



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318835-24

<b>Development</b>	Change of use from public house to 19 apartments.
<b>Location</b>	Fountain Street, Ferrybank, Waterford
<b>Planning Authority</b>	Waterford City and County Council
<b>Planning Authority Reg. Ref.</b>	2328
<b>Applicant(s)</b>	Tom Pang
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Dominick O'Brien Bridget Doyle Deirdre Kavanagh Kathryn Carey Elizabeth O'Brien Eileen Mapstone Marie Ronan Kathleen & Elaine Searson Patrick Searson Kilian O'Brien

	Liam Connolly.
<b>Observers</b>	None
<b>Date of Site Inspection</b>	10 <sup>th</sup> October 2024.
<b>Inspector</b>	Peter Nelson

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## **1.0 Site Location and Description**

- 1.1. The site is located at the junction of Fountain Street and Abbey Road (R711 Regional Road) at Ferrybank in Waterford City. Ferrybank is on the north side of the River Suir. To the north and west of the site is the Marymount residential area. Our Lady of Good Counsel Primary School is directly opposite the site. Further north along Fountain Street is the Ferrybank Parish Church and the vacant Ferrybank Shopping Centre. To the south of the site on Fountain Street is a terrace of commercial and terrace units. To the southwest of the site and across the road is the North Quays Strategic Development Zone (SDZ).
- 1.2. The site contains an existing single-storey public bar, restaurant and a retail unit. The site also includes car parking. A number of the Marymount properties have pedestrian access to their rear gardens. There are three garages with openings onto the subject site.
- 1.3. There is a significant change in levels in the site from southwest to northeast. The stated site area is 0.2143 hectares.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of the demolition of an existing single-storey detached public house and the construction of a three-storey residential development containing:
  - 5no. one-bedroom apartments,
  - 12no. two-bedroom apartments &
  - 2no. three-bedroom apartments.

The proposed development will also include the construction of a single storey refuse store, sheltered bicycle storage area and surface parking to the rear of the apartments.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On the 22<sup>nd</sup> March 2023 Waterford City and County Council requested the applicant to submit 16no. points of Further Information.

On the 16<sup>th</sup> October 2023 Waterford City and County Council requested the applicant to submit 3 no. points of Clarification of Further Information.

On the 7<sup>th</sup> December 2023 Waterford City and County Council granted permission for the proposed development subject to 21no. conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The main points of the planner's first report signed on the 22<sup>nd</sup> March 2023 can be summarised as follows:

- The public notices do not describe the full extent of the demolition proposed.
- The proposed development will not negatively impact the residential amenity of nearby residential properties.
- The applicant needs to submit plans of the existing buildings.
- A robust justification for the proposal to use the entirety of the General Business zoned lands for residential purposes needs to be submitted.
- No letter of consent from Waterford City and County Council, who own a section of the application site, has been submitted.
- A letter from a Solicitor has been submitted which states that there is pedestrian right of way access to the rear of the site.
- No right of way details has been indicated on any submitted plans.
- A gate and attenuation tank are proposed to be provided at the access to the west of the site.

- A number of properties located to the north of the site have pedestrian gates and garage doors which open onto the site. Additional details are required in this regard.
- The proposed apartments meet the Design Standards for New Apartments.
- Additional details of the proposed communal open space are required.
- The developer will need to address the transport issues raised by the District Roads Engineer.
- Details of apartment storage and bulky storage are required.
- An EIAR is not required.
- No Appropriate Assessment issues arise.
- Further Information is required.

The main points of the planner's second report signed on the 19<sup>th</sup> October 2023 can be summarised as follows:

- Revised public notices were submitted which include the full extent of the demolition works.
- A letter of consent from the Property Management Section of the Council has now been submitted.
- Right of way access has now been provided, and it is a civil matter to be addressed by the applicant and the neighbouring property owners.
- A café/wine bar is now proposed which is an acceptable commercial use.
- Additional details were submitted in response to the Road Section requests. Clarification of these details are required.
- The Part V agreement in principle needs to be signed.
- The revised elevations are acceptable.
- The proposed storage is now acceptable.
- The proposed communal amenity space is now acceptable.
- Three points of clarification of Further Information are required relating to sightlines, details of the commercial unit and the Part V agreement.

