



### Development

PROTECTED STRUCTURE:

Construction of 2 glazed structures to enclose the existing outdoor dining areas located to the front and side facades of the existing restaurant building.

### Location

Azzurro Restaurant , Dunmore East , Co. Waterford

### Planning Authority

Waterford City and County Council

### Planning Authority Reg. Ref.

2560791

### Applicant(s)

Adriano Cavaliere

### Type of Application

Permission

### Planning Authority Decision

Grant Permission + Conditions

### Type of Appeal

Third Party Normal Planning Appeal

### Appellant(s)

Harry O'Rahilly

### Observer(s)

Nora Lynch  
Caroline Pfeiffer  
Tamara Jaradat  
Austin Roche  
Vanessa Quinn  
Damien Roche

Thomas Quinn

Mark Quinn

**Date of Site Inspection**

7<sup>th</sup> April 2026

**Inspector**

Suzanne Kehely

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## 1.0 Site Location and Description

- 1.1. This coastal Dunmore East site of 0.033 hectares relates to a prominent terrace of mid-sized houses on a corner site along the regional route through the town with frontage onto Dock Road (R684) to the east and the L4203 (referred to as Hanley's Hill in application heritage report) to the south. It is at a busy junction where the 'High Road' (R684) in the direction of the southern village converges with the lower coastal 'Dock Road' from Dunmore Strand to the north and it is also at a point of access to Lady's Cove to the east and a small cluster of dwellings. Dunmore East Woods is to the north.
- 1.2. The site is part of a prominent grouping of buildings relating to the original RIC Barracks from c. 1835 and this is in a historical core of Dunmore East which is adjacent to an old former School House to the west and other key buildings such as the St Andrews Church and the Haven Hotel and their respective curtilages, grounds and settings all located within a large Architectural Conservation Area.
- 1.3. The site has an irregular shape and comprises the roughly L plan building footprint (the inner conner of which has been extended to the rear) and curtilages to the front of both the southern and eastern facades. It is adjoined to the west by a town house, 'Ocean View' which has a low walled curtilage to the front and this in turn is adjoined to its west by a townhouse 'Church Villa' with a low railed curtilage. These adjoining premises appear to be used as Bed and Breakfast accommodation. Further west on the other side of the laneway access, there is a large residence. The site is adjoined to the north by a Town House, 'Baymount' and this is at right angles with another house to its north and which faces south with its gable end facing the road. These adjoining residences to the north share a semiprivate amenity area that is partly gravelled and partly screened by hedging and this adjoins the northern side of the eastern curtilage of the subject premises – the subject of the application.
- 1.4. The property is occupied by a restaurant at ground and first floor levels and has a covered seating area to the south façade. Along the eastern façade the curtilage is occupied by an enclosed area which is screened by timber fencing along its northern boundary with the curtilage of the adjoining residences. Boundary treatment

comprises transparent panelling along the road frontage and up to the door. The external area is only accessible from within the original premises.

- 1.5. A lane way off the local road provides shared access to the terrace.
- 1.6. I inspected all external areas along both the site frontage onto the respective public roads and the private lane way and what appears to be communal yard area serving the rear of the site and adjacent properties.
- 1.7. The laneway/yard area to the rear was occupied by an array equipment and products/ waste/recyclable such as numerous bins, crates of empty bottles, stacks of tubs of cooking oil, stacked chairs, stacked timber planks (along the laneway) covered in tarp, a few kegs along the laneway entrance. There was a storing odour of rotting food. I inspected on the Tuesday afternoon after the Easter Bank Holiday weekend.

## 2.0 Proposed Development

- 2.1. Permission is sought for alteration to facades, curtilages and extension of facilities at Azzurro Restaurant a Protected Structure with an existing stated gross floor space of 296sq.m. and stated gross floor area of proposed works extending to over 94.48sq.m. The elements comprise:

- The construction of 2no.glazed structures to enclose the existing outdoor dining areas located to the front and side facades of the existing corner restaurant building with
- alterations to the existing ground floor windows on both front (southern) and side (eastern) facades with a new entrance to the existing restaurant on the eastern façade and
- installation of solar panels to the roof of the building and all associated site works,
- Site is serviced – public water supply and public sewer. Surface water Disposal s stated as not applicable.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. By order dated 8<sup>th</sup> January 2026, the Planning authority issued notification of its decision grant permission subject to 10 conditions.

