



An
Bord
Pleanála

Board Order
ABP-312666-22

Planning and Development Acts 2000 to 2021

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 21/415

Appeal by Ivan Borisov of 17 Main Street, Tramore, County Waterford against the decision made on the 25th day of January, 2022 by Waterford City and County Council in relation to an application by Mohammed Idress Nasirs care of Halley Murphy and Associates of Burchall House, Parnell Street, Waterford for permission for indefinite retention for the change of use from shop to hot food take-away premises and canopy to front elevation at "Frydays", Strand Road, Tramore, County Waterford in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions permission for indefinite retention of change of use from shop to hot food take-away premises and to refuse permission for retention of canopy to front elevation).

Decision

GRANT permission for indefinite retention for the change of use from shop to hot food take-away premises in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for retention of the canopy based on the reasons and considerations marked (2) under.

Reasons and Considerations (1)

It is considered that, subject to compliance with the following conditions set out below, the retention of the change of use from shop to a take-away facility would not be out of keeping with the general uses in this area of Tramore and would not be detrimental to the character and amenities of the area, or to public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development proposed for retention for change of use from shop to hot food take-away premises shall be 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 and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, as amended, any signs, symbols, emblems, nameplates or other advertisements, other than those the subject of a separate planning permission, shall not be erected or displayed externally on the site, structures or site boundaries unless agreed in writing with the planning authority.

Reason: In the interests of visual amenity and the proper planning and sustainable development of the area.



6. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority within two months of the grant of this retention permission. The scheme shall include the provision of litter bins and refuse storage facilities.

Reason: In the interest of visual amenity.

7. 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 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

3. The hours of operation of the takeaway use shall be confined between 1200 hours and 2330 hours (Sunday to Thursday) and 1200 hours to 2400 hours (Friday and Saturday). The premises shall not operate and the kitchen/ventilation system shall not be used outside these hours.

Reason: To protect adjacent amenities in the interest of the proper planning and sustainable development of the area.

4. The developer shall control odour emissions from the premises in accordance with measures including extract duct details which shall be submitted to, and agreed in writing with, the planning authority within two months of the grant of this retention permission.

Reason: In the interest of public health and to protect the amenities of the area.

5. A plan, containing details for the management of waste 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 within two months of the grant of this retention permission. 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.

Reasons and Considerations (2)

It is considered that the retention of the canopy as proposed results in a poor design concept that would appear overly large and dominant in the streetscape and would result in a lack of integration with the narrow shop frontage of the existing building to the detriment of the character of the area. The retention of the canopy would set an undesirable precedent for such form/scale of canopy advertising on commercial frontages and would be contrary to Policy Objective BH15 of the Waterford City and County Development Plan 2022-2028 which relates to the design of shopfronts. The retention of this canopy would, therefore, be contrary to the proper planning and sustainable development of the area.



Eamonn Patrick Kelly

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this 22 day of May 2023.