The main points of the planner's third report signed on the 6<sup>th</sup> December 2023 can be summarised as follows:

- Additional details of the entrance were submitted; however, the Roads Section still have concerns. After consultation with the Roads Section, it is considered that a set-back of 1m of the building and a condition prohibiting the placement of any obstruction within the sightline will overcome the issue.
- Revised drawings have been submitted that amend any discrepancies.
- A signed Part V agreement has been submitted.
- The proposed development is acceptable subject to conditions.

#### 3.2.2. Other Technical Reports

- Roads Report recommend the applicant submit further information relating to dimensioned drawings, sight lines, refuse lorries and entrance details.
- Road's report after the submission of Further Information stated that there were concerns relating to a wall in front of the building which will block the sightlines and the department requires that a 3D drawing to be submitted clarifying that the sightlines are achievable.
- Report received on the 5<sup>th</sup> December 2023 stated that department require that the building be set back approximately 2.5m to achieve a sightline to the rear edge of the footpath.
- Environment Section report dated 10<sup>th</sup> March 2023 had no objection to the development subject to conditions.

#### 3.2.3. Conditions

Permission was granted subject to 21no. conditions. Condition of note include:

- Condition No.1 (b) states that the permission relates to the provision of eighteen number residential units and one number ground floor commercial unit consisting of a café/wine bar (Unit 17)

- Condition No.2 requires that the development be set back 1 meter further away from the public footpath in order to ensure adequate sightlines. This is discussed in section 7.6 of this report.

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

A number of observations were received on the original permission. The main points raised can be summarised as follows:

- The proposed development would result in the loss of existing access to rear of property.
- The proposal will impede an existing wayleave serving pedestrian and vehicular access to the rear of properties in Marymount and on Ross Road.
- The applicant does not own all the application site.
- Overlooking of neighbouring gardens.
- Loss of property value of neighbouring properties.
- Disturbance during construction.
- The proposed development is not aesthetically pleasing due to its height and design.
- The proposal will result in overdevelopment of the site with a lack of a green/amenity area.
- Overshadowing of adjoining dwellings and gardens.
- Increase noise pollution caused by the development.
- Height and design of proposed development is not in keeping with surrounding properties.
- The zoning of the site is for general business use and not residential use.



- The proposal will result in the removal of a commercial use and replacing it with a residential use on General Business zoning. The case to allow this change of use has not been established.
- The proposal will lead to the loss of the last public house on Ferrybank.
- Inadequate car parking is proposed.
- The proposed vehicular access point is on a bend with poor sightlines.
- Road safety issues during construction.
- Lack of a turning circle for refuse trucks.
- Issues with drainage of the site and its impact on surrounding areas.

The main additional points raised in the observations after the submission of further information can be summarised as follows:

- One car parking space per apartment is not sufficient and will have a serious impact on the overflow parking in the already congested Marymount Estate.
- The loss of the public house in the Ferrybank community would have significant negative consequences.
- The applicant has no grounds for blocking the west-side wayleave and access to garages.
- The applicant has failed to prove ownership of the entire site.
- The wayleave has provided access for the Marymount residents for decades and must not be extinguished.
- The revised plan indication one road to enter and one to exist will make it more dangerous to enter and exit and for pedestrians.
- The applicant has failed to include or demonstrate a suitable turning circle for refuse trucks.
- Concern over the overdevelopment of Ferrybank and rising water levels.
- Impact of construction noise.
- Negative impact on flora and fauna.

- The proposal of a wine bar/café is tokenistic.
- The proposed café does not provide adequate facilities such as staff toilets and a staff room.
- The lack of a commercial activity at this site contradicts city plans for rejuvenating villages and communities.
- No shadow analysis has been submitted.

## 4.0 Planning History

### **P.A. Ref: 21/1198**

Permission for the demolition of the existing public house/restaurant and the construction of a 3-4 storey residential building was deemed withdrawn on the 14<sup>th</sup> December 2022.

