

An
Bord
Pleanála

Board Order
ABP-314490-22

Planning and Development Acts 2000 to 2022

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 21/1149

Appeal by Kathleen Searson of 22 Marymount, Ferrybank, Waterford City against the decision made on the 9th day of August, 2022 by Waterford City and County Council to grant subject to conditions a permission to The Ship Restaurant Bar (Dunmore East) Limited, trading as Azzuro, care of Michael Tobin of Haggard, Glenmore, County Kilkenny via Waterford in accordance with plans and particulars lodged with the said Council.

Proposed Development: Material change of use of Number 55 Fountain Street to a restaurant and for a single flat roofed extension (33.6 square metres) with bin storage to the rear, including internal alterations, planning permission is also sought for Number 54 Fountain Street, to convert the existing shop into a restaurant (combining with Number 55 Fountain Street) and a proposed extension to the rear of Number 54 consisting of a dining area at ground floor and a first floor rear extension to the existing flat above (area of existing flat 33.6 square metres, proposed first floor extension 4.8 square metres) also a roof light window and chimney flue to the front pitched roof of Number 54, in addition to illuminated signage. Both Number 54 and Number 55 Fountain Street to combine and operate as a single restaurant, existing ground floor area of Number 54 is 40.6 square metres, existing ground floor area of Number 55 is 55.4 square metres, proposed ground floor extension to Number 54 is 55.9 square metres, proposed extension to Number 55 is 33.6 square metres, all at

Number 54 and Number 55 Fountain Street, Ferrybank, Waterford, as revised by further public notices received by the planning authority on the 14th day of July, 2022.

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.

Reasons and Considerations

Having regard to the pattern and character of existing development in the area, the design and scale of the development proposed, and the provisions of 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 would be acceptable in terms of the zoning objective for the site, would not detract from the visual amenity of the area, and would not seriously injure the residential amenity of surrounding properties. 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 4th day of July 2022, 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. Details of all external elevations and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of the amenities of the area and of visual amenity.

3. The noise level shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at the nearest noise sensitive residential location between 0700 and 1900 hours from Mondays to Fridays inclusive and shall not exceed 45 dB(A) at any other time.

Reason: To protect the residential amenities of property in the vicinity of the site.

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 prior to commencement of development.

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

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5. (a) Details of the grease trap to be provided within the curtilage of the site shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) No air conditioning extractor fans or other apparatus shall be mounted on the façade of the premises.

Reason: In the interests of public health and proper planning and sustainable development.

6. A plan containing details for the management of waste and, in particular, recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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.

7. Drainage arrangements, including the attenuation and 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

8. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann (formerly Irish Water).

Reason: In the interest of public health.



9. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

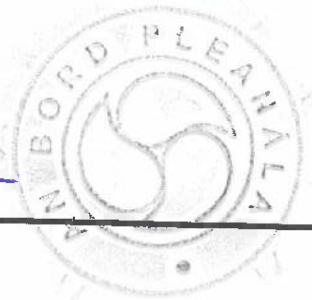
10. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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



11. 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.



Peter Mullan

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *21st* day of *August*, 2023.