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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Kilkenny County Council**

**Planning Register Reference Number: 17/783.**

**Appeal** by Seamus Morrissey care of Architectural Services Limited of 21 Manor Park, Mallow, County Cork against the decision made on the 29<sup>th</sup> day of January, 2018 by Kilkenny County Council to refuse a permission for the proposed development.

**Proposed Development:** Change of use of ground floor vacant retail unit into recreation, sport, amusement arcade with ancillary signage at Unit 8, Saint John's Gate, Barracks Street, Kilkenny.

**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**

Having regard to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the Kilkenny City and Environs Development Plan 2014-2020, would not seriously injure the amenities of the area or of property in the vicinity, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Conditions**

1. The development shall be carried out, completed in accordance with the plans and particulars lodged with the application, 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. This permission shall apply for a period of three years from the date of

this order. The use of the building as an amusement arcade shall cease and the associated signage shall be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

**Reason:** To enable a review of the effect of the use on the amenities of the area.

3. Details of all external signage and finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. Opening hours of the hereby permitted change of use shall be confined to between 1000 hours and 2200 hours.

**Reason:** In order to limit the hours of operation and in the interest of protecting the amenities of adjoining properties.

5. The noise level from the proposed development during the operational phase shall not exceed 55 dB(A) rated sound level at the nearest noise sensitive location between 1000 and 2200 hours, Monday to Saturday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect the residential amenities of property in the vicinity of the site.

6. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with

the Development Contribution Scheme made under section 48 of the Act  
be applied to the permission.

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**Eugene Nixon**

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

**Dated this            day of            2018.**