation to the control of development on/affecting national roads, as outlined in DoECLG Spatial Planning and National Road Guidelines for Planning Authorities, 2012. That the Road Safety Audit was incomplete and the RSA feedback form related to a different development.
- On three separate instances the TII highlighted serious safety concerns with the proposed development. It is stated that the concerns do not appear to have been taken into account by the Planning Authority in the grant of planning permission issued.
- The report of the Planning Officer states, 'TII have made a submission stating that their position remains the same as previously outlined' and again only briefly in the conclusion that TII 'have made a submission in relation to the

proposed development that it is at variance with official policy in relation to development on National Roads.’

- The appellant’s overriding concern is that the granting of permission for a large retail store outside the core shopping area of Killorglin will take customers and footfall out of the town centre and that it will negatively impact the vibrancy of the town centre.
- It is stated that Kerry County Council will be aware of the level of vacancy in the town and that it needs to be reversed to improve the overall vibrancy and vitality of the town.
- It is stated that it is not enough to accept the principles of the proposed development by relying on its Retail zoning objective exclusively.
- The acceptability of the proposed development needs to be considered in the context of the likely impact on the vibrancy and vitality of the existing town centre. Tables 19 and 20 of the submitted Retail Impact Assessment indicates that the quantitative assessment for the proposed development is marginal at best. It is submitted that it would support the view that it will have a negative impact on the existing town centre.
- The Draft Kenmare Municipal District Functional Area Local Area Plan, incorporating the Killorglin Town Local Area Plan is shortly to be published by Kerry County Council. The Draft Killorglin LAP will be put on public display, the retail strategy would be at the centre of the Plan. It is considered that the decision of the Council, to grant permission is premature pending the adoption of the new Kenmare Municipal District Functional Area Local Area Plan.
- The appellant requests that the Board carefully consider all the matters raised and refuse permission on the basis of the grounds of appeal.

6.2. Applicant Response

6.2.1. A response to the third party appeals was submitted by the Planning Partnership on behalf of the applicant Lidl Ireland GmbH. The issues raised are as follows;

- In response to the third party appeals the first party highlighted that the substance of the third party appeals is similar to the observations submitted

by the appellants in May 2022. The first party stated that following the submission of further information response it addressed several of the concerns raised by the third parties.

- The first party acknowledge that maintaining valid opposition to the proposed development is a right open to anyone to exercise however without acknowledging the amendment made to the application in response to their observations the appellant therefore invites queries in relation to their motives and bona fide interests. It is noted that the third party appellants are in excess of 53km driving distance or within 27.75km radius south of the proposed Lidl foodstore development appeal site in the townland of Lonhart. The first party request that the Board utilise its powers provided under sections 131 and 132 of the Planning and Development Act 2000(as amended) to clarify their bona fide interests and reasoning in relation to the proposed development of the Lidl foodstore at Iveragh Road, Killorglin, Co. Kerry.
- The grounds of appeal raised concerns that the Planning Authority did not fully take into account the comments made by Transport Infrastructure Ireland (TII). In response to the matter the first party consider that the Planning Authority had due regard of the comments and observations submitted in response to the statutory notices.
- The proposed development was accompanied by a comprehensive Traffic and Transport Assessment and was subject to a full Road Safety Audit, the recommendations of which were accepted and duly implemented.
- The submission to the Planning Authority by TII did not acknowledge the contents or conclusions of the full Traffic and Transport Assessment submitted with the application. The TII comment did note that the Road Safety Audit was incomplete as the RSA feedback form submitted as appendix A to the Road Safety Audit related to a different development.
- In response to the TII comments the Planning Authority included in its request for further information a requirement to amend the proposed Site Layout to address the Road Safety Audit recommendations and to shift the site access point further in relation to the access point to the Boyles Garden Centre retail warehouse development on the southern side of the Iveragh Road.

- The changes made were confirmed as being satisfactory by the Road Safety Auditor and accepted by the Planning Authority.
- The first party contend that the comment cited by the appellants i.e. that the proposed development would be at variance with national policy in relation to control of frontage development on national roads as per the Spatial Planning and National Roads Guidelines for Planning Authorities 2012, is not substantiated in the TII submission.
- In relation to this policy Planning Authorities must guard against the proliferation of new accesses and intensification of existing access to national roads with speeds greater than 50-60km per hour. The converse can be implied that there is less concern regarding new or intensified accesses onto national roads with speeds less than 60km per hour such as at the N70 at the subject site.
- The site is located on lands zoned 'Retail' in the Killorglin Functional Area Local Area Plan 2010-2016 (as extended) which identifies convenience retail as a use permitted in principle.
- Given the speed limit associated with the N70 at the subject site being less than 60km per hour and that the access arrangements have been subject to both Road Safety Audit and Traffic and Transportation Assessment, the proposed development accords with the Spatial Planning and National Guidelines for Planning Authorities 2012 which "provide for a limited level of direct access to facilitate orderly urban development" at this stretch of Iveragh Road/N70 National Road in the form of retail development at the subject site in line with its designated zoning of 'Retail' per the Killorglin Functional Area Local Area Plan 2010-2016 (as extended), which identifies convenience retail as a used permitted in principle.
- Concern is raised in the appeals in relation to road safety and the creation of an additional access on a National Road and pedestrian safety. It specifically relates to the positioning of the site access for the development in relation to the vehicular access point serving Boyles Garden Centre retail warehouse development on the southern side of Iveragh Road. These concerns also related to the purported propensity of vehicles to exceed the 60km/h speed

limit as they leave the town centre and further concerns refer to safety for residents of Laharn Drive located to the east of the site.

- The speed limit associated with the N70 at the subject site is less than 60km per hour and the access arrangements have been subject to both a Road Safety Audit and Traffic and Transportation Assessment of which the recommendations were fully complied with and given effect in the Site Layout and design of the proposed development.
- In relation traffic speeds it is highlighted that they can be in excess of the speed limit and that this is a matter for An Garda Siochana and Kerry County Council to address and enforce if speeding is considered to be prevalent in the 60kph transition zone.
- It is noted that the transition zone extends for the 50kph speed limit located to the east of the Laharn Drive cul-de-sac junction, to the 100kph rural National Road speed limit which is located to the west of Killorglin Business Park access just before the road alignment bends to the north-west (the 60kph transition zone is approximately 0.75km in length).
- Stephen Reid Consulting's letter details that the sightlines at the exit point of the proposed access road are proposed in accordance with DMURS for the current speed limit of 60kph (65m in each direction along the nearside of the N70 Iveragh Road on a bus route, from a setback position of 2.4m.
- Stephen Reid Consulting's letter noted that the development of the proposed Lidl and the new entrance, which are located towards the townward end of the transition zone, will create more of a streetscape edge and generate activity and turning movements on/off the Iveragh Road when compared to the existing field boundary fence.
- The third party appellants raise concerns regarding the impact of the proposed development on the vibrancy and vitality of the Killorglin Town Centre due to its location "outside of the core shopping centre of Killorglin". Specifically, they expressed the opinion that the proposed development will negatively affect the Killorglin Town Centre by creating a "counter-attraction" and thus "taking customer footfall out of the town centre".

