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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 18/716**

**Appeal** by Michael and Roland Frayne of Kilcullen Road, Naas, County Kildare against the decision made on the 3<sup>rd</sup> day of January, 2019 by Kildare County Council to grant subject to conditions a permission to Baronbrook Limited care of John P. Delaney Architects Limited of Moorefield Business Centre, Moorefield Road, Newbridge, County Kildare in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Demolition of existing shop unit 49 square metres and erection of new two-storey commercial building 235 square metres. The ground floor, comprising of shop retail unit to replace the demolished shop. The first floor, ancillary offices, general storage and sanitary facilities for the associated use of the shop. All associated site and landscaping works. The provision is also sought for a temporary prefab building to continuing trading from whilst construction works take place at Mervyns Tyre Centre, Kilcullen Road, Naas, County Kildare, as amended by the revised public notice received by the planning authority on the 3<sup>rd</sup> day of December, 2018 consisting of revised site location and revised site layout plans highlighting revised red line boundary to incorporate larger site area for car parking.

## **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 nature of the proposed development, its location within an existing commercial site, and to the relevant provisions of the Kildare County Development Plan 2017-2023, it is considered that, subject to compliance with the conditions set out below, the proposed development would not detract from the surrounding area in terms of scale and height, would not seriously injure the amenities of the area or of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the revised proposals included in the further information submitted to the planning authority on the 13<sup>th</sup> day of November 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2.
  - (a) Following completion of the proposed development, the proposed temporary pre-fab unit shall be removed from the site within one month of the proposed development been occupied.
  - (b) The offices on the first floor shall be incidental to the retailing use on the ground floor and shall not be sold, let or otherwise transferred from the primary use of the building.

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

3. Prior to commencement of development, a revised site layout shall be submitted to, and agreed in writing with, the planning authority indicating a clear pathway to 'accessible car parking' spaces and bicycle parking spaces on the site. The site layout shall include measures to ensure access to the car parking areas is free from obstructions at all times.

**Reason:** In the interest of the proper planning and sustainable development of the area.

4. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Saturdays inclusive, and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

5. 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:** To ensure adequate servicing of the development, and to prevent pollution

6. No advertisement, advertisement structure or signage other than those shown on the drawings submitted with the application, shall be erected or displayed on the building in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

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

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

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

8. 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 and for the ongoing operation of these facilities 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.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the 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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**Maria FitzGerald**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2019.**