### **P.A. Ref: 20/73**

Permission refused on the 2<sup>nd</sup> April 2022 for change of use of car park to car sales use & change of use of shop unit for car sales use (39m<sup>2</sup>) and signage for two reasons relating to the lack of car parking for the existing use on the site and the proposed use and for the unauthorised use already on the site.

### Adjoining Site to the Southwest

#### **P.A. Ref: 22/594**

Permission refused on the 25<sup>th</sup> August 2022 for a first-floor office extension (floor area of proposed extension 23.3 m<sup>2</sup>), with external stairs onto the existing single storey ground floor store (floor area of existing floor 23.3 m<sup>2</sup>). The one reason for refusal related to the haphazard disorderly form of development which would negatively impact on the amenities of the area.

### No.54/55 Fountain Street

#### **ABP Ref. 314490**

Permission granted on the 21<sup>st</sup> August 2023 for the material change of use of no. 55 Fountain Street to a restaurant and planning permission is also sought for no. 54 Fountain Street, to convert the existing shop into a restaurant. Both of 54 and 55 to combine and operate as a single restaurant.

## 5.0 Policy Context

### 5.1. Development Plan

The Waterford City and County Development Plan 2022-2028 is the operational plan for the area. The plan came into effect on the 19<sup>th</sup> July 2022.

The site is in a General Business zoned area. The objective of this zone is *‘to provide for and improve General Business uses, this includes suburban district retail and local neighbourhood centres.’*

Residential Use is open for consideration in this zoning.

Uses shown as ‘Open for Consideration’ are uses which may be permitted where the Planning Authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects, and would otherwise be consistent with the proper planning and sustainable development of the area.

### Development Plan Policies

#### Strategic Objective

- To assist and ensure that:  
Waterford City is enabled to build its critical mass and fulfil its role as a driver for regional development in the South East Region...
- To ensure that Waterford City asserts itself as the primary retail and commercial destination of the South East Region through the meaningful redevelopment of key sites within the City Centre and the strategic development of the North Quays.
- To promote development that is compact, diverse and sustainable and which is resilient and adaptive to climate change.

- To make places more sustainable, inclusive, diverse, accessible, and safe with the highest standards of design.
- To promote attractive, liveable, well designed permeable and accessible, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

## Policies

**H2** In granting planning permission, we will ensure new residential development:

- Is appropriate in terms of type, character, scale, form and density to that location.
- Is serviceable by appropriate supporting social, economic and physical infrastructure.
- Is serviceable by public transport and sustainable modes such as walking and cycling.
- Is integrated and connected to the surrounding area in which it is located; and,
- Is designed in accordance with the applicable guidance and standards of the time:
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).
- Delivering Homes, Sustaining Communities (2007).
- Urban Design Manual A Best Practice (2009).
- Permeability Best Practice NTA (2015); and,
- Design Manual for Urban Roads (DMURS) (2020) or any update thereof.
- National Disability Inclusion Strategy (NDIS) 2017-2022.
- United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

**H 04** We will promote and facilitate sustainable and liveable compact urban growth through the thoughtful consolidation and of infill/ brownfield sites in a way which

promotes appropriate levels of compactness while delivering healthier and greener urban spaces and residential amenities. This will be achieved by:

- Facilitating and supporting a range of residential densities and building heights appropriate to the context and residential amenity of a proposed development location.
- Proximity to high-capacity public transport corridors and investment in sustainable and/ or active transport infrastructure.
- Supporting the permeable integration and densification of existing built-up areas.
- Supporting residential development proposals and urban design which incorporate clustering of mixed land use and co-location of services in appropriate location(s), or where quick and easy access to such services is available.
- Promoting and ensuring qualitative design and technological solutions which deliver adaptable residential/living units/spaces and urban design.
- Ensuring the integrated provision of quality green and blue infrastructure components/ public open space and networks of same so as to achieve distinctiveness and sense of place across our neighbourhoods; and,
- Requiring the provision of support infrastructure/ facilities to encourage sustainable mobility.