#### 3.1.2. Conditions

- Condition 1 - standard
- Condition 2 - revises plans – ‘alterations to the southern and eastern elevations and roof of the building, specifically the additional doors, alterations to windows and the solar panels, are all expressly omitted by virtue of this permission. The external terrace area permitted to the southern side of the building shall be accessed by way of a door to be located to the eastern side of the terrace area. Prior to the commencement of development, the developer shall submit revised plans to indicate the alterations to the southern and eastern elevations and roof of the building, specifically the additional doors, alterations to windows and the solar panels, all being omitted, with the external terrace area permitted to the southern side of the building being accessed by way of a door to be located to the eastern side of the terrace area, for the written agreement of the Planning Authority.’
- Condition 3 - The eastern roadside boundary wall, running along the eastern side of the site at the public road R684 Dunmore Road, shall be setback 500mm to allow for pedestrian connectivity in the area....
- Condition 4 – requires finishes and materials to be agreed.
- Condition 5 – de-exempts development.
- Condition 6 – covers a range of environmental matters and requires details for agreement relating to:
  - A construction management plan,
  - An operational waste management plan,
  - A maintenance contract for kitchen extractor,
  - Proposals for noise mitigation and ensuring stated noise limits are achieved.
- Conditions 7 8, 9 - Construction phase generally.

- Condition 10 - requires financial contribution of €1,890.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The comments of the Conservation Officer are noted, as are the concerns raised in the third-party submissions and referral responses. It is further noted that outdoor dining has been a feature at this commercial premises for many years and that the terrace areas enclosed by glass walls and roofs are a more appropriate type of structure than terrace areas enclosed by solid walls and are acceptable.
- The additional interventions proposed to the southern and eastern elevations such as additional doors, enlarging of window and proposed solar panels to the roof at both the southern and eastern sides of the building are considered an unacceptable intervention to the protected structure and would negatively impact upon the ACA and could be removed by way of planning condition. As this approach will result in the fabric of the building remaining as currently exists, an AHIA by Grade 2 Conservation Architect or higher is not required. details of all materials to be used can be agreed with the Planning Authority.
- In terms of use, the Planning Authority notes that a restaurant has been operating at this premises for many decades and outdoor dining has long been a feature of this restaurant. The issue regarding commercial viability and provision of vital tourism services within Dunmore East are also noted.
- The comments of the Senior Executive Engineer, Environment Section, are noted in regard to the third-party concerns about noise, odour and waste and it is considered that the conditions as set out in the environment report will address such concerns.

### 3.2.2. Other Technical Reports

- Conservation officer – a detailed report sets out policies and a critique of inadequate details. Overall, the proposal would have a negative visual impact. a

more detailed AHAI by a Grade 2 conservation architect is recommended to inform any revised design cognisant of development plan policies. solar panels should be omitted.

- Roads Engineer: a new footpath is to be installed across from site and a 500mm setback is requested in addition to structural assessment and details of boundary wall.
- Environment Section: No objection such to detailed conditions for agreement in relation to Construction waste management kitchen extractor maintenance and odour abatement measures and noise limits and mitigation measures.

### 3.3. Prescribed Bodies

An Taisce: Proposal is considered to have an adverse impact on the character of this group of Protected Structures and the ACA.

### 3.4. Third Party Observations

- 3.4.1. A number of objections were lodged to the planning authority relating to planning history, impact of architectural character, and amenity uses arising from intensification of use and associated use of yard and generation of noise and anti-social behaviour.

## 4.0 Planning History

### 4.1. Overview

- 4.1.1. The planning authority report sets out history of applications from 1997 and refers to 8 cases relating to the subject site, only one of which is for permission (on appeal) and relates to internal alterations and first floor change of use. The other cases were either refused or deemed incomplete applications. The submissions on file also set out a more detailed history of the use of the premises being a butchers, a bakery and permission for cafe with ancillary residential use and the more recent use as a restaurant at first floor level.

### 4.2. Permission on site

- 4.2.1. PA ref 05/1438/An Bord Pleanála Ref. PL24.218223 refers to a permission overturning a refusal in 2007 for Retention of internal alterations to ground and first

floor levels (toilets and stairs) together with permission for change of use of first floor level from staff living/kitchen/toilet and wine store areas to public dining area/toilets and minor alterations to ground floor to include kitchen upgrade and provision of disabled toilet facility at The Ship Restaurant and Bar which relates to the same site.

Condition 3 stated:

Amplified music or other specific entertainment noise from the premises shall not exceed the background noise level by more than 5 dB(A) during the period 0800 hours to 2200 hours and by more than 3 dB(A) at any other time, when measured at any noise sensitive location in the vicinity. The background noise level shall be taken as that level which is exceeded for 95 per cent of the observation time. The specific noise shall be measured as L AeqT. Within one month of the date of this order, detailed plans and particulars, indicating soundproofing or other measures to the boundary between the first floor dining area and the immediately adjoining residential and guesthouse properties, to ensure compliance with this condition, shall be submitted to the planning authority for agreement. An acoustical analysis shall be included with this submission to the planning authority. Reason: In the interest of residential amenity.