- In response to the matter it is stated that the details presented in the Planning Partnership's Planning Report, the Retail Impact Assessment and the response to request for further information submitted on the 13th of December 2022 confirms the clear justification for the proposed development.
- The proposed development use is permissible in principle in terms of the Land Use Objectives as detailed in the Kerry County Development Plan 2022-2028 and the Killorglin Functional Area Local Area Plan 2010-2016 (as extended).
- As set out in Section 3 of the Retail Impact Assessment the subject site complies with the provisions of the Killorglin Functional Area Local Area Plan 2010-2016 (as extended) which states, 'that the Planning Authority with apply a sequential approach to the location of new retail developments in the town..... In the event that the town centre sites are proven by the developer to be unavailable for larger retail developments, consideration will be given to sites on the edge of the town centre.' Therefore, based on the findings of the Site Sequential Assessment it is their professional planning opinion that the subject site is acceptable in terms of the Sequential Approach.
- Regarding the potential negative impact of the proposed development on what the appellants purport is "already a high degree of dereliction and vacancy" in the Killorglin Town Centre, the Retail Impact Assessment referred to several factors, that the report noted at the time no up to date detailed data was available on retail vacancies in Killorglin. Available data in relation to general level of vacancy of commercial and retail properties in Co. Kerry indicated that vacancy rates were the third lowest in Ireland at 10.9%.
- The Retail Impact Assessment noted that the issue of vacancy of commercial property in Killorglin was largely not convenient retail in nature. Almost all vacant floorspace in the Killorglin Town Centre is made up of small comparison retail or non-retail service units that are located in fringe areas and not within the retail core. The proposed development is not in competition with nor could the development be accommodated within such units that could approach the scale required to sustain a viable Licensed Discount Foodstore.
- The Retail Planning Guidelines in section 4.4 refer to Sequential Approach to the Location of Retail Development and state that, 'the centres of cities and

towns are the most suitable for the higher order fashion and comparison goods and are the most accessible locations for the majority of the catchment population. They should be supported in maintaining and expanding their retail offer to serve that population in a sustainable way which will also help to reduce the need to travel.

- It is highlighted that the Retail Planning Guidelines 2012 do not place emphasis on the requirement for Convenience Retail to be located within City and Town Centres in a similar manner to that of higher order fashion and comparison.
- It is submitted that the level of retail vacancy is not unusual in an Irish context. Two decisions of the Board are cited in relation to similar developments. Under Reg. Ref. 16/116 & PL14.248255 permission was granted for a Discount Foodstore in Sligo Town where a vacancy rate of 22.1% arose in the town. Under Reg. Ref. 18/4037 & ABP 302449-18 permission was granted for a Discount Foodstore in Fermoy, Co. Cork and the issue of vacancy arose where 30 of the 168 properties were recorded as vacant.
- Having regard to the foregoing it is submitted the fact that there are some vacant properties within the Killorglin Town Centre is not a barrier to the permitting of development as demonstrated by the cited examples.
- Regarding the matter of retail capacity for the proposed development it is concluded in the Retail Impact Assessment that based upon available spend projections within the Catchment Area and the total quantum of floorspace (existing and extant) and additional convenience and comparison floorspace capacity of 1,238sq m and 3,250sq m respectively would be available for the Design Year 2025.
- Taking into account the proposed nett 1,118sq m convenience and 280sq m comparison floorspace the Retail Impact Assessment concludes on page 31 that: “there will remain a capacity for approximately 120sq m of additional Convenience Retail floorspace and 2,971sq m of Comparison Retail Floorspace in the Design Year (2025) after completion of the Licensed Discount Foodstore development.

- In relation to this matter, it is accepted that the estimated available convenience retail capacity in the Design Year could be taken to be marginal, it is highlighted that the Retail Impact Assessment deliberately employed a conservative approach to the estimation of population within the defined Catchment to avoid the accusation of tailoring population figures.
- An additional factor not cited in the Retail Impact Assessment, but which is regarded as relevant to the issue of convenient retail market capacity in Killorglin is as detailed on page 140 of the Kerry County Development Plan 2022-2028 that “Killorglin records the strongest positive commuting balance, indicating a relatively strong economic performance, particularly for a town of its size.” Page 141 of the Development Plan records that the Jobs/Workers Ratio in Killorglin is 1.98 which indicates that there are almost two jobs to every resident in the town. Over 1,200 workers are estimated to commute into the town on a periodic basis. Therefore, based on this fact the associated inflow of retail spend into Killorglin is likely to exceed that modelled in the submitted Retail Impact Assessment.
- In relation to the matter of potential impact on the amenity of the surrounds the appeals raised concern regarding the visual impact of the proposed development and the loss of residential amenity for residents in Laharn Drive.
- The matter of potential visual impact was addressed by the Planning Authority in the further information specifically item no. 6 which stated, “Having regard to the location of the proposed site at the main entrance to Killorglin town from the west along the national secondary road – N70 it is recommended that further landscaping be put forward on site to better integrate the development into the area and improve visual impact.” The applicant was also required to consider the use of nature-based solutions in relation to the management of surface/stormwater run-off.
- The applicant addressed these items in an integrated manner to provide enhanced landscaping proposals and associated additional mitigation of visual impact over the original proposal.
- The following amendments to the proposed development would undertaken, landscaping along the western edge of the subject site that includes 7 no.

Alder trees, which are located within nature based rain gardens and complemented by the placement of 2 no. Yew trees in 2 no. SUDS compliant Stockholm tree pits at the entrance to the proposed Foodstore's parking area. Landscaping along the eastern edge of the subject site to complement existing woodland areas along Laharn Drive comprising woodland screen planting set within a network of woodland pools which mitigate the visual impact of the proposed development. Landscaping proposals along the southern edge of the site, a portion of this area a 4m width is proposed to be at the same level as the N70 road and could accommodate future works associated with the development of a combined footpath/cycle lane as required under the further information.

- Regarding the impact of lighting associated with the proposed development, the Lighting Impact Assessment Report provides evidence that the designed lighting scheme for the proposed development shall achieve all applicable regulatory requirements. The report concludes that the light spill and glare from the car park, pathways and roadways with the development boundaries will have a minimal impact on the surrounding area.
- Regarding the nature of the proposed development in the context of the local area it is submitted that the area may be described as eclectic in character. To the west and north of the site it borders on agricultural lands and low density residential uses. The retail premises Moriarty's of Killorglin Furniture Sote is located 450m south-west of the site. The premises of the Intermediate School Killorglin and sports fields including an astroturf hockey pitch are located at the north-eastern corner of the site. East of the site are residential developments and the existing PK SuperValu supermarket which is 200m from the site. Opposite Iveragh Road to the south of the site is a retail warehouse complex, Boyle's Topline Killorglin, with open car parking and goods storage yards clearly visible from Iveragh Road and Laharn Drive. Therefore, taking into account the details of the site context together with the quality of the nature based landscaping proposals and the care taken with mitigating the visual impact of the proposed development, it is their professional opinion that the nature of the proposed development cannot be seen to 'seriously injure the visual amenities of the area.'