**H08** The Council will secure the provision of appropriate accommodation to meet the housing needs of all households, including social, affordable and cost rental housing, in a manner consistent with the Housing Strategy and in accordance with Part V of the Planning & Development Act 2000 (as amended). All housing units delivered by way of Part V should be integrated into the overall development in terms of location, design and build quality.

**H20** Where new development is proposed, particularly on smaller suburban infill sites (< 1 ha in area) we will ensure that the residential amenity of adjacent residential properties in terms of privacy and the availability of daylight and sunlight is not adversely affected.

We will support lower density type development at these locations. We will require that new development in more established residential areas respect and retain, where possible, existing unique features which add to the residential amenity and character of the area, such features include front walls, gates, piers, railings, and stone/brick/render work.

**DM 47** The design of urban streets in Ireland is governed by DMURS which is mandatory for all urban roads and streets within the 60 km/h urban speed limit zone except for: - Motorways; and - In exceptional circumstances, certain urban roads and streets with the written consent of the relevant Sanctioning Authority. The Council will require that all new development or the intensification of existing entrances onto the public road network is provided for in a safe manner in accordance with the current Transport Infrastructure Ireland publications.

## 5.2. **National Policy**

Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).

The Guidelines set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements. There is a renewed focus in the Guidelines on, inter alia, the interaction between residential density, housing standards, and quality urban design and placemaking to support sustainable and compact growth.

*Table 3.2 - Area and Density Ranges Limerick, Galway and Waterford City and Suburbs*

City - Urban Neighbourhoods

The city urban neighbourhoods category includes: (i) the compact medium density residential neighbourhoods around the city centre that have evolved over time to include a greater range of land uses, (ii) strategic and sustainable development locations; and (iii) lands around existing or planned high capacity public transport nodes or interchanges (defined in Table 3.8) – all in the city and suburbs area.

These are highly accessible urban locations with good access to employment, education and institutional uses and public transport. It is a policy and objective of these Guidelines that residential densities in the range 50 dph to 200 dph (net) shall generally be applied in urban neighbourhoods of Limerick, Galway and Waterford

### **5.3. Natural Heritage Designations**

The site is 0.24 km north of the Lower River Suir Special Area of Conservation (Code 002137)

### **5.4. EIA Screening**

After carrying out a preliminary examination I consider that there is no real likelihood of significant effects on the environment based on the characteristics and location of the proposed development and types and characteristics of potential impacts.

Therefore, no EIAR is required.

See Form 1 and 2 in Appendix 1.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

One appeal has been submitted by Marston Planning Consultancy on behalf of the following appellants: Dominick O'Brien, Bridget Doyle, Deirdre Kavanagh, Kathryn Carey, Elizabeth O'Brien, Eileen Mapstone, Marie Ronan, Kathleen & Elaine Searson, Patrick Searson, Kilian O'Brien and Liam Connolly.

The main points of appeal can be summarised as follows:

- The proposed development must be considered as a residential scheme and is therefore only open for consideration under the 'General Business' zoning.
- The insertion of a small café/wine bar does not achieve the appropriate and reasonable balance in terms of addressing the 'General Business' zoning of the site.

- The applicant has failed to provide the robust justification for the lack of commercial uses as part of the application.
- The design, form, layout and scale of the apartment block will have a negative impact on the residential and visual amenity and privacy of the appellants properties.
- A number of these properties have a vehicular right of way from the public road to the rear part of their gardens across the application site. The proposed development fails to uphold this amenity of their properties.
- The proposal to only provide pedestrian access to these properties is inaccessible and will result in a negative impact upon their residential amenity.
- No evidence has been provided that the existing right of way is pedestrian only.
- The physical evidence is that the right of way is both pedestrian and vehicular.
- The proposed access will negatively impact upon traffic safety in the area. and the development has the potential to result in overspill car parking on the adjoining streets.