#### 4.3. Refusals on appeal

4.3.1. **An Bord Pleanála Ref. PL24.214473** refers to a refusal of permission in 2006 for Retention of timber decking and timber post and rope fencing at The Ship Restaurant and Bar which relates to the same site. The stated reason being:

The development to be retained is located to the front of the existing premises which forms part of an attractive terrace in a prominent location within Dunmore East adjacent to a protected structure, and by reason of its design, material and layout, is out of character with the pattern of development in the area and seriously injures the visual and residential amenities of the area and of adjoining property. The development to be retained would, therefore, be contrary to the proper planning and sustainable development of the area.

4.3.2. **An Bord Pleanála Ref. PL24.106246** refers to a refusal of permission for a single storey extension to front of Ship Bar for the stated reason that

The proposed development which is located to the front of the eastern building line of the existing premises would infringe an existing building line of an attractive

terrace in a prominent location within the town of Dunmore East and would therefore adversely interfere with both the visual and residential amenity of the area...

## 5.0 Policy Context

### 5.1. Waterford City and County Development Plan 2022 - 2028

#### 5.1.1. Dunmore East:

Dunmore East is classed as Urban Town between Large Urban Town and Rural Village.

The site is within the centre of Dunmore East and is 'R2.6 - Existing Residential' (GZT) (Volume 4 Maps.) where it is an objective 'to protect, provide and improve residential areas and their amenities.' (Table 10, Volume 2)

In Volume 2 specific objectives DM-1-16 are listed for the town centre village core in terms of improving pedestrian facilities and retaining architectural design features in the village.

The site is situated within a 'Most Sensitive' Scenic Classification in the Landscape and Seascape as described in Appendix 8 of Volume 3.

The site is in the Zone of Notification for R133600 (WCCC dataset) included in the Sites and Monuments Record (SMR) including Record of Monuments and Places (RMP).

#### 5.1.2. Protected Structures

The site is included in the Record of Protected Structures in Appendix 9 of Volume 3

- WA750858 The Ship, Dunmore, Formerly Barracks (NIAH no. 22817024):  
Described as 'Terraced three-bay two-storey Royal Irish Constabulary barracks, c.1835, on a corner site. A well-appointed, modest-scale building that is of particular importance for its original intended role as part of a Royal Irish Constabulary barracks complex, representing one of the earliest purpose-built civic buildings in the locality....'

The adjacent properties are also included

- WA750310 Baymount, Dunmore East, Townhouse Formerly Barracks: (NIAH no. 22817023) Terraced four-bay two-storey Royal Irish Constabulary barracks with dormer attic, c.1835, retaining early fenestration with single-bay two-storey return to south-west. Renovated, pre-1999, with dormer attic added. Now in residential use. Pitched roof. A well-appointed, modest-scale building that is of particular importance for its original intended role as part of a Royal Irish Constabulary barracks complex, representing one of the earliest purpose-built civic buildings in the locality,
- WA750859 Ocean View Dunmore, Formerly Barracks 22817025 Terraced three-bay two-storey Royal Irish Constabulary barracks with dormer attic, c.1835, retaining some original fenestration. A well-appointed, modest-scale building that is of particular importance for its original intended role as part of a Royal Irish Constabulary barracks complex, representing one of the earliest purpose-built civic buildings in the locality,
- WA750860 Church Villa Dunmore Formerly Barracks 22817026 Town House, currently being renovated. End-of-terrace three-bay two-storey former Royal Irish Constabulary barracks with dormer attic, c.1835, A well-appointed, modest-scale building that is of particular importance for its original intended role as part of a Royal Irish Constabulary barracks complex, representing one of the earliest purpose-built civic buildings in the locality.
- WA750102 St. Andrew's Church, Dunmore East,
- WA750103 The Haven, Hotel ( 5 bay 2 storey over basement 1861-4) Dunmore East,
- WA750116 Stables (occupied as dwelling, Dock Road

### 5.1.3. Objectives for Dunmore East and Architectural Conservation Area

Specific Development objectives are included in Volume 3 – Appendix 2 such as:

DMD O1: to facilitate and encourage the development of commercial/retail development within the village centre and at the neighbourhood centre of a scale and use appropriate to that location.

DO2: to protect and promote the amenity and pedestrian access to the beach and enhance/provide public walkways, parks and routes.

DO4: to preserve the coastal views and vistas in the village.

