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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 17/539**

**Appeal** by An Taisce of Tailors' Hall, Back Lane, Dublin and by Value Retail Dublin Limited care of GVA Planning of 4<sup>th</sup> Floor, 2-4 Merrion Row, Dublin against the decision made on the 4<sup>th</sup> day of January, 2018 by Kildare County Council to grant subject to conditions a permission to Value Retail Dublin Limited in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Extension of 6,212 square metres gross floor area to the existing Kildare Tourist Outlet Village in one and two storey building form directly adjoining the existing building complex and consisting of two number restaurant/café units (circa 312 square metres and circa 466 square metres gross floor area respectively), 29 number retail outlet units (total gross floor area circa 5,234 square metres) ranging in size from circa 67 square metres to circa 638 square metres), mezzanine floors levels are proposed in units numbers 90, 93, 103, 104, 105, 106 and 111, public toilets (circa 188 square metres gross floor area) and ATM facilities. To facilitate the extension, three number existing outlet retail units (units numbers 61a, 61b and 62) and one number restaurant/café unit will be demolished, with a reduction of 624 square metres gross floor space. Planning permission is also sought for the provision of 460 number car parking spaces over two levels at a new car park

to be developed at the north of the site; partial reconfiguration of the existing service yard to the rear of the existing units numbers 56, 57, 58, 59 and 60; the provision of two number segregated service yards to the rear of the proposed units numbers 87 – 102 and units numbers 103 – 115 including units numbers 61a and 61b, the existing substation to be demolished and a new substation to be built within this service yard; signage; landscaping and boundary works and all ancillary site services and site development works. In addition, permission is sought to implement any of the alternative baseline design standards identified in the Shopfront Design Guide submitted with the application and to modify the external design of any unit or units using one of the alternative designs set out therein, all on a site of circa 2.47 hectares (Kildare Tourist Outlet Village temporary car park planning register reference number 16/634) located to the north of Saint Brigid's Primary School's existing sports ground, south of Abbey View House and north-east of the Kildare Tourist Outlet Village (permitted under planning register reference number 04/927 (appeal reference PL09.241321) and 12/61), and is accessible from the Nurney Road via the Kildare Tourist Outlet Village, Kildare Town, County Kildare.

## **Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- the National Planning Framework – Project Ireland 2040,
- the Guidelines for Planning Authorities – Retail Planning published by the Department of Environment, Community and Local Government, in April 2012,
- the Spatial Planning and National Roads Guidelines for Planning Authorities published by the Department of Environment, Community and Local Government, in January 2012,
- the national policy document Smarter Travel – A Sustainable Transport Future – A New Transport Policy for Ireland 2009 – 2020, published by the Department of Transport,
- the Kildare County Development Plan 2017 – 2023,
- the Kildare Town Local Area Plan 2012 – 2018, including the land use zoning of this site and in the general vicinity,
- the planning history of the area,
- the established nature of Kildare Tourist Outlet Village and the significant economic activity generated by the existing facility, and
- the pattern of development in the vicinity.

## **Appropriate Assessment**

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, namely Pollardstown Fen Special Area of Conservation (Site Code: 000396), Mouds Bog Special Area of Conservation (Site Code: 002331) and the River Barrow and River Nore Special Area of Conservation (Site Code: 002162), and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' Conservation Objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site, in view of the sites' Conservation Objectives.

## **Environmental Impact Assessment**

The Board considered that the Environmental Impact Statement submitted with the application, supported by the further information submitted to the planning authority, the report, assessment and conclusions of the Inspector with regard to this file and the other submissions on file, was adequate in identifying and describing the direct, indirect, secondary and cumulative effects of the proposed development. The Board completed an Environmental Impact Assessment and agreed with the Inspector is her assessment of the likely significant effects of the proposed development, and generally agreed with her conclusions on the acceptability of the mitigation measures proposed and the residual effects. The Board generally adopted the report of the Inspector in this regard. The Board concluded that, subject to the

implementation of the mitigation measures proposed, the effects on the environment of the proposed development would be acceptable.