- The appeals raised concerns that the proposed development is contrary to both current and potentially future planning policy. The appellants expressed the opinion that in issuing of a grant of permission that Planning Authority made a pre-emptive decision that is “premature pending the publication and adoption of the new Kenmare Municipal District FALAP. In response to this the first party state that the Retail Impact Assessment and the Response to the request for further information provide clear justification for the proposed development and its location. The Kerry National Road Design Office is a Regional Office of TII and was notified of the application by the Planning Authority. It was noted that there is no record of any submission or observation from Kerry National Roads Design Office and accordingly it may be accepted that no objections to the application were recorded as a result.
- The matter of the study area for the N70/N71 Killorglin bypass was raised. Regarding the status of the proposed N70/N71 Killorglin bypass it is referred to in the Killorglin Functional Area Local Area Plan 2010-2016 (as extended). The study area is an extremely wide area. The freezing of all planning permissions in this area until such time as a route has been selected is unfeasible. There appears to be no record that the implementation of the long proposed Bypass is imminently to be provided for in Local, Regional or National Infrastructure Planning and Implementation Programmes.
- The issue of impact of the construction phase was raised, specifically the volume of material required to be imported to the site for fill and the impact of HGV traffic required to service the scale of the construction. The further information sought by the Planning Authority included clarification on the infill material to be brought to site. Having regard to the existing site levels and the floor area and finished floor level of the proposed building, SDS Design Engineers estimate that up to approximately 8,500m³ of material will be required to be imported to site as part of the filling exercise to achieve the development site finished levels.
- Regarding HGV traffic related to the construction phased it is proposed to be managed. A detailed Construction Traffic Management Plan could be conditioned by the Board.

- In relation to surface water proposals, it is proposed to provide a new surface water collection network, collecting surface water run-off through roof gutters/downpipes, rainwater gardens, wetlands and a network of gullies located around the site to the design levels proposed for the finished car park layout. In relation to the existing storm drainage ditch traversing the site in an east-west direction, diversion works are proposed that involve the culverting of this ditch on the eastern boundary of the site.
- In conclusion, the first party request that the Board uphold the decision of Kerry County Council to grant permission. It is submitted that having regard to the Kerry County Development Plan 2022-2028 and the Killorglin Functional Area Local Area Plan 2010-2016 (as extended) that the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience.

6.3. Planning Authority Response

- None received.

7.0 Assessment

Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal can be considered are as follows:

- Principle of Development/Compliance with policy
- Retail Need and Retail Impact
- Impact on residential amenity
- Design and visual impact
- Traffic Impact and Access
- Other issues

7.1. Principle of Development/Compliance with policy

- 7.1.1. The proposed development seeks permission for the construction of a licenced discount foodstore and associated site development works with a gross floorspace of 2,224.5sq m at Iveragh Road, (N70 National Secondary Road) Laharn, Killorglin, Co. Kerry.
- 7.1.2. Chapter 4 of the Kerry County Development Plan 2022-2028 refers to Towns and Village and Section 4.4 refers to Retail. Section 4.4.4.1 of the Plan refers to Retail Hierarchy. Killorglin is designated a regional town. Regional towns are detailed in the plan as being are economically vibrant and vary in terms of scale of retail provision and size of catchment. Generally, these towns have good transport links to larger towns and cities. Many of these regional towns have important connections to key towns which are located within the Key towns and have an important role in Inter-Urban Networks.
- 7.1.3. Objective KCDP 4-61 refers to regional towns it sets out that 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 ensure their sustainable development by consolidating, intensifying and enhancing their core retail areas, and by directing new retail opportunities into town centres. Objective KCDP 4-62 sets out that is an objective of the Council to ensure that the Regional Town Centres have a retail offer that is sufficient in terms of scale, type and range without adversely impacting on or diverting trade from the higher order retailing locations. In relation to the matter of a retail strategy Objective KCDP 4-48 states that it is an objective of the Council to complete a town centre and retail strategy for the entire county within the lifetime of the plan.
- 7.1.4. In relation to the location of retail, section 4.4.4.3.2 of the Development Plan refers to Edge of Centre and Out of Centre Retailing. Edge-of-centre sites are described as generally no more than 300-400m from the primary retail areas in the town and out-of-centre retail development is clearly separated from the town centre but within the urban areas identified in the Development Plan. In relation to these locations, it advises in this section of the plan that retail developments of this nature will be

directed to town centre locations where it can be demonstrated that there will not be a negative impact on the vitality and viability of the town centre. Proposals for edge-of centre and out of centre retail developments will be assessed having regard to the considerations set out in 'Retail Planning – Guidelines for Planning Authorities 2012'. In the interest of protecting and enhancing the vitality and viability of town and village centres, it is not envisaged that out-of-centre retail developments will be permitted during the lifetime of this Plan.

- 7.1.5. The grounds of appeal raise concern in relation to the impact of the proposed development on the existing town centre in terms of vibrancy and vitality due to the location of the site outside of the core shopping centre of Killorglin.
- 7.1.6. The subject site under consideration at Iveragh Road, Laharn, Killorglin is situated circa 430m from the town centre core of Killorglin. The site is zoned objective - C1.1 Commercial, Retail under the provisions of the Kenmare Municipal District Local Area Plan 2024-2030 and Section 3.2.3 which contains the Killorglin LAP.
- 7.1.7. Under Appendix B: of the Kenmare Municipal District LAP which is the Land Use zoning matrix, a 'superstore' is permitted in principle on C1 zoned lands. Section 3.2.3.5.1 of the LAP refers to retail development and states that Killorglin is classified as a regional town in the second tier of settlements in the settlement hierarchy contained in the KCDP. It is detailed in the plan that Killorglin has a good variety of small shops mainly catering for the local market and some shops that cater specifically for the tourist market. The main shopping area is concentrated on Upper and Lower Bridge Street and Main Street. There are presently two supermarkets in the town, Supervalu and Aldi, both of which are located on the western side of the town centre. The location of these two convenience shopping outlets so close to the town centre is a vote of confidence in the future of Killorglin town centre and helps to ensure that the town core area remains a vibrant busy shopping area. Killorglin's proximity to both Killarney and Tralee, which have a wider range of retail outlets results in a certain amount of revenue leakage to these larger urban centres. Regarding the retail vacancy rate in Killorglin this is detailed as 33.8% and is based on data from 2019. It is stated in the LAP that any retail development that takes place in Killorglin should take place in the town centre in order to encourage its regeneration and development as a vibrant town centre.

