

An  
Bord  
Pleanála

**Board Direction**  
**BD-012445-23**  
**ABP-313105-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 09/06/2023.

The Board decided to make a split decision, to

- (A) Grant retention permission change of use of Unit B2 from retail to hot food restaurant and outdoor seating area to the front of Unit B ,all with associated site development works ,for the reasons and considerations set out at (1) below.
- (B) Refuse retention permission for outdoor seating area to the front and side of Unit B1, all with associated site development works, for reasons and considerations set out at (2) below.

### ***Reasons and considerations (1)***

Having regard to the TC – Town Core and OS - Open Space and Recreation zoning objective for the site in the Waterford City and County Development Plan 2022-2028 it is considered that, subject to compliance with the conditions set out below, the proposed development to be retained would be acceptable in terms of the policy requirements of the development plan, would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

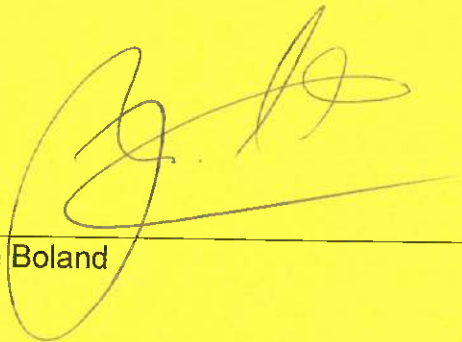
1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the 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.</p> <p><b>Reason:</b> In the interest of clarity</p>
2.	<p>The permission herein relates to a change of use at Unit B2 (210sqm), from retail to hot food restaurant and amalgamation of same with existing restaurant Unit B1 (223 sqm) forming a restaurant premises with a total area of 433sqm together with the outdoor seating area to the north of Unit B1 (23sqm ) and north of Unit B2 (42sqm) as per the plans and particulars lodged with the application only.</p> <p><b>Reason:</b> In the interest of the proper planning an sustainable development of the area.</p>
3.	<p>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.</p>

**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.

### Reasons and considerations (2)

On the basis of the information provided , the Board noted that the larger outdoor seating area to the front and side of Unit B1 (261sq m) with as constructed retractable roof system and associated corrugated roofs, panelling ,wind breakers , canopies and signage would be on lands zoned for Open Space and Recreation . The Board determined that to grant permission for same would not be in accordance with the zoning matrix for the area and would be contrary to the zoning objectives for the portion of the site to the West designated OS - Open Space and Recreation where the objective is 'to preserve and provide for open space and recreational amenities'

**Board Member:**

  
\_\_\_\_\_  
Joe Boland

**Date:** 13/06/2023