## 6.2. Applicant Response

The main points of the applicant's response to the third-party appeal can be summarised as follows:

- Trade at the existing public house has declined over the last 15 years where it is not justifiable from an economic perspective to operate the business.
- The existing development was constructed to replace a terrace of dwelling houses at a time when Fountain Street was re-aligned.
- The existing structure provides little architectural contribution to the street space or any sense of community setting.
- The proposed building design has been developed as a more cohesive streetscape which presents a domestic terrace scale presented in a contemporary style.



- The proposed development makes provision for the retention of existing access routes across the application site to serve adjacent properties.
- The new access routes will be registered as easements in favour of the adjacent properties.
- Waterford City and County has issued their consent for a portion of the lands in their ownership.
- The site is in the midst of a residential area and is convenient to existing local convenience stores, pharmacy, fast food, hairdressing, medical centre, library and schools.
- The Ferrybank retail centre, which is 400m from the application site, remains vacant 10 years after its construction.
- In addition, a major regional retail commercial and residential development has commenced construction at the North Quays on the opposite side of the road 200m away.
- The site is well served with commercial and retail outlets.
- The appellants claim that the existing rights of way may be extinguished during the construction process, however the applicant has repeatedly confirmed that all existing easements will be formalised and registered.
- The site is very convenient to the new pedestrian bridge that will link Ferrybank with the city centre.
- The site entrance and the internal site road layout and access paths have been designed in consultation with the Council's Road Engineer.
- The perception of the quality of any design is subjective and personal, however the proposed development has been designed by a qualified experienced professional architectural technologist and architect.
- The proposed development has been designed in compliance with the Design Standards for New Apartments Guidelines for Planning Authorities. 2018.
- The appellants seek to prevent the construction of much needed residential development at a practically vacant and unattractive site within a residential

area of the city, convenient to local shopping/services and the city centre itself.

- The proposed development seeks to deliver a development of appropriate use and scale that makes a positive contribution to a broken streetscape whilst recognising and protecting existing access to adjacent properties, where such access currently exists.

### **6.3. Planning Authority Response**

The main points of the Planning Authority response can be summarised as follows;

- The substantive issues raised in the third-party appeal were assessed in detail as part of the assessment of the third-party submissions made during the assessment of the application.
- The planner's report addresses the issues in detail within the report.
- The input of various other sections within Waterford City & County Council also formed part of the assessment of this application.
- Permission was granted following a detailed and robust assessment.
- The Planning Authority remains favourably disposed to the proposed development and strongly urges An Bord Pleanála to uphold its decision to grant permission for this development.

### **6.4. Observations**

- None

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Zoning

- Residential Amenity
- Residential Amenity of the Proposed Occupants
- Access/Right of Way.
- Parking and Traffic
- Design

## 7.2. Zoning.

- 7.2.1. In the Waterford City and County Development Plan 2022-2028 the site is zoned General Business with a zoning objective *‘to provide for and improve General Business uses: this includes suburban district and local neighbourhood centres.’* Residential Schemes are open for consideration in this zoning.
- 7.2.2. The Development Plan states that *‘Uses shown as ‘Open for Consideration’ are uses which may be permitted where the Planning Authority is satisfied that the proposed development would be compatible with the overall policies and objectives for the zone, would not have undesirable effects, and would otherwise be consistent with the proper planning and sustainable development of the area.’*
- 7.2.3. The appellants contend that the applicant has failed to provide a robust justification for the lack of commercial uses proposed as the development is almost exclusively residential and is therefore contrary to the zoning objective of the area.
- 7.2.4. Section 3.3 of the Development Plan identifies Ferrybank as a City Neighbourhood. The development plan states that *‘there is a need to ensure that the various qualities of the developed neighbourhood areas are protected and improved and that the neighbourhood/district commercial centres serving these areas are reinforced and strengthened as necessary.’*
- 7.2.5. As part of the Further Information request, the applicant was invited to consider alternative non-residential uses on the ground floor as the Planning Authority had concerns regarding the proposal to use the entirety of the General Business zoned lands for residential use only.
- 7.2.6. A revised scheme was submitted as further information with a café/wine bar at ground floor level of unit no.17. This replaces a one-bedroom apartment and has a floor area of 52.5 m<sup>2</sup>.