DO5 to **retain historical architectural design features** in the village such as traditional thatch cottages and fenestration, etc. Any new build development shall respect the special character and built heritage of Dunmore East.

DMD09 to **protect the vistas and settings of protected structures and the streetscape** by the retention of vernacular houses such as those on Wellington Terrace, Glenville Terrace, Curraghmore Terrace, Emerald Terrace and Queen's Terrace. Other features worthy of protection include rubblestone walls, free-standing water pumps and post boxes as identified on the NIAH survey.

#### 5.1.4. Built Heritage:

Chapter 11 sets out policy and objectives for Built Heritage. There are 20 Architectural Conservation Area and one of these includes centre of Dunmore. Volume 4 (Maps) of the CDP delineates the ACA. Appendix 10 of Volume 3 – describes the Dunmore East ACA. It is described as:

The historic core of Dunmore East is linear along the hill overlooking the bay and mostly comprises of residential buildings which utilise the views over sea.

In respect of the site and its context it states:

‘The terrace of houses across from St Andrews c.1835 are modest-scale two storey buildings that are of particular importance for its original intended role as part of a Royal Irish Constabulary barracks complex, representing one of the earliest purpose-built civic buildings in the locality, and which attests to the measures put in place to curtail illegal smuggling activities in Dunmore East in the early nineteenth century.

It sets out development management standards based on the character assessment for features such as walls, roofs, windows, boundaries and services.

- The roofscape of Dunmore East is part of its special character in particular the thatch houses. Historic roofs were mainly pitched slate roofs, usually Bangor Blue slate. On the terraced houses the stepped arrangement should be retained.

Original elements and profiles should be retained and repaired and reused rather than replaced.

- The traditional door type is timber panelled door and the window type is timber single sliding sash or multipaned windows. Historic sliding sash timber windows are to be retained and repaired according to best practice as per the advice series of guidance published by the Department of Housing, Local Government and Heritage. With proposed replacement of uPVC windows, the Planning Authority would encourage owners to consider a more appropriate window material and glazing pattern which would be consistent with the character of the ACA.
- Where opportunities arise, the Council will to seek the placing underground of all electricity, telephone and television cables within this Architectural Conservation Area.

The following objectives are relevant.

- BH02 It is the policy of the Council: To promote the sustainable reuse of protected structures for any such purpose compatible with the character of the structure.
- BH05 It the policy of the Council to
  - Achieve the preservation of the special character of places, areas, groups of structures setting out Architectural Conservation Areas (ACA).
  - Protect the special heritage values, unique characteristics and distinctive features, such as shopfronts within the ACA from inappropriate development which would detract from the special character of the ACA.
  - Prohibit the demolition of historic structures that positively contributes to the distinctive character of the ACA.
  - Encourage the undergrounding of overhead services and the removal of redundant wiring/ cables within an ACA and to assess all further cable installations against its likely impact on the character of the ACA as the cumulative impact of wiring can have a negative impact on the character of ACAs.

- Provide guidelines on appropriate development to retain its distinctive character; and protect elements of the streetscape such as rubble stone boundary walls, planting schemes and street furniture such as paving, post boxes, historic bollards, basement grills, street signage/plaques, etc. which make a positive contribution to the built heritage.
- Retain or sensitively reintegrate any surviving items of historic street furniture and finishes such as granite kerbing and paving that contribute to the character of an ACA
- BH06 Architectural Heritage Impact Assessment may be required if proposed development considered by the planning authority to have a significant impact.
- BH07 Promoting our Architectural Heritage: It is the policy of the Council to identify and implement measures for promoting the character of the historic cores of the city, towns and villages their unique identity and their architectural, archaeological, historical and cultural, social interest and diversity

As part of retaining character and uniqueness the following objective applies.

- BH08 Reusing our Heritage Buildings. Encourage sympathetic development while not adversely detracting from the building or its setting... Any proposal shall respect features of special architectural and historic character by appropriate design, materials, scale and setting.

### **ACAs**

Section 11.7 states: 'The setting of an area, together with views in and out of it, can contribute greatly to its overall character of an historic building or groups of buildings within an ACA. A schedule of Protected Views and Scenic Routes are set out in Appendix 8'.

