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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Tipperary County Council**

**Planning Register Reference Number: 20/403**

**Appeal** by James Whelan of Hill Road, Killaloe, County Clare against the decision made on the 19<sup>th</sup> day of August, 2020 by Tipperary County Council to grant subject to conditions a permission to Sixty Something Limited care of Killaloe Consultants Limited of Rahena Beg, Killaloe, County Clare in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Erection of a marquee for seasonal use annually (May to September) and all associated site works at Flanagan's Bar, Ballina Quay, Ballina, County Tipperary.

**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 town centre zoning objective for the site and 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 not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of 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 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 on the 29<sup>th</sup> day of July 2020, 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 be for a period of three years from the date of this Order. The structure shall then be removed unless, prior to the end of the period, permission for its retention shall have been obtained.

**Reason:** To allow for a review of the development having regard to the circumstances then pertaining and in the interest of visual amenity.

3. The following shall be complied with in the development:
  - (a) No music, live performance or other entertainment noise shall be emitted from the permitted marquee.
  - (b) The marquee shall not be connected to the water supply or foul drainage systems and shall not be used for the preparation or serving of food.

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

4. The external cover of the marquee shall be of neutral colour and shall not incorporate any form of advertising. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to the first use of the structure.

**Reason:** In the interest of visual amenity having regard to the visual prominence of the site.

5. 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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**Paul Hyde**

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

**Dated this            day of            2021.**