- 7.2.7. In the response to the appeal the applicant states that trade at the existing public house has declined over the past 15 years and is now not viable. The applicant also states that the immediate vicinity of the proposed development is well provided with a good mix of commercial and retail outlets and the vacant Ferrybank District Centre. This centre has not been occupied since its construction 10 years ago in 2008.
- 7.2.8. From my site inspection I observed that in this area, zoned General Business, there are a number of commercial premises including a supermarket, off licence, betting office, corner shop, butcher, hair salon, barber, estate agents and dental practice. The site is in close proximity of the North Quays Strategic Development Zone. The masterplan for the site includes for a transportation hub and a retail and food and beverage street within 100m of the appeal site. The Ferrybank District Centre is less than 400m of the appeal site.
- 7.2.9. I note that a social housing scheme containing fourteen dwellings has recently been completed at a site at No.63 Fountain Street on lands zoned General Business.
- 7.2.10. Given the current quantity of commercial services and facilities in the area and the potential of further facilities in close proximity to the General Business zoned area, I consider that the demolition of the existing public house and shop and the provision of a residential development including a café/wine bar would be compatible with the overall policies and objectives for the zone, would not have undesirable effects and would utilise an underdeveloped site. I also consider that, in principle, the proposed development would not be contrary to the neighbourhood strategy for the area as stated in Section 3.3 of the Development Plan.

### **7.3. Residential Amenity**

- 7.3.1. The appellant considers that the proposed development will result in a high level of overlooking where currently none exists and will diminish residential amenity and privacy.
- 7.3.2. There is a distance of 17m from the northwest facing windows of proposed apartments No.18 and 19 to opposing side window on St. Jude's., 1 Ross Road.
- 7.3.3. The rear windows on the first and second floor of the proposed development are between 17 and 23m from the rear garden boundary to the properties to the north on

Marymount. The nearest opposing window of the properties on Marymount will be over 40m from the proposed development.

- 7.3.4. Specific Planning Policy 1 contained in Sustainable and Compact Settlements: Guidelines for Planning Authorities 2024, states that *'When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained.'*
- 7.3.5. The separation distances between the existing windows and proposed opposing windows far exceeds this minimum requirement. Therefore, I do not consider that the proposed development will create overlooking of the appellants' dwellings. Given the distance between the proposed windows to the rear amenity areas of the appellant's dwelling I also do not consider that there will be significant overlooking of the existing rear gardens.

#### **7.4. Residential Amenity of the Proposed Occupants**

- 7.4.1. The appellants considers that the residential amenity for the future occupants will be poor due to lack of light in the ground floor bedrooms. Due to the sloping nature of the site, the bedrooms of the 8no. ground floor one-bed units will face a terrace and concrete retaining wall. The amount of sunlight reaching an apartment significantly affects the amenity of the occupants.
- 7.4.2. The apartment guidelines states that dual-aspect apartments, as well as maximising the availability of sunlight, also provide for cross ventilation and should be provided where possible.
- 7.4.3. The 8no. ground floor apartments are dual aspect with the living rooms having a southerly aspect and therefore will receive direct sunlight for an extended period of time. I note that the floor-to-ceiling height of the ground floor unit is 2.85m which is in excess of the Apartment Guidelines Specific Planning Policy Requirement 5 which requires a ground level apartment floor to ceiling heights to be a minimum of 2.7m.
- 7.4.4. Given the floor to ceiling heights, and the southerly aspect of the living rooms of the proposed dual aspect apartments and the urban nature of the site I consider that the ground floor apartments will provide an adequate level of sunlight/daylight for the proposed occupants.