- BH10 **Building Adaptation** It is the policy of the Council to facilitate appropriate, high-quality design solutions for adaptations of Protected Structures and historic buildings in an ACA that carefully consider the design, height, scale, massing, and finishes of adjacent buildings
- BH11 Maintaining and Enhancing Special character. It is the policy of the Council to protect structures and curtilages included in the RPS or historic structures

within ACA, from any works which would visually or physically detract from the special character of the main structure, any structures within the curtilage, or the streetscape or landscape setting of the ACA

- **BH12 Settings and Vistas:** It is the policy of the Council to ensure the protection of the settings and vistas of Protected Structures, and historic buildings within and adjacent to ACAs from any works which would result in the loss or damage to their special character
- **BH15 Retaining our Shopfronts** It is the policy of the Council to ensure that all original and traditional shopfronts which contribute positively to the appearance and character of a streetscape are retained and restored and new shopfronts are well designed, through the sympathetic use of scale, proportion and high quality materials
- **BH16 Traditional Materials and Skills** It is the policy of the Council:  
to promote and ensure the conservation and reuse of traditional materials and features. Original building fabric such as rubblestone and brick walls, lime mortar render, natural slate, thatch, chimneys, brick detailing, ironwork and joinery details such as timber sash windows, shopfronts, doorways and bargeboards shall be retained. Where traditional features such as timber sliding sash windows have been removed, their reinstatement shall be encouraged.  
to encourage the retention and development of the traditional skills base in County Waterford and maintain the Conservation Skills register
- **BH23 Built Heritage and Climate Change:** It is the policy of the Council to support and implement the objectives of:
  - The Climate Change Sectoral Adaptation Plan (2019) for built and archaeological heritage,
  - The Waterford Climate Action Plan (2019) in building resilience for our historic sites and buildings from climate change.
  - Department of Environment, Heritage and Local Government's publication on 'Energy Efficiency in Traditional Buildings' (2010).

- The Irish Standard IS EN 16883:2017 ‘Conservation of Cultural Heritage - Guidelines for Improving the Energy Performance of Historic Buildings’ (2017).
- Any future advisory documents in assessing proposed works on Protected Structures.

To ensure that measures to upgrade the energy efficiency of historic buildings acknowledge their inherent characteristics, techniques and materials and do not have a detrimental physical or visual impact on the building or its character

- BH24 Maintaining and Enhancing our Vernacular Buildings
- BH29 Extensions and Alterations

## 5.2. **Relevant National or Regional Policy / Ministerial Guidelines**

### 5.2.1. The Architectural Heritage Protection Guidelines for Planning Authorities, Department of Housing, Local Government and Heritage (2011)

Chapter 7 sets conservation principles. Chapter 13 sets out development management guidelines and notably Section 13.8 provides guidance on assessing development in setting of protected structures and ACAS.

## 5.3. **Built Heritage Designations**

### 5.3.1. The building and neighbouring buildings are included in the in National Inventory of Architectural Heritage - National Built Heritage Service inventory records, Reg No 22817013. It is described as having Regional Rating and the category of special interest is ‘Architectural, Historical and Social’ with a building date of 1830-40. It is described as:

Terraced three-bay two-storey Royal Irish Constabulary barracks, c.1835, on a corner site retaining some early fenestration with five-bay two-storey side elevation to north-east, and single-bay two-storey flat-roofed return to south-west. Renovated, pre-1999, with some openings remodelled to ground floor to accommodate part commercial use. Pitched slate roof on an L-shaped plan (hipped to corner) with clay and rolled lead ridge tiles, rendered chimney stack, and replacement uPVC

rainwater goods, pre-1999, on timber eaves. Flat bitumen felt roof to return with timber eaves. Painted roughcast walls. Square-headed window openings (some remodelled, pre-1999, to ground floor) with stone sills, and 2/2 timber sash windows (replacement fixed-pane timber windows, pre-1999, to remodelled openings with timber panelled doors having timber fascias over). Round-headed door opening with replacement timber panelled door, pre-1999, and spoked fanlight. Road fronted on a corner site with concrete flagged verge to south-east, and gravel verge to north-east.

5.3.2. The appraisal in the NIAH record further states:

A well-appointed, modest-scale building that is of particular importance for its original intended role as part of a Royal Irish Constabulary barracks complex, representing one of the earliest purpose-built civic buildings in the locality, and which attests to the measures put in place to curtail illegal smuggling activities in Dunmore East in the early nineteenth century. Now accommodating an alternative use, most of the original form and massing nevertheless remains intact, together with important salient features and materials, while renovation works to part of the ground floor to accommodate a commercial venture have not detracted considerably from the visual appeal of the composition. The building, together with the remainder in the terrace (including 22817023, 25 – 26/WD-27-17-23, 25 - 26), forms an attractive element of the townscape, prominently positioned at the junction of three roads overlooking the strand area to north, and Dunmore Bay to east.

#### 5.4. **Natural Heritage Designations**

The nearest sites are:

- Hook Head Special Area of Conservation - Site Code 000764.
- River Barrow and River Nore Special Area of Conservation - Site Code 002162
- Tramore Back Strand Special Protection Area - Site Code 004027

## 6.0 EIA Screening

- 6.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Act).

