

An  
Bord  
Pleanála

**Board Order**  
**ABP-318835-24**

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**Planning and Development Acts 2000 to 2022**

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

**Planning Register Reference Number: 23/28**

**Appeal** by Dominick O'Brien and others care of Marston Planning Consultancy of 23 Grange Park, Foxrock, Dublin against the decision made on the 7<sup>th</sup> day of December, 2023 by Waterford City and County Council to grant permission subject to conditions, to Tom Pang care of Anthony Walker Architectural of 75 Bishopsfield, Williamstown, County Waterford for the proposed development.

**Proposed Development:** Permission for a change of use from a public bar to residential use. The development will consist of the construction of a new three storey structure that will provide: five number one-bedroom apartments, 12 number two-bedroom apartments and two number three-bedroom apartments. In addition, the proposed development will also include the construction of a single storey refuse store, sheltered bicycle storage area, surface car parking and the demolition of an existing single storey public house at Fountain Street, Ferrybank, Waterford as revised by further public notices received by the planning authority on the 26<sup>th</sup> day of September, 2023: (a) the proposed development will consist of the construction of a new three storey structure that will now provide: four number one-bedroom apartments, 12 number two bedroom apartments and two number two three bedroom apartments and a ground floor level Café/Wine Bar, (b) demolition of

the existing development includes the demolition of the existing public bar, restaurant and retail unit (cake shop), (c) revised site layout, (d) revised site access, site road layout and site footpath layout, (e) revised floor and roof levels, (f) minor modification to the street elevation of the proposed development and (g) modification to the refuse store layout.

## **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 provisions of the Waterford City and County Development Plan 2022-2028, to the General Business zoning of the site, to the nature, scale and design of the proposed development, 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 the amenities of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety and would constitute an acceptable form of development at this location. 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 received by the planning authority, on the 26<sup>th</sup> day of September, 2023 and the 16<sup>th</sup> day of November 2023, 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.
  - (a) The development shall be set back an additional one metre from the rear of the public footpath.
  - (b) The area within the sight line triangle as shown on drawing number FB 218 submitted on the 16<sup>th</sup> day of November 2023, shall be maintained free from all obstructions, including temporary fixtures and movable objects.
  - (c) Prior to commencement of development, a revised site plan shall be submitted to the planning authority for written agreement showing the revised location of the building, identifying the sight line triangle to remain unobstructed and outlying the area to be taken in charge by Waterford City and County Council including the sight line triangle.

**Reason:** In the interests of public safety and orderly development.

3. Details of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity and to ensure an appropriate high standard of development.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

A plan to scale of not less than 1:200 showing –

- (a) the species, variety, number, size and locations of all proposed trees and shrubs,
- (b) hard landscaping works, specifying surfacing materials, furniture play equipment and finished levels, and
- (c) a timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interests of residential and visual amenity.

5. Prior to the commencement of development, the developer shall enter into a connection agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

6. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

**Reason:** To prevent flooding and in the interest of sustainable drainage.

7. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

8. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and amenity.

9. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interests of reducing waste and encouraging recycling.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

11. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

12. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.


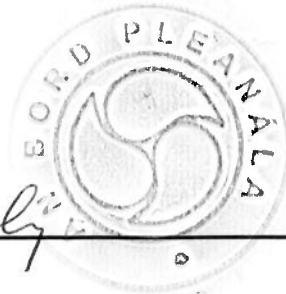
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.



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

Dated this 20 day of March 2025.