## **7.5. Access/Right of Way.**

- 7.5.1. The appellants state that a number of the properties have a vehicular right of way from the public road to the rear part of their gardens across the application site from the southwest corner of the site and that the proposed development completely fails to uphold this amenity of their properties.
- 7.5.2. The revised site plan submitted as part of further information, (Drawing No. FB 214) shows that access has been provided to the pedestrian gates to the gardens of the properties of Marymount.
- 7.5.3. The drawing shows that the four garage doors will still be accessible. An annotation on this drawing also states that all existing garage doors and pedestrian doors to the adjacent properties to the west of the site will be provided with direct access to the site roads. The proposed access to these garages is now from the proposed main entrance to the development.
- 7.5.4. A letter submitted with the application from M.M. Halley & Sons Solicitors, states that the application site is subject to a right of way in favour of the owners of house to the rear of the appeal site to pass and re-pass over the appeal site and from the public road. The letters states that the right of way does not state vehicular access.
- 7.5.5. In their response to the appeal the applicant states that all existing easements allowing access to adjacent properties will be formalised and registered with the PRAI (Tailte Eireann) in the form of an easement on the lands title of the application.
- 7.5.6. I am satisfied that access to the pedestrian access points and the existing garage doors will not be physically impeded by the proposed development.
- 7.5.7. I consider that any further issues relating to easements are a civil matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act

## **7.6. Parking and Traffic**

- 7.6.1. The appellants have concerns that the proposed development will result in overspill of car parking on the adjoining streets. The appellants states that the planning

authority has incorrectly assessed the parking requirement for the proposed development as they considered the parking requirement to be zero when the site is located 1.4km from the city centre and the bus services are intermittent, occurring twice an hour.

- 7.6.2. Table 7.1 of the Development Plan states that for residential development that are located in Waterford City Centre/Urban Town Centres/ Neighbourhood Centres 0 spaces required and in all other areas in the City - (unless otherwise not deemed to be required on a site by site basis): 1 space per unit is required.
- 7.6.3. As stated, above Section 3.3 of the Development Plan identifies the Ferrybank as a City Neighbourhood and therefore there is no development plan requirement for parking spaces for the residential units. To comply with the development plan standards the café would require 2 spaces.
- 7.6.4. The proposed development as granted is for 18 apartments and 1 café/wine bar. Twenty-two car parking spaces are proposed. While I recognised that the bus services along Fountain Street is limited to 2 buses per hour, given that the appeal site is located in an accessible location in a designated neighbourhood centre I consider that the provision for parking for the proposed development to be adequate and will not be seriously injurious to the amenity of the area.
- 7.6.5. Drawing number FB 216 submitted to the planning authority 26<sup>th</sup> September 2024 shows the southern site lines for the proposed entrance. A 50m visibility line from 2.4m from the edge of the roadway at the entrance is shown. The visibility splay is the on the edge of the front building line of proposed development.
- 7.6.6. After the submission of clarification of further information in his report the Senior Executive Engineer states that he is not satisfied that the sightlines can be maintained to the front of the building given that it is a private space. The Road Section recommended that the building be set back 2.5m to achieve a sightline to the rear edge of the footpath. The note from the Senior Executive Planner on the planner's report signed the 6<sup>th</sup> December 2023 states that it was agreed that a 1 meter set back and a condition prohibiting the placement of any obstruction within the sightline would overcome the issue. The 2.5m set back was not required to achieve the sightline but to prevent the placing of obstructions in the line of sight.

- 7.6.7. The appellant considers that the 1-meter set back may not adequately address the planning authorities concerns relating to the sightlines. As part of clarification of further information, the applicant submitted a revised 3D drawing (Dwg. No. FB 218) showing the removal of the low dwarf walls in front of the properties. It is proposed that the area from the front elevation to the rear of the public footpath will be paved with a cobble lock surface.
- 7.6.8. I am satisfied that the 50m visibility line to the left of the entrance south along Fountain Street will comply with the requirements of the Design Manual for Urban Roads (DMURs) for this road which has a design speed of 50km/h and on a bus route. I consider that if the Board is minded to grant permission I recommend that the condition be attached requiring the set back of 1m and the visibility splay be maintained free from all obstructions, including temporary fixtures and movable objects

## **7.7. Design**

- 7.7.1. The appellants states that the overall approach would be contrary to the Section 4.3.4 of the Quality Housing for Sustainable Communities which states that *'Infill developments and urban redevelopment projects should respect the character of the existing neighbourhood.'*
- 7.7.2. The appellants claim that the form and nature of the development creates a completely artificial character that is at odds with the established character of the area.
- 7.7.3. The proposed development is located at a major junction on a highly prominent site. This area is in a period of transition with major infrastructure works taking place and with a new higher density urban character emerging with the development of the North Quays Planning Scheme. The changing character of the area can also be seen in the recently constructed three storey residential development on Fountain Street c.100m west of the appeal site.
- 7.7.4. I consider that the three-storey residential building creates a new urban edge to Fountain Street and is in keeping with and will positively add to the new emerging character of the area.