## 7.0 The Appeal

### 7.1. Grounds of Appeal

The grounds of appeal have been submitted by consultants, Farry Town Planning Ltd, for the appellant Harry O’Rahilly and the following points are made:

#### 7.1.1. General background

- The appellant refers to the incremental intensification of use at the subject site and queries the status of the original restaurant use. This is by reference to the detailed planning history wherein the use for a coffee shop is dated back to PA reg 81/540 and such use was described as ‘a coffee shop which would serve salads, snacks and pastries and refreshments but would not be a restaurant with full cooking facilities.’ Extensions were subsequently refused on appeal (PL24.106246) on grounds of architectural impact and lack of parking 214473 on the same site. Permission was also refused for a change of use from guesthouse to restaurant and extension on adjacent site.
- The appellant notes the subsequent permission for retention of alterations within the building relating to the kitchen and dining layout, but this, it is submitted is based on an erroneous assumption.
- The subject structure is in the NIAH and RPS along with neighbouring structures.

#### 7.1.2. Restaurant status

- Notwithstanding the reference to established use in an ABP permission on appeal for retention of works within the structure, the implication of an authorised existing outdoor dining areas is submitted to be incorrect. This is by reference to site and planning history and ultimately a **lack of evidence of any consent for restaurant use.**

- A refusal for an extension to an unauthorised use is supported in the judgement in the case of *Westwood Club Ltd v An Bord Pleanála* wherein the Judge stated ‘it would be illogical to allow works that are clearly connected to the refused bar/disco uses. For example, taken together, a water feature, awning, outdoor chairs and tables would constitute a beer garden, and these would complement an unauthorised use.’ The judgements in the cases of *Cleary Compost v An Bord Pleanála* and *Dunnes Stores v Dublin Coty Council* further support this approach.

It would be inappropriate and unlawful to permit a large extension to a restaurant without the benefit of permission.

#### 7.1.3. **Intensification of use and impact on residential amenity**

- Permission would facilitate authorisation of outdoor eating and drinking facilities for some 70 extra patrons with increased noise and odours emanating. (Photographs are attached of temporary activity.) This would be contrary to the residential zoning – an issue that was not included in the council’s analysis despite being raised by the inspector for lesser development in the planning appeal history. The appeal refers to the written objections already submitted regarding significant nuisance arising from a badly located extraction system and odorous nature of fried and pungent foods.

#### 7.1.4. **Streetscape impact - Inconsistent approach for façade treatment**

- Permission is inconsistent with previous decision regarding similar development on the site.
  - For example, the reason for refusal based on breaking the building line of an attractive terrace and impact on visual and residential amenities in the case of 97/858 still stands and is consistent with other appeal decisions in this regard. The space to the east which could accommodate c. 56 is larger than that previously refused on appeal.
  - The logic based on heritage value as applied in the previous PA refusal remains applicable. This is supported in the view of the Conservation Officer in that the heritage reason for the most recent refusal (PD24/60326) has not been addressed.

- Insufficient regard has been given to the Protected Structure status and its setting.

#### 7.1.5. **Overdevelopment**

- The increase from the stated area of 296 sq.m. by 94.48sq. is excessive for the site and its capacity for servicing and therefore constitutes overdevelopment. This is evident by the lack of carparking, absence of adequate refuse storage facilities, relationship with adjacent properties. The use of the yard for external storage of related items is evidence of the already excessive nature of existing development. There is no space for further extension of dining facilities.
- The ‘bursting of boundaries’ by way of external storage currently adversely impacts on residential amenity

#### 7.1.6. **Procedural Breaches**

- In the context of Article 22 of the PDR, 2006 as amended, the validity of the applicant’s legal entitlement to develop lands as outlined in red is queried.
- The validity of the application is also queried in the context of accuracy of description of proposed works, removal of structures or in addressing unauthorised development

### 7.2. **Applicant Response in the case of a 3<sup>rd</sup> Party Appeal**

None received.

### 7.3. **Planning Authority Response**

In a letter dated 5<sup>th</sup> February the planning authority (PA) states:

- The substantive issues in third party submissions were addressed
- The PA is satisfied that permission to operate a restaurant at the premises has been established with particular reference to PA 05/1438
- The refusal of permission for the previous canopy was based on materials and design - the subject application is materially different and accompanied by an Architectural Heritage Impact Assessment

- Significant interventions with building fabric as proposed are to be removed by condition, such as alterations to doors and windows and omission of solar panels.
- An assessment by a grade 2 Conservation Architect, while contrary to the considerations and recommendation of the conservation officer, is not considered to be required.
- A detailed and robust assessment was carried out and the PA remains favourably disposed.

