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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Kilkenny County Council**

**Planning Register Reference Number: 19/327**

**Appeal** by Joseph Haire care of BPS Planning Consultants of 23 Saval Park Road, Dalkey, County Dublin against the decision made on the 31<sup>st</sup> day of October, 2019 by Kilkenny County Council to grant subject to conditions a permission to Memsante Limited care of Brendan Moore Architects of 38 Saint Kieran's Street, Kilkenny in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Development of the former creamery building (Protected Structure Ref: D150) which forms part of the existing Aldi site. The development will comprise of the following: (a) change of use of the former creamery building to a community pharmacy; (b) demolition of the existing single storey flat roof structure on the south-east façade of the original building (c) Removal of the existing loading bays on the north-east and north-west elevations; (d) Material alterations to the internal layout and external elevations of the building; (e) external signage; (f) car parking; (g) associated landscaping (h) connection to existing services and all ancillary site development works. The subject site will have access off the existing internal access roadway to Aldi. The proposed development consists of work to a

protected structure (Protected Structure Ref: D150) and within the curtilage of a protected structure (Protected Structure Ref: D150), all to the north-west of Upper Main Street (R703) and south-east of the Graiguenamanagh Outer Relief Road (R705), Graiguenamanagh, County 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 provisions of the Kilkenny County Development Plan 2014-2020, and the Graiguenamanagh Local Area Plan 2009, to the Guidelines for Planning Authorities - Retail Planning, issued by the Department of the Environment, Community and Local Government in April 2012, and the Architectural Heritage Protection Guidelines for planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in February, 2011, and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of the zoning objective and its location within the town, would not be inconsistent with the Retail

Planning Guidelines, would comprise the appropriate refurbishment and reuse of a protected structure and would have no significant adverse impact on the River Barrow and River Nore Special Area of Conservation (Site Code: 002162). The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **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 11<sup>th</sup> day of September, 2019 and the 9<sup>th</sup> day of October, 2019, 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. Prior to commencement of works, the developer shall make a record of the existing protected structure. This record shall include:
  - (a) a full set of survey drawings to include elevations, plans and sections of the structure, and
  - (b) a detailed, labelled photographic survey of all internal rooms (including all important fixtures and fittings), the exterior and the curtilage of the building.

This record shall be submitted to the planning authority prior to commencement of development and one copy of this record and a full set of drawings of the proposed works to the protected structure shall be submitted to the Irish Architectural Archive.

**Reason:** In order to establish a record of this protected structure.

3. Prior to commencement of development, the developer shall provide for the following:-
  - (a) The appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.
  - (b) A methodology and design detail for original repairs and new windows and doors prepared by the appointed conservation expert shall be submitted to, and agreed in writing with, the planning authority.
  - (c) The white and black tiles found on the internal façade of the wall are to be retained and conserved. The pulley as identified in the Architectural Heritage Impact Assessment is to be retained, conserved and presented as a feature in the completed project. All ceiling panelling shall be conserved, while, where new panelling is required, it shall match the original in design and specification. A method statement for the conservation of the tiles and the timber panelling prepared by the appointed conservation expert shall be submitted to, and agreed in writing with, the planning authority.

- (d) Due to the importance of the Brandondale Co-Operative Creamery, an interpretative sign, positioned in a non-intrusive location shall be erected proximate to the protected structure.

All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric in-situ including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

**Reason:** To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

- 4. (a) 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.
- (b) 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 traffic management, noise management measures and off-site disposal of construction waste.

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

5. 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.

**Reason:** In the interest of sustainable waste management.

6. Mitigation measures contained within the Natura Impact Statement submitted to the planning authority on the 11<sup>th</sup> day of September, 2019 shall be implemented in full.

**Reason:** In the interest of the protection of the River Barrow and River Nore Special Area of Conservation (Site Code 002162).

7. Prior to commencement of development, a bat survey shall be carried out and submitted to the planning authority for written agreement. Should bats be present, appropriate mitigation measures to the written agreement of the planning authority, shall be implemented.

**Reason:** In the interest of wildlife protection.

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

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

9. 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.

10. Prior to commencement of development, the developer shall enter into a water and/or wastewater connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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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**Maria FitzGerald**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2020.**