- 7.1.8. The report of the Planning Officer stated that they were satisfied that the principle of the development could be considered on the basis of the site being located on lands zoned 'Retail' under the provisions of the Killorglin Functional Area Local Area Plan 2010-2016.
- 7.1.9. In relation to the matter of a sequential test assessment it is set out in the Retail Impact Assessment (RIA) prepared by the Planning Partnership that the site is located 330m west of Killorglin Town centre in an edge of centre location.
- 7.1.10. As part of the RIA a sequential site assessment was carried out. A survey of suitable sites was undertaken and 5 no. candidate sites were identified. Site no. 1 at Langford Street, Killorglin was assessed and discounted on the basis that the foodstore would take up the entire site area and there would be complexities involved in land assembly from multiple landowners. Site no. 2 on lands zoned for mixed development at Langford Street was assessed and discounted on the basis that the proposed licensed discount foodstore would not be a satisfactory anchoring element in keeping with the designed mixed-use zoning. The configuration of the site is such that road frontage on Langford Street is limited.
- 7.1.11. In relation to site no. 3 opposite Aldi at Iveragh Road, Killorglin, it is a disused site and within the designated Town Centre. The site was discounted on the basis that it was not of sufficient size to provide car parking and the nature of the shopping including bulk purchases is not suitable in the context of having car parking off site within the town centre. Given the site size and configuration and the nature of construction works it was deemed to be unfeasible.
- 7.1.12. In relation to site no. 4 opposite Intermediate School, Iveragh Road, it is zoned Mixed Use development. It was assessed and discounted on the basis that it is removed from the N70 and the visibility of the site from the main road network is limited. Access to the site would be from the road serving Intermediate School Killorglin and given the delivery traffic and customer traffic which would be generated it was considered unsuitable. It was also considered that the proposed Licensed Discount Foodstore is not a satisfactory anchoring element in keeping with the designated Mixed-use zoning.
- 7.1.13. The subject site at Iveragh Road, Killorglin was assessed and evaluated as being the most suited to the purpose of the proposed development on the basis that it has

direct access off the N70 and as such enjoys a high level of roadside visibility. The site is zoned for retail development, the topography of the site is favourable and cost effective to develop and it is suitable to acquire. Therefore, it was concluded in the RIA that the subject site satisfies the sequential test.

- 7.1.14. Regarding the matter of the sequential test the first party response to the appeals submitted that as set out in Section 3 of the Retail Impact Assessment the site complies with the provisions of the Killorglin Functional Area Local Area Plan 2010-2016 (as extended) which states, 'that the Planning Authority will apply a sequential approach to the location of new retail developments in the town..... In the event that the town centre sites are proven by the developer to be unavailable for larger retail developments, consideration will be given to sites on the edge of the town centre.' Therefore, based on the findings of the Site Sequential Assessment it is their professional planning opinion that the subject site is acceptable in terms of the Sequential Approach.
- 7.1.15. Accordingly, having regard to the sequential test carried out as part of the Retail Impact Assessment I am satisfied that the applicant has demonstrated that there are no suitable, viable and available alternative sites within the town centre and that the subject site at Iveragh Road which is an edge of centre site circa 400m from the town centre is a suitable location for a convenience store of the scale proposed. The site is located in proximity to and benefits from pedestrian linkages with the retail core of Killorglin. Under the provisions of the Killorglin LAP the site is zoned objective C1.1 Commercial, Retail.
- 7.1.16. Having regard to the details set out above, I consider that the principle of the development of a convenience foodstore on an edge of centre site in Killorglin is acceptable and in accordance with the proper planning and sustainable development of the area.

7.2. Retail Need and Retail Impact

- 7.2.1. The grounds of appeal refer to the retail impact of the proposed development. A Retail Impact Assessment (RIA) prepared by the Planning Partnership was submitted in support of the application.

- 7.2.2. As detailed in the RIA the defined catchment is based on a 20-minute drive time although the outermost fringes of the 15- and 20-minute drivetime zones, specifically on the eastern edge are excluded because they are most likely to gravitate towards convenience shopping in Killarney. The projected population of the catchment in 2022 is 15,081. The potential expenditure of the catchment area for total convenience is estimated as €65.21 million for 2022. As detailed in the RIA it is assumed that approximately 45% of the convenience retail spend available within the catchment area is leaking to competing centres. This is based on the proximity of Killarney and the more diverse and comparison led retail attraction which exists there.
- 7.2.3. The convenience spend in the catchment is estimated to increase year on year to €70.55 million in 2025. It is highlighted that retail outlets within the catchment area also experience a certain amount of retail spend inflows because of tourism and passing trade. These inflows are assumed to be equivalent to approximately 15% of the convenience spend of the catchment area. It is set out in the RIA that the granting of permission for the new discount foodstore will provide an additional retail attraction which would generate a clawback of retail spend and reduce the proportion of leakage in the catchment.
- 7.2.4. The main convenience retail offer within the catchment comprises the Aldi foodstore which is located on the northern side of Iveragh Road and the PK SuperValu Store which is also located along Iveragh Road. Other retail outlets in the catchment include the Eurospar supermarket in Killorglin town centre. It is estimated that the total net retail sales area in the catchment in April 2022 is 4,656sq m. The turnover required to sustain this floorspace is €49.81 million with €45.74 million convenience turnover and €4.07 million comparison turnover. A further €0.15 million of potential comparison turnover is assigned to extant planning permissions. Therefore, a total turnover required to sustain existing net retail sales area in the catchment is €49.95 million.
- 7.2.5. It is estimated that the proposed discount foodstore and other retail elements will require €14.54 million of the available retail spend in 2025. It is detailed in the RIA that having regard to the project population growth and projected growth in retail spend within the catchment area with a gradual clawback in the proportion of retail spend leakage, that the existing floorspace within the catchment area and the

additional floorspace proposed with the licenced discount foodstore would account for 97.71% of the available convenience and 24.88% of the available comparison retail spend in the Design Year 2025.