#### 7.4. Observations

7.4.1. A total of 8 individual observations on the appeal were submitted to the Commission. These were submitted by residents of and visitors to the adjacent properties and support the grounds of appeal with, in some cases, reference to detailed accounts of the nature of the use over the years and the nature of impacts on residential amenities, (for example Baymount.) The points made refer to:

- Concern of legitimising unauthorised use
- Intensification of use which already adversely impacts residential amenities by reason of noise odours and leads to further waste bins, pallets and sundry debris further obstructing yard. (photographs appended to //Thomas Quinns obs.)
- Impact on Baymount amenities as a family home. A bedroom was given from the adjoining house (Baymount) to the former pub owner for a back store and this is now a kitchen which to be intensified consequent of this permission.
- Over-commercialisation of a residential enclave
- Impact on architectural integrity of a protected structure and its period charm.
- Failure to align with preservation of character of ACA
- Conflict with DMD05 (development management policy) regarding retention of historical architectural features. And DM06 regarding site context
- Lack of due regard to conservation officer's input
- Undesirable precedent for eroding historic fabric in area
- Failure to comply with CDP objectives regarding sustainable growth, high quality design, placemaking and respecting local character in protection of built heritage.

- Commercial viability is not justification in context of the judgement in Archer's Garage in Dublin 2 [This case required the rebuilding of an unauthorised demolition of a Protected Structure]
- Pedestrian access and traffic safety: a former pathway to adjacent houses across the front of Azzurro has been closed.

## 8.0 **Assessment**

### 8.1. **Issues**

8.1.1. The substantive issues in this case can be assessed under the following headings:

- Impact on built heritage.
- Impact on residential amenity (by reason of intensification of use and boundary treatment.)
- Public health.
- Other matters relating to wider status of use (and accuracy of description of development), obstruction of rights of way and traffic safety.

### 8.2. **Impact on Built Heritage**

8.2.1. The main element of this proposal is for the provision of two permanent covered and screened seating areas - one to the front of each façade of Protected Structure on a prominent corner location in an Architectural Conservation Area. While I note the applicant refers to seeking a 'replacement' of a covered seating area as part of compliance with a permission, the covered seating area is not an authorised development based on my reading of the planning history and therefore the baseline is open curtilage area of a protected structure. In addition, to facilitate the proposed covered areas to the respective façades, alterations are proposed to the building fabric in terms of reconfiguring the openings and most notably introducing a new opening to the east façade.

8.2.2. The applicant submitted an Architectural Heritage Impact Assessment (AHIA) report. On page 13 it describes the modern interventions, the rationale for such and describes and rates the impact on building fabric, character or setting and concludes that the external changes to the entrance, shopfront, windows, doors, installation of glass covered seating area will have a neutral impact, while stating that the solar

panels on the front roof slopes will have some impact that is reversible. Removal of signage and other upgrading works are positive. The basis for this 'neutral' impact is that the original openings are preserved 'for the most part' as it is replacing a 1970s shopfront. Internal works are also considered neutral. The Conservation disagrees and is cited by the third parties in their opposition to the visual and character impacts.

8.2.3. I note in regard to existing alterations that windows and doors are all replacement with double glazing stated to be consistent with earlier glazing. I also note that on the 'Harney's Hill' southern façade, an early fanlight will remain, and a new accessible entrance door is proposed to be added as part of a replacement shopfront. With respect to the Dock Road eastern elevation, a new entrance opening as part of the replacement shopfront is proposed. The shopfront onto Dock Road is to be replaced by a bifold door to open between the restaurant and new outdoor glassed area. The fanlight will be opened up to investigate original fanlight remains and if it could be incorporated. In terms of the rear elevation, no alterations are proposed. At roof level it is proposed to add solar panels to both the south and east facing roof slopes so as to improve energy efficient. Internally, ceilings are stated to comprise new plaster board ceilings and were part of 1990-2000 works and no changes proposed. Similarly new floors are to be retained, and internal joinery is to be made good.

8.2.4. The AHIA report cites the NIAH description of the structure with respect to its current use and alterations as "Now accommodating an alternative use, most of the original form and massing nevertheless remains intact, together with important salient features and materials, while renovation works to part of the ground floor to accommodate a commercial venture have not detracted considerably from the visual appeal of the composition." Following from this the design rationale is that the essential character is to be retained and the AHIA states "...the new glass covered area is of contemporary design and makes a suitable contrast with the main building. It is reasonably lightweight and transparent in form and massing and should not visually detract from the character of the main structure which will still be visible from the approach to the village, as indicated from the attached drawings and visualisations. Due to its lightweight glazed structure, it should not detract too much from the visual composition the streetscape of the neighbouring buildings with St Andrews Church in the background."