### **Proper Planning and Sustainable Development**

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the above-mentioned guidelines and the policies and objectives of the current development and local area plans, would be acceptable in terms of its impact on the vitality and viability of the town centre of Kildare, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health, would not be detrimental to the visual or landscape amenities of the area, and would not seriously injure the amenities of property in the area. The Board endorsed the imposition of conditions which improve the alignment of the proposed development with the Local Area Plan objectives and will enable the planning authority to advance the overall implementation of those objectives. The proposed development would, therefore, be in accordance with the principles of proper planning and sustainable development.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the zoning of the site in the current Kildare Town Local Area Plan, which does not exclude retail development, and concurred with the view set out in the Senior Planner's report that the development, as approved with conditions, will generally align with the overall objectives of the County Development Plan and the Local Area Plan, and would represent an acceptable approach for the lands zoned Town Centre. It is considered that the conditions imposed, by enabling future connectivity of the site to the town centre, will provide an acceptable level of permeability and integration, and would not be detrimental to the existing town centre. The Board was cognisant of the fact that certain Local Area Plan conditions were indicative and some flexibility in terms of indicative routes is appropriate. The scheme as conditioned was considered acceptable.

## 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 to the planning authority on the 1<sup>st</sup> day of November 2017, 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. The development shall be carried out, completed and maintained in accordance with the mitigation measures set out in the Environmental Impact Statement submitted to the planning authority on the 12<sup>th</sup> day of May 2017, as amended by further particulars submitted to the planning authority on the 1<sup>st</sup> day of November 2017, except where altered by the conditions of this permission.

**Reason:** To restrict and minimise any adverse environmental impacts resulting from the proposed development.

3. The proposed development shall be amended as follows:
  - (a) Unit number 104, as indicated on the site layout plan submitted to the planning authority on the 1<sup>st</sup> day of November, 2017 (drawing number P-B-104) shall be omitted from the proposed development.

- (b) Prior to commencement of development, the developer shall enter into an agreement with the planning authority, in accordance with the provisions of section 47 of the Planning and Development Act 2000, as amended, restricting the use of the land as outlined and hatched in green on drawing number 400-18-164 (attached) as vehicular and pedestrian access only until such time as a permanent link has been created between the proposed development and the public realm at Academy Street in general accordance with Objective TO 3 of the Kildare Town Local Area Plan 2012-2018.
- (c) The developer shall permit access to and from the subject site from any newly created permanent link between the proposed development and the public realm at Academy Street at all times when the proposed development is open and trading and at a such other times as may be agreed in writing with the planning authority.
- (d) The area which was to be occupied by Unit 104 on the site layout plan submitted to the planning authority on the 1<sup>st</sup> day of November, 2017 (drawing number P-B-104) shall be temporarily screened from public areas within the proposed development by hoarding and/or planting pending the opening of a permanent through way connecting the subject site with the public realm at Academy Street.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of delivering further linkages through the Kildare Tourist Outlet Village to connect with Academy Street and the town centre in accordance with the policies and objectives of the Kildare Town Local Area Plan 2012-2018, including Objective TO 3.

4. The period during which the development hereby permitted may be carried out shall be eight years from the date of this Order.

**Reason:** Having regard to the nature and description of the development proposed, it is considered reasonable that the development be completed within this time period, in the interest of the future planning and sustainable development of the site and to ensure that Objective TO 3 of the Kildare Town Local Area Plan 2012-2018 is delivered upon within a reasonable timeframe.

5. The range of goods to be sold in the proposed development shall be limited solely to end-of-season/end-of-line comparison goods that are not concurrently available for sale in High Street locations. This permission does not permit the sale of toys, bulky goods or convenience goods.

**Reason:** In order to prevent an adverse impact on the viability and vitality of the area and so as not to undermine the retail hierarchy of the area.

6. The use of the proposed development shall be restricted to discount outlet designer village (as specified in the documentation submitted with the application) unless otherwise authorised by a prior grant of planning permission.



**Reason:** In order to prevent an adverse impact on the viability and vitality of the area and so as not to undermine the retail hierarchy of the area.

7. No amalgamation of units or subdivision of any unit shall take place without a prior grant of planning permission. No additional mezzanine floorspace shall be incorporated without a prior grant of planning permission.