- 7.2.6. It is set out in the RIA that the additional floorspace associated with the supermarket element of the proposed development can be accommodated at its Design Year 2025 without impacting on the viability of existing floorspace within the catchment area and without resulting trade diversion of retail spend generated in centres outside of the RIA catchment area. It is concluded in the RIA that sufficient retail spend will be available within the catchment area to accommodate the proposed development.
- 7.2.7. The appeal response from the first party reiterated this point and stated that taking into account that the net retail floorspace of convenience proposed is 1,118sq m and that 280sq m of comparison floorspace is proposed that after completion of the Licensed Discount Foodstore development in the Design Year (2025) there will remain a capacity for approximately 120sq m of additional Convenience Retail floorspace and 2,971sq m of Comparison Retail Floorspace.
- 7.2.8. The first party in the appeal response highlighted that while the retail capacity in the Design Year could be taken to be marginal, that the Retail Impact Assessment deliberately employed a conservative approach to the estimation of population within the defined Catchment. They also noted that an additional factor not cited in the Retail Impact Assessment, but which is regarded as relevant to the issue of convenient retail market capacity in Killorglin is as detailed on page 140 of the Kerry County Development Plan 2022-2028 that “Killorglin records the strongest positive commuting balance, indicating a relatively strong economic performance, particularly for a town of its size.” Page 141 of the Development Plan records that the Jobs/Workers Ratio in Killorglin is 1.98 which indicates that there are almost two jobs to every resident in the town. Over 1,200 workers are estimated to commute into the town on a periodic basis. Therefore, based on this fact the first party submitted that the associated inflow of retail spend into Killorglin is likely to exceed that modelled in the submitted Retail Impact Assessment.
- 7.2.9. In relation to the submitted Retail Impact Assessment I am satisfied that the established catchment is based on sound assertions in relation to the geographical

catchment within a 20-minute drive and having regard to the catchment of neighbouring town such as Killarney. In relation to the content of the RIA I am satisfied that the applicant has demonstrated that there is a demand for additional convenience floorspace within the catchment area in terms of the extent of retail expenditure available.

- 7.2.10. Accordingly, having regard to the details set out above I would accept that the increase in convenience floor space in the catchment is justified.

7.3. Impact on residential amenity

- 7.3.1. The grounds of appeal refer to the loss of residential amenity for residents in Laharn Drive. The appeal site is located to the west of Laharn Drive. Laharn Drive is a cul-de-sac containing 4 no. detached dwellings. Regarding the separation distance between the dwellings in Laharn Drive and the site boundary, I note that at the closest point over 25m is provided between the front of house no. 3 and the site boundary.
- 7.3.2. The proposed development includes comprehensive landscaping proposal which includes boundary treatment. The existing boundary between Laharn Drive and the site is formed by mature high trees and hedging which I observed on inspection of the site. The revised Landscape Design Plan is illustrated on drawing no: 072821_LP_01RevF. As detailed on this plan the landscaping along the eastern edge of the site is proposed to compliment the existing woodland areas along Laharn Drive. The proposed landscaping to the east of the building comprises woodland screen planting to be set within a network of wet woodland pools.
- 7.3.3. Regarding potential impact arising from light spillage from the proposed development the first party in the appeal response highlighted that the Lighting Impact Assessment Report provides evidence that the designed lighting scheme for the proposed development shall achieve all applicable regulatory requirements. It is concluded in the Lighting Impact Assessment Report that the light spill and glare from the car park, pathways and roadways with the development boundaries will have a minimal impact on the surrounding area.
- 7.3.4. Accordingly, having regard to the separation distance proposed and the existing and proposed landscaping and planting and specifically along the eastern boundary of

the site, I am satisfied that the proposed development will be satisfactorily screened and that it would not have an undue impact upon the residential amenity of properties at Laharn Drive.

7.4. Design and visual impact

- 7.4.1. The grounds of appeal raised the matter of the visual impact of the proposed development. It was contended that the design is contrary to the established character of the area and that it does not provide for a distinctive sense of place. The grounds of appeal referred to the requirement in the Section 1.5.46 of the Plan identified that any future proposals on the subject site will need to create active frontages onto the street, deliver a high-quality public realm and provide links to the town centre.
- 7.4.2. The Planning Authority addressed the issue of potential visual impact as part of the further information request. The applicant was required to propose further landscaping to better integrate the development into the area and improve the appearance of the development in the context of the location of the site at the main entrance to Killorglin town from the west along the national secondary road.
- 7.4.3. In response to the matter the landscaping proposals were revised including the provision of 7 no. alder trees to be located along the western edge of the site. At the entrance to the foodstore 2 no. yew trees are proposed. Along the southern edge of the site provision has been made for a 4.0m verge width at the same level as the existing N70 which could accommodate future works associated with the development of a footpath cycle lane. The revised landscaping proposals also include nature-based solutions in relation to the management of surface/stormwater run-off. The Planning Authority were satisfied with the revised landscaping proposals.
- 7.4.4. I would conclude that the revised landscaping proposals serve to mitigate visual impact and ensure that the scheme can be integrated into the streetscape and surrounding area, having regard to the context of the site on the main entrance to town on the N70 from the west.

7.5. Traffic Impact and Access

- 7.5.1. The grounds of appeal refer to impacts of the proposed development in terms of traffic safety. Concern is expressed that the proposed development would result in the intensification of existing accesses and that there would be additional turning movements generated. The grounds of appeal raised the matter of the reports from Transport Infrastructure Ireland (TII) which set out their objections to the proposal.
- 7.5.2. In relation to the vehicular access arrangements, it is proposed develop a new vehicular access onto Iveragh Road the N70. The proposed access is located to the south-western corner of the site. The application was accompanied with a Traffic and Transportation Assessment prepared by Stephen Reid Consulting and a Road Safety Audit prepared by Traffico Road Safety Engineering.
- 7.5.3. As part of the request for further information the applicant was required to address a number of issues in relation to the vehicular access. Firstly, in relation to the Road Safety Audit, it was recommended in paragraph 2.1 that the separation distance between the new direct access onto the N70 and the opposing retail park entrance be increased. It was highlighted in the further information that it did not appear to have been taken into account in the design of the development. Secondly, the planning authority sought that a revised site layout plan be submitted indicating that there is sufficient verge width at the same level as the existing N70 Road being made available.
- 7.5.4. In response to these matters, it was confirmed by Traffico Road Safety Engineering that the separation between the new access and the opposing retail warehouse premises has been addressed the revised proposed layout drawing no. 02 Proposed Site Layout with Site Levels Rev. W. Regarding the issue of the provision of a sufficient verge along the N70, it is confirmed in the response from the Planning Partnership that a 4.0m verge width is proposed at the same level as the existing N70 road which can accommodate a future combined footpath/cycle lane.
- 7.5.5. Returning to the matter of the reports and recommendation from TII they provided two reports in relation to the application. As detailed on their report of 2/6/2022 they consider that the proposed development is at variance with official policy in relation to control development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), as

the proposed development by itself, or by the precedent which a grant of permission for it would set would adversely affect the operation and safety of the national road network. TII considered that insufficient data has been submitted with the planning application to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site. They concluded that the proposed development would be at variance with national policy in relation to control of frontage development on national roads. It was highlighted in the report that the Road Safety Audit submitted is incomplete as the Road Safety Audit Feedback form submitted with the RSA relates to a different development.

