



An  
Bord  
Pleanála

Board Order  
ABP-309449-21

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Waterford City and County Council**

**Planning Register Reference Number: 20/860.**

**Appeal** by Topafe Limited care of John F. Santry Architects of Belvedere, Newtown, Waterford against the decision made on the 21<sup>st</sup> day of January, 2021 by Waterford City and County Council to refuse a permission for the proposed development.

**Proposed Development:** Change of use from office/commercial to a traditional fast hot food takeaway, with the menu orientated to, but not confined to the specialist peri-peri brand of rich vitamins/minerals fast hot food meals, together with carrying out the necessary modifications and fitting out, installing the necessary services and providing elevational fascia signage, all at 48 John Street, Waterford, County Waterford.

## **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.

*Handwritten signature/initials in blue ink.*

## **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 prevalence of takeaway facilities in this area of John Street, the relative small scale of the unit proposed for conversion from retail/office to a fast-food takeaway facility and the limited alternative retail uses for the property, having regard to its vacant status for an extensive period, it is considered that, subject to compliance with the conditions set out below, the proposed change of use to a takeaway facility would not be out of keeping with the general uses in this area of the city, would not result in an excessive concentration of such takeaway facilities but would provide some additional choice to customers, would not detract from the character and amenities of the area and would not contravene the relevant standards of the Waterford City Development Plan 2013-2019 (as varied and extended) and the "Retail Planning Guidelines for Planning Authorities" issued by the Department of Housing, Local Government and Heritage in April, 2012. Accordingly, the proposed change of use would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the location of the proposed traditional takeaway retail premises within a compact area of the city centre would provide additional choice and competition and is consistent with other similar uses in the area, without contributing to its over-proliferation. Furthermore, having regard to the ongoing vacancy of the retail/office unit and with no

evidence of other proposals to restore it to its permitted retail uses, the Board considered that the proposed re-use of the premises would be preferable to maintaining its vacant state.

## 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 received by An Bord Pleanála on the 16<sup>th</sup> day of February, 2021, 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. The proposed hours of operation of the premises shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of the residential amenities of property in the vicinity.

3. Details of all external shopfronts and 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/visual amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

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

5. 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 prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

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

6. 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 prior to commencement of development.

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

7. Site development and building works shall be carried out only between the hours of 0700 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.

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

8. 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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**Dave Walsh**

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



Dated this 25<sup>th</sup> day of March 2022.