**Reason:** To control the layout and scale of the development, in the interests of protecting the vitality and viability of the area.

8. No unit or part thereof shall be used as a take-away food outlet or as a pharmacy, without a prior grant of permission, whether or not such use might constitute exempted development.

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

9. Details of the materials, colours and textures of all the external finishes to the proposed development shall harmonise with the existing permitted Kildare Tourist Outlet Village. Any amendments in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

10. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

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

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

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

12. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

13. All footpaths shall be dished at junctions and road crossings to facilitate the disabled.

**Reason:** In the interests of pedestrian, cyclist and vehicular safety.

14. (a) Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.  
  
(b) Existing land and roadside drainage shall not be impaired and the proposed surface water drainage system shall connect to the existing network such that no ponding of water occurs during heavy periods of rainfall.

- (c) No surface water runoff from the site shall discharge onto the public road.
- (d) The developer shall submit formal written consent from Transport Infrastructure Ireland (TII) for the discharge of any additional surface water generated by the proposed development to the M7 Motorway Drainage System, or such other proposals as may address the issue of additional surface water drainage, to the planning authority for written agreement prior to commencement of development.

**Reason:** To ensure proper drainage and to avoid flooding of public roads, in the interest of traffic safety.

15. Pending the completion of the Kildare Sewage Network Scheme which includes the upgrade of the Nurney Road pumping station and associated pipeworks, the proposed temporary foul effluent holding tank shall be provided and maintained to the satisfaction of the planning authority and the developer shall obtain the prior written consent of the planning authority to all on site effluent storage and off site discharge prior to commencement of development.

**Reason:** In the interest of public health and to ensure proper servicing of the development.

16. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In this regard, site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Provision of parking for existing properties during the construction period;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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

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

17. Prior to commencement of development, the developer shall submit to and agree in writing with, the planning authority details of additional traffic monitoring and management of queuing in the vicinity of the Junction 13 M7 Motorway Interchange which shall include a CCTV camera with traffic counting capabilities and associated pole at the interchange to be connected to the Kildare County Council's Traffic Management Centre located in Aras Chill Dara, Devoy Park, Naas, queue detection technology, permanent variable message signs on the M7 mainline and traffic monitoring units on the mainline in advance of the off ramps. The cost of the design and implementation of this infrastructure shall be borne solely by the developer.

**Reason:** In the interests of a properly planned and serviced development and in the interest of traffic safety.

18. (a) The owners and operators of the Kildare Tourist Outlet Village shall ensure that there are no "Special Events" or other "Exceptional Events", as referenced at section 7 of the Kildare Tourist Outlet Village Microsimulation Assessment, received by the planning authority on the 1<sup>st</sup> day of November 2017, during the construction phase of the proposed development.
- (b) The owners and operators of the Kildare Tourist Outlet Village shall ensure that there are no "Special Events" or other "Exceptional Events", as referenced at section 7 of the Kildare Tourist Outlet Village Microsimulation Assessment received by the planning authority on the 1<sup>st</sup> day of November, 2017, until a detailed Traffic and Mobility Management Plan for such events has been agreed in writing with the planning authority. Such a Traffic and Mobility Management Plan shall be subject to prior consultation with TII, Kildare County Council and An Garda Síochána.

**Reason:** In the interests of traffic safety and the proper planning and sustainable development of the area.

19. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details regarding the maintenance of an appropriate level of car parking provision during the construction phase of the proposed development including the proposed new multi-storey car park.

**Reason:** In the interests of traffic and pedestrian safety and the proper planning and sustainable development of the area.

20. The developer shall facilitate the protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

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

22. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational, before any of the retail units are made available for occupation.

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



23. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the commercial units are made available for occupation.

**Reason:** To provide for the future maintenance of this private development in the interest of visual amenity.

24. 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.

25. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, in respect of delivery of a new high quality pedestrian priority access from the subject site to Academy Street in accordance with the policies and objectives of the Kildare Town Local Area Plan 2012-2018 including Objective TO 3. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

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

26. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of the delivery of street and pavement improvement works at Academy Street and Grey Abbey Road. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

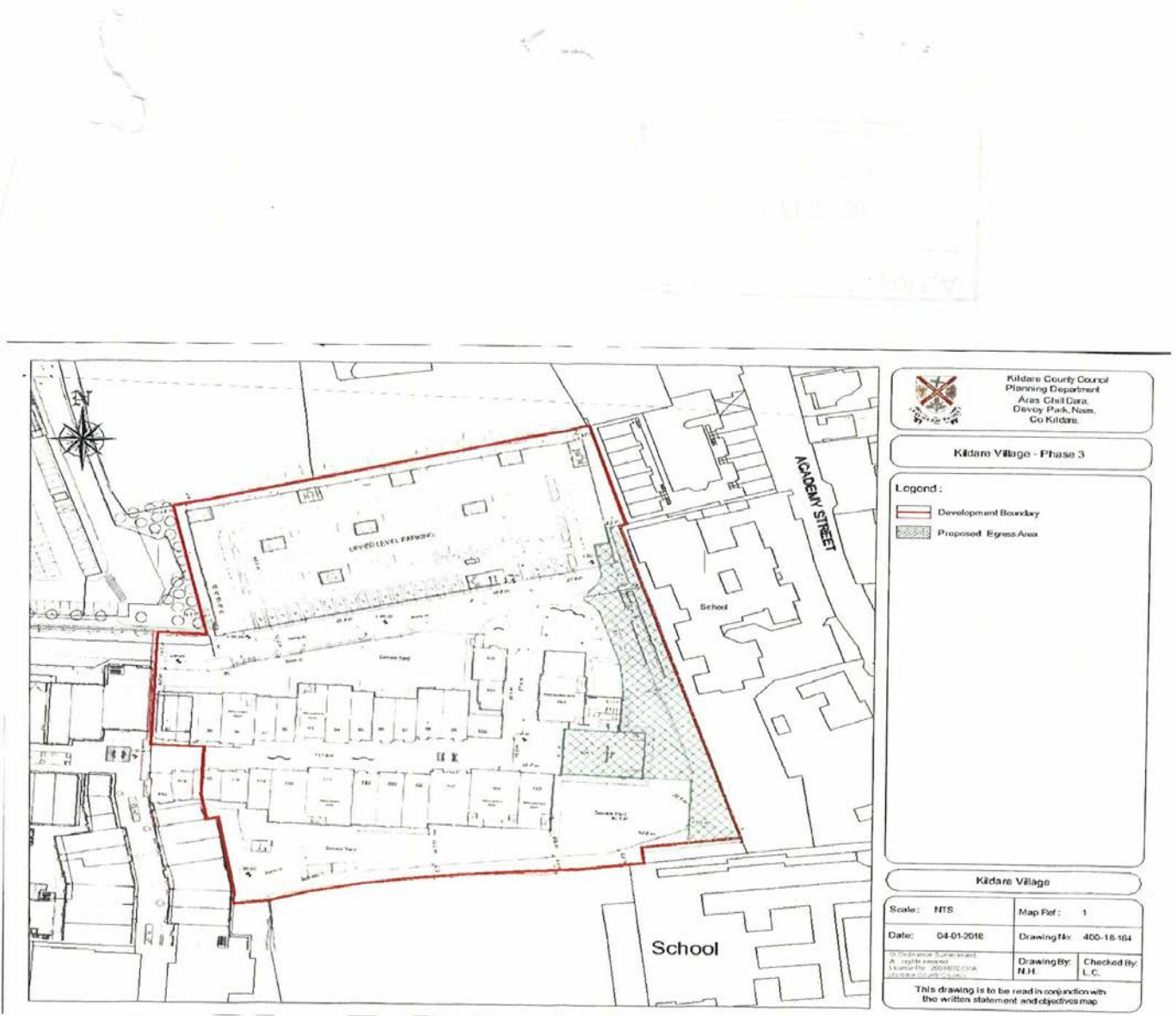
**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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

**Dated this            day of            2018.**

Map referred to in condition number 3(b) of this order



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

Dated this            day of            2018.