- 7.5.6. The report from TII dated 21/12/2022 stated that the Authority's position remains as set out in the letter of 2nd June 2022. The appeal from Anthon Schultes refers to the submitted reports from TII and highlighted that they raised serious safety concerns which do not appear to have been taken into account by the Planning Authority.
- 7.5.7. In response to this the first party consider that the Planning Authority had due regard of the comments and observations submitted in response to the statutory notices. The first party highlighted that the application was accompanied by a comprehensive Traffic and Transport Assessment and was subject to a full Road Safety Audit, the recommendations of which were accepted and duly implemented. The first party noted that the submission from TII did not acknowledge the contents or conclusions of the full Traffic and Transport Assessment submitted with the application. They highlighted that the TII comment that the Road Safety Audit was incomplete as the RSA feedback form submitted as appendix A to the Road Safety Audit related to a different development was addressed by the Planning Authority in the further information.
- 7.5.8. In relation to the contention of TII that the proposed development would be at variance with national policy in relation to control of frontage development on national roads as per the Spatial Planning and National Roads Guidelines for Planning Authorities 2012, the first party consider that this is not substantiated in the TII submission. The first party response noted that relation to this policy that Planning Authorities must guard against the proliferation of new accesses and intensification of existing access to national roads with speeds greater than 50-60km per hour. They highlighted that the speed limit associated with the N70 at the subject

site is less than 60km per hour and the access arrangements have been subject to both a Road Safety Audit and Traffic and Transportation Assessment of which the recommendations were fully complied with and given effect in the Site Layout and design of the proposed development.

- 7.5.9. The Spatial Planning and National Roads Guidelines for Planning Authorities, (2012) provide guidance on a number of matters referring to land use planning and roads including setting out planning policy considerations relating to development affecting national roads (including motorways, national primary and national secondary roads) outside the 50/60 km per hour speed limit zones for cities, towns and villages. I note the policy as detailed in the guidance in relation national roads and the requirement to the avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 km per hour apply. The guidelines also refer to transitional zones which are sections of national roads on the approaches to or exit from urban centres that are subject to a speed limit of 60 km per hour before a lower 50km per hour limit is encountered, and it states that the plan may provide for a limited level of direct access to facilitate orderly urban development. It advises that any such proposal must be subject to a road safety audit carried out in accordance with the NRA's requirements and a proliferation of such entrances, which would lead to a diminution in the role of such zones, must be avoided.
- 7.5.10. In relation to this matter, I would note that the site lies within the 60kph speed limit area, it is within the development boundary of the town of Killorglin and that under the provisions of the Killorglin LAP the site is zoned objective - C1.1 Commercial, Retail. Therefore, it would fall under the category of a transitional zone. The proposal has been accompanied by a Road Safety Audit and Traffic and Transportation Assessment. Accordingly, I would conclude that the provision of a new vehicular access at this location is appropriate in this context.
- 7.5.11. Regarding the issue of traffic generated by the proposed development a Traffic and Transport Assessment (TTA) was undertaken by Stephen Reid Consulting Traffic and Transporation and was submitted with the planning application. The proposal comprises a Lidl licenced discount foodstore with 131 no. car parking spaces at surface level.

- 7.5.12. As detailed in the TTA the peak trips associated with the discount foodstore occur between 1700hrs and 1800hrs. Table 5.2 in the TTA details that during the peak hours a total of 125 inbound and 141 outbound movements would be generated. The total level of traffic generated daily as set out in table 5.2 is 1,387 inbound and 1,388 outbound. It is set out in the TTA that in relation to the discount retail foodstore that a development of this type would not generate wholly new primary trips on the network and that some of the trips generated would be non-primary in nature as a result of pass-by traffic. Therefore, it is detailed in the TTA between 10% to 30% of trips generated would be new to the network and that 70% of these trips exist and are already on the adjacent road network.
- 7.5.13. The impact of the traffic which would be generated by the proposed development was assessed in the TTA in comparing the 'Do Nothing' flows with the 'Do Something' on Iveragh Road. The modelling indicated that during the PM peak hour that there is significant development impact in percentage terms as this is a period of the day when there would be higher level of activity with the Iveragh Road two-way link flow increasing by 8.76% to the west of the proposed access and 22.41% to the east of the proposed access. It is detailed in the TTA that while the total link flow increases in each assessment year that the percentage impact on each link in the 2023 opening year will diminish slightly in the 2028 and 2038 design years as the background. The modelling indicated that the highest predicted post development flows in the 2038 design year are in the order of 31% of the capacity of the road link. In relation to the capacity of the junction of the subject discount foodstore on Iveragh Road the modelling indicated that it has adequate capacity to accommodate peak hour traffic flows with no queuing issues on the Iveragh Road and minimal queuing and delays for traffic exiting from the development.
- 7.5.14. Accordingly, it is demonstrated in the TTA that the proposed site access can more than accommodate the traffic associated with the existing land use and traffic associated with the proposed development.
- 7.5.15. In conclusion, I consider that traffic impact associated with the development will be limited and consider that the proposal can be accommodated within the existing road network. I consider that the principle of the proposed access arrangements are acceptable.

7.6. Other Issues

Validity of appeals

- 7.6.1. The first party response to the grounds of appeal refer to sections 131 and 132 of the Planning and Development Act 2000 (as amended). These sections of the Act refer to powers of the Board to request and require the submission of documents and observations. The first party consider that the bona fide interests of the appellants should be clarified on the basis of the location of their addresses relative to the appeal site at Iveragh Road, Killorglin, Co. Kerry. In relation to this matter, I would note that the appellant Anthon Schules has an addressed in Killorglin and the appellant Gene Ahern has an address in Kenmare.
- 7.6.2. In relation to the content of the third party appeal, the following grounds of appeal are raised compliance with policy, retail impact, design impact upon visual amenity, impact upon residential amenity and access and traffic.
- 7.6.3. Accordingly, I consider that the grounds of appeal as detailed in the third party appeals are valid planning grounds and that it is not appropriate in this instance for the Board to require the submission of the document or observations under the provisions of Section 131 or 132 of the Planning and Development Act 2000, (as amended).

8.0 AA Screening

Appropriate Assessment Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

- 8.1.1. I have considered the proposed development of a storage warehouse in light of the requirements of S 177S and 177U of the Planning and Development Act 2000 as amended.
- 8.1.2. A screening report for Appropriate Assessment was not submitted with the planning application when it was originally lodged. As part of the further information requested the applicant was requested to submit An Appropriate Assessment Screening Report. The AA Screening Report for the proposed licenced discount foodstore in Killorglin, Co. Kerry was prepared by Limosa Environmental Ecological and Environmental Consultancy.