## 8.0 AA Screening

- 8.1.1. I have considered the apartment development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.1.2. The subject site is located in the urban area of Ferrybank, Waterford and is 0.24 km north of the Lower River Suir Special Area of Conservation (Code 002137)
- 8.1.3. The proposed development comprises of the demolition of the existing pub/restaurant building on site and the construction of 18 apartments and a cafe.
- 8.1.4. No nature conservation concerns were raised in the planning appeal.
- 8.1.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows [insert as relevant:
- Nature of works e.g. small scale and nature of the development.
  - Location-distance from nearest European site and lack of connections.
  - Taking into account screening report/determination by LPA.
- 8.1.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.1.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## 9.0 Recommendation

Having regard to the above, it is recommended that permission is granted based on the following reasons and considerations and subject to the attached conditions.

## 10.0 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.

## **11.0 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> September 2023 & 16<sup>th</sup> 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 setback an additional 1m from the rear of the public footpath.  
(b) The area within the sight line triangle as shown on drawing No.FB 218 submitted on the 16<sup>th</sup> November 2023 shall be maintained free from all obstructions, including temporary fixtures and movable objects.  
(c) Prior to the 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 interest of public safety and orderly development.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings 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) A plan to scale of not less than 1:200 showing –
  - (b) The species, variety, number, size and locations of all proposed trees and shrubs.
  - (c) Hard landscaping works, specifying surfacing materials, furniture [play equipment] and finished levels.
  - (d) 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 interest 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. 5. The 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.

6. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the 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 interests 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 interest 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 interest 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. 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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Peter Nelson

Planning Inspector

28 February 2025

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	318835-24		
<b>Proposed Development Summary</b>	Demolition of existing pub/restaurant and construction of 3 storey building containing 19 apartments.		
<b>Development Address</b>	Fountain Street, Ferrybank, Waterford		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)	<b>Yes</b> <b>X</b>	Tick if relevant and proceed to Q2.	
		Tick if relevant. No further action required	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	<b>X</b>	Class 10(b)(i) 'Construction of more than 500 dwellings units' Class 10(b)(iv) 'urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.	Proceed to Q3.
<b>No</b>			Tick if relevant. No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required



No	X		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
Yes	X	Class 10(b)(i) 'Construction of more than 500 dwellings units' The proposal is for 19 dwellings. Class 10(b)(iv) 'urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. The site size is 0.2143 hectares in a built-up area other than a business district.	Preliminary examination required (Form 2)

<b>5. Has Schedule 7A information been submitted?</b>		
No	X	<b>Pre-screening determination conclusion remains as above (Q1 to Q4)</b>
Yes		<b>Screening Determination required</b>

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	<b>ABP- 318835-24</b>
<b>Proposed Development Summary</b>	Demolition of existing pub/restaurant and construction of 3 storey building containing 19 apartments.
<b>Development Address</b>	Fountain Street, Ferrybank, Waterford
<p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>While the proposed development contains demolition works this is not considered to be significant. The development has a modest footprint, comes forward as a standalone project, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>

<p><b>Location of development</b></p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The development is situated in a built-up urban area on a commercial site in a mixed commercial/ residential area.</p> <p>The development is removed from sensitive natural habitats, and designated sites and landscapes of identified significance in the County Development Plan.</p> <p>The development site is not or adjacent to a site of historical, cultural or archaeological significance.</p>
<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>

Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	NO
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.		
There is a real likelihood of significant effects on the environment.		

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_

**Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)