- 8.1.3. Appropriate Assessment Screening was undertaken by Kerry County Council as part of their planning assessment and a finding of no likely significant effects on a European Site was determined. Kerry County Council concluded the proposed development would not require the preparation of a Natura Impact Statement and Appropriate Assessment was not carried out.
- 8.1.4. A detailed description is presented in Section 2.0 of my report. In summary, the proposed development site is a greenfield site within the town boundary of Killorglin surrounded by existing residential housing, roads and agricultural lands in the immediate vicinity. The development will comprise construction of a new licenced discount foodstore with ancillary infrastructure and associated site development works and connect it to the existing storm water drainage system to the west of the site. It is proposed to have permeable surfaces, tree pits, and attenuation measures. Water and waste will be connected to local services.
- 8.1.5. An existing surface water drainage ditch traverses the site. It is proposed to be diverted to facilitate the development of the proposed building. The existing drainage ditch discharges to the existing 50mm diameter culvert located along the western boundary and this discharges to an existing surface water system downstream that flows to the west of the site.

8.2. Potential effect mechanisms from the project

- 8.2.1. In relation to the matter of habitat loss or alteration the proposed development site is not located directly adjacent to any European sites and therefore there will be no direct loss or alteration of the habitat. Regarding the issue of habitat/species fragmentation the proposed development would not result in any direct habitat loss or fragmentation.
- 8.2.2. In relation to the matter of disturbance and/or displacement of species the proposed development does not have the potential to cause a disturbance and/or displacement to species of qualifying interest in the European sites identified within the zone of influence of the appeal site.
- 8.2.3. The proposed development is not considered to have the potential to result in the reduction in the baseline population of species associated with any of the European sites identified within the zone of influence.

- 8.2.4. There is no direct surface water connection between the appeal site and any of the European sites identified within the zone of influence. However, in relation to indirect impacts there is a potential surface water pathway via the wider surface water drainage network and there is a potential risk to surface water arising from contaminants during the construction phase including silt, suspended solids, hydrocarbons and concrete/cement products.
- 8.2.5. In relation to the operational phase in direct effects are not anticipated on the basis that surface water arising at the proposed development will be dealt with on site using an attenuation tank and infiltration system with SuDS elements. Furthermore, based on OPW records there have been no previous floods recorded in the area and flooding therefore is not considered to be an issue at this location.
- 8.2.6. The foul effluent from the proposed development would drain to the wastewater treatment plant for Killorglin. In relation to the capacity of the treatment plant, it is detailed in Section 3.2.3.10 of the Kenmare Municipal District Local Area Plan that the town of Killorglin is served by the sewerage treatment plant at Ballykissane has a design capacity of 5000 PE
- 8.2.7. The Uisce Éireann Wastewater Treatment Capacity Register published in June 2023 indicates that spare capacity is available in the Killorglin Wastewater Treatment Plant. Therefore, significant effects in relation to wastewater management arising as a result of the operation of the development on Natura 2000 sites can be excluded.

8.3. European Sites at risk

- 8.3.1. The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA). There are five European sites located within 15 kilometres of the potential development site:
- Castlemaine Harbour Special Area of Conservation (SAC) (Site Code 000343)
 - Castlemaine Harbour Special Protection Area (SPA) (Site Code 004029)
 - Lough Yganavan and Lough Nambrackdarrig Special Area of Conservation (Site Code 000370)

- Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code 000365)
- Killarney National Park Special Protection Area (Site Code 004038)

- 8.3.2. In relation to a pathway connection, it is identified in the AA screening report that a source-pathway-receptor links exists between the proposed development site and two Natura 2000 sites, Castlemaine Harbour Special Area of Conservation and Castlemaine Harbour Special Protection Area due to potential connectivity via watercourses.
- 8.3.3. Castlemaine Harbour SAC is a large site located on the south-east corner of the Dingle Peninsula, Co. Kerry. It consists of the whole inner section of Dingle Bay, i.e. Castlemaine Harbour, the spits of Inch and White Strand/Rosbehy and a little of the coastline to the west. The River Maine, almost to Castlemaine, and much of the River Laune catchment, including the Gaddagh, Gweestion, Glanooragh, Cottoner's River and the River Loe, are also included within the site.
- 8.3.4. Castlemaine Harbour is of major ecological importance. It contains a range of coastal habitats of excellent quality, including many that are listed on Annex I of the E.U. Habitats Directive, and two which are listed with priority status (fixed dunes and alluvial forests). It also includes long stretches of river and stream which are excellent habitats for Salmon, Lamprey and Otter. Inch dunes are recognised as among the finest in the country, with particularly well-developed dune slacks. The site supports internationally important waterfowl populations, rare plant species, the rare Natterjack Toad, as well as populations of several animal species that are listed on Annex II of the E.U. Habitats Directive.
- 8.3.5. Castlemaine Harbour SPA is a large coastal site occupying the innermost part of Dingle Bay. It extends from the lower tidal reaches of the River Maine and River Laune to west of the Inch and Rosbehy peninsulas (c. 16 km from east to west). The average width of the estuary is 4-5 km though it is c. 11 km wide at the outer limit. The site comprises the estuaries of the River Maine and the River Laune, both substantial rivers, and has extensive areas of intertidal sand and mud flats. A number of other rivers, e.g. the Caragh and the Emlagh, flow into the site, as well as numerous small streams. Conditions in the bay are very sheltered due to the

presence of three protruding sand spits on its seaward side. These spits overly gravel bars. Two of the spits, Rosbehy and Inch, are included within the site. Salt marshes fringe much of the shoreline. A very large dune system occurs on the Inch peninsula. A substantial area of shallow marine water is included in the site.

- 8.3.6. Castlemaine Harbour SPA is one of the most important sites for wintering waterfowl in the south-west. It provides habitats for an excellent diversity of waterbirds, including divers and seaduck. It is of international importance for its Light-bellied Brent Goose population, as well as nationally important populations of a further fourteen waterbird species, i.e. Red-throated Diver, Cormorant, Wigeon, Mallard, Pintail, Scaup, Common Scoter, Oystercatcher, Ringed Plover, Sanderling, Bar-tailed Godwit, Redshank, Greenshank and Turnstone. The population of Wigeon is of note, being 7.6% of the all-Ireland total, while that of Sanderling is over 5%. Other species which occur include Great Northern Diver, Shelduck, Teal, Red-breasted Merganser, Golden Plover, Grey Plover, Knot, Dunlin, Curlew and Black-headed Gull. The site provides good quality habitat for the feeding and roosting requirements of the various bird species which winter here.
- 8.3.7. Castlemaine Harbour SAC is situated a minimum distance of 900m to the east of the appeal site. Castlemaine Harbour SPA is situated a minimum distance of 2.2km to the north-east of the appeal site. In determining whether there is a potential for significant effect on any European Sites it is necessary to establish qualifying interest features at risk.
- 8.3.8. In relation to Castlemaine Harbour SAC (Site Code 000343) the following species of qualifying interest have a conservation object to maintain the favourable conservation condition, Sea lamprey, River lamprey, Atlantic salmon, Estuaries, Annual vegetation, Perennial vegetation, Salicornia and other annuals colonizing mud and sand, Atlantic salt meadows, Petalwort, Mediterranean salt meadows, Embryonic shifting dunes, Shifting dunes along the shoreline, Dunes with *Salix repens* ssp. *argentea* and Humid dune slacks. Three species of qualifying interest have a conservation objection to restore the favourable conservation condition they are Otter, Fixed coastal dunes with herbaceous vegetation and Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*.

- 8.3.9. In relation to Castlemaine Harbour SPA (Site Code 004029) all the species of qualifying interest have a conservation object to maintain the favourable conservation condition and they comprise. Red throated diver, Cormorant, Light-bellied Brent Goose, Wigeon, Mallard, Pintail, Scaup, Common Scoter, Oystercatcher, Ringed Plover, Sanderling, Bar-tailed Godwit, Redshank, Greenshank, Turnstone, Chough and Wetlands & Waterbirds.

Table 1.

Effect mechanism	Impact pathway/Zone influence	European Sites	Qualifying interest features at risk
Surface water pollution	surface water drainage network	Castlemaine Harbour SAC (Site Code 000343)	Otter [1355]
	No ecological connection	Castlemaine Harbour SAC (Site Code 000343)	Fixed coastal dunes with herbaceous vegetation [2130]
	No ecological connection	Castlemaine Harbour SAC (Site Code 000343)	Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> [91E0]

8.4. Likely significant effects on the European site(s) alone

- 8.4.1. Accordingly, in order to determine any likely significant effects on the identified European site Castlemaine Harbour SAC (Site Code 000343) it is necessary to examine the qualifying interests which are specifically at risk, where there is a potential pathway in terms of the status of their conservation objective being to restore them.

Table 2.

Table 2: Could the project undermine the conservation objectives 'alone'			
European Site and qualifying feature	Conservation objective (summary) [provide link/ refer back to AA Screening Report]	Could the conservation objectives be undermined (Y/N)?	
		Siltation	Const. Pollution
Castlemaine Harbour SAC (Site Code 000343)	Site specific cons obj		
Otter [1355]	Restore favourable conservation status; No decline in distribution; No significant decline in extent of terrestrial habitat; No significant decline in extent of marine habitat; No significant decline in extent of freshwater habitat; No significant decline in coupling sites and holts; No significant decline in fish biomass available; No significant increase in barriers to connectivity	No On the basis that standard construction measures being undertaken and having regard to the separation distance of over 900m between the proposed development and the European Site.	No On the basis that standard construction measures being undertaken and having regard to the separation distance of over 900m between the proposed development and the European Site.

8.4.2. As detailed above, in respect of the qualifying interests potentially at risk within the Castlemaine Harbour SAC which are Fixed coastal dunes with herbaceous vegetation [2130] and Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* [91E0] there are no ecological connections. In relation to the qualifying interest Otter [1355] there is no potential risk from siltation or construction pollution on the basis that standard construction measures being undertaken and having regard to the separation of 900m distance between the proposed development and the European Site.

8.4.3. I conclude that the proposed development would have no likely significant effect 'alone' on any of the qualifying features of Castlemaine Harbour SAC (Site Code 000343).

8.5. In combination

- 8.5.1. The AA screening report refers to in combination effects in the context of existing plans and projects. In relation to future plans and other projects a planning search was carried out for applications within the immediate vicinity of the site. None were identified in the vicinity of the site which would in combination with the subject development give rise to significant effects. I have carried out a search of current applications and I note that there are none which would in combination with the proposal give rise to significant effects. In relation to plans that refer to the area they are the Kenmare Municipal District Local Area Plan 2024-2030 and Section 3.2.3 which refers to Killorglin and the Kerry County Development Plan 2022-2028. The plans were prepared in accordance with European and national legislation, Kerry County Council has carried out: a Strategic Environmental Assessment of the Plans; Appropriate Assessment under the Habitats Directive; and a Strategic Flood Risk Assessment, which informed the preparation of the County Development Plan and the Kenmare Municipal District Local Area Plan.
- 8.5.2. Accordingly, in combination impacts have been considered and the risk of in combination impacts can be ruled out. The proposed development will not result in any effects that could contribute to an additive effect with other developments in the area.
- 8.5.3. No mitigation measures are required to come to these conclusions.

8.6. Overall Conclusion – Screening Determination

- 8.6.1. Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that that the project 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 SAC and Castlemaine Harbour SPA or any other European site, in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- Objective information presented in the Screening report.

- Standard pollution controls that would be employed regardless of proximity to a European Site and effectiveness of same.
- Distance from European sites.
- The absence of a meaningful pathway to any European site.
- Taking into account the screening determination by the planning authority.

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

9.0 Recommendation

9.1.1. I recommend that planning permission is granted for the proposed development in accordance with the following reasons and considerations:

10.0 Reasons and Considerations

10.1.1. 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 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.

11.0 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 14th day of December 2022 and the 13th day of January 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 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 interests 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 interests 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 interests 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 interests of amenity and public safety.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) 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 interests 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 interests 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. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be

submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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 interests 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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Siobhan Carroll
Planning Inspector

15th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 315954-23		
Proposed Development Summary	Construction of foodstore with ancillary & associated site development works.		
Development Address	Iveragh Road (N70 National Secondary Road), Laharan, Killorglin, Co. Kerry.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	✓		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No			No EIAR or Preliminary Examination required
Yes	✓	Class 10(b)(iv), Schedule 5 Part 2	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP 315954-23
Proposed Development Summary	Construction of foodstore with ancillary & associated site development works.
Development Address	Iveragh Road (N70 National Secondary Road), Laharan, Killorglin, Co. Kerry.

The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.

	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is a licenced discount foodstore with ancillary infrastructure and associated site development works. The site at Iveragh Road (N70 National Secondary Road) Laharn, Killorglin is a greenfield site which is situated to the west of residential properties along Laharn Drive. Intermediate Secondary School Killorglin is situated to the north-east of the site. On the opposite side of Iveragh Road to the south of the site is Boyles of Killorglin a retail warehouse premises which sells Home, Garden and Building products. Therefore, proposal is not exceptional in this context.</p> <p>No significant emissions resultant.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>No, the proposed development entails the construction of a licenced discount foodstore. The proposal is comparable to the existing Boyles of Killorglin a retail warehouse premises on the opposite side of the Iveragh Road.</p> <p>No significant emissions resultant of this project combined with any existing or permitted.</p>	No
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site</p>	<p>It is located over 900m to any ecologically sensitive sites. Having regard to the topography of the area it does not provide a direct pathway to the closest ecologically sensitive site.</p>	No

<p>or location, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<p>Having regard to the nature and scale of the proposal which comprises a licenced discount foodstore to connect to public foul sewer with attenuation of surface on site, it does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	
<p style="text-align: center;">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A information required to enable Screening Determination to be carried out</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIA not required</p>

Inspector: _____

Date: _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)