- 8.2.5. It is further stated that the front of the building will be upgraded and new signage installed as part of the works and any redundant wiring and trunking currently visible will be removed / tidied up as part of the works. The upper floor of the building will not be effected by the proposals.
- 8.2.6. All works are rationalised on the basis that they are necessary to ensure the continued use as a restaurant which is a compatible use with the original use of this part of the building, i.e. a grocery and butchers with a bakery to the rear and its role in serving a holiday and leisure destination, The proposed space is needed for Azzurro in order to cater for additional daytime and evening business in the peak tourist months.
- 8.2.7. Accordingly, my understanding of the submitted details is such that no substantive reinstatement of any original features is guaranteed in this proposal while additional interventions are proposed with the original fabric by alteration of openings and by the addition of permanent structures on both facades at ground level and at roof level – the most prominent aspects of the building in its presentation to the streetscape and public realm and which contribute to its special interest by reference to the NIAH description. I note for example from the NIAH record that its streetscape context is described as ‘The building, together with the remainder in the terrace (including 22817023, 25 – 26/WD-27-17-23, 25 - 26), forms an attractive element of the townscape, prominently positioned at the junction of three roads overlooking the strand area to north, and Dunmore Bay to east.’ I further note in Appendix 10 of Volume 3 of the CDP that the terrace is identified in its contribution to the character of the ACA and I accept the concerns of the Conservation Officer in respect of adequacy of architectural details and the overall conclusion that the design as proposed has the potential to have a negative impact and does not enhance the character of the protected structure, the terrace or the streetscape . Accordingly having regard to the conservation principles and development management guidelines for settlements of protected structures as contained in chapters 7 and 13 generally and section 13.8 specifically, of the Architectural Heritage Guidelines for planning authorities, (2011), I consider the nature and extent of alterations to the facades would have an adverse effect on the form and massing of the building which is a key special interest of the protected structure and the adjacent terrace. I would

therefore describe the overall impact on the historic building fabric and character to be negative.

- 8.2.8. While the benefits are stated to be supporting the continued use and making the building energy efficient, there is no substantive benefit in terms of reinstating any original fabric or setting and thereby protecting the intrinsic building character. The enclosed structures to the front would serve to permanently obstruct and alter the views and appreciation of the original façades of this prominent corner building and terrace. I consider permission in this case would be contrary to the multiple Built Heritage policy objectives of the current Waterford City and County Development Plan 2022-2028.
- 8.2.9. I refer for example to the specific objectives for Dunmore East such as DO4 to preserve the coastal views and vistas in the village, DO5 to retain historical architectural design features and DMDO9 to protect the vistas and settings of protected structures and the streetscape. I also refer to the overriding built heritage objective such as BH01 in its overall promotion of protection of architectural heritage, BH05 in seeking to achieve the preservation of the special character of places, areas, groups of structures setting out Architectural Conservation Areas (ACA) and protect the special heritage values, unique characteristics and distinctive features, such as shopfronts within the ACA from inappropriate development which would detract from the special character of the ACA, BH08 in seeing sympathetic development and BH12 in ensuring the protection of the settings and vistas of Protected Structures, and historic buildings within and adjacent to ACAs from any works which would result in the loss or damage to their special character.
- 8.2.10. While the rationale is to upgrade the energy efficiency of the building, policy objective BH23 predicates that such measures do not have a detrimental physical or visual impact on the building or its character. The applicant does not, in my judgement, meet this criterion nor do the details provide a roof plan and explanation as to why the other slopes or rear dormer could not be used albeit with less direct sun.
- 8.2.11. While I note that the planning authority has addressed interventions with the original façade openings and roof by simply omitting such elements by condition, I do not consider this sufficiently addresses the adverse impacts on the curtilage and setting of the protected structure by itself and as part of a composition of terraced buildings

of character and protected status in the Dunmore East Architectural Conservation Area.

8.2.12. In terms of precedence, I note the previous decisions of the Commission (previously An Bord Pleanála) which refused permission for external decking predated the protected structure status. This protected status together with the current development plan built heritage policy for protected structures, vernacular architecture and protection of ACAs and as further refined in objectives for the protection of the character of the Dunmore East ACA combine to support a strong policy basis to refuse permission for an even larger and permanent enclosure. Accordingly, I see no basis to change the decision to generally refuse permission for the external development proposed.

### **8.3. Impact On Residential Amenity**

- 8.3.1. Much of the opposition to the enclosed structures relates to the permanent addition of a large external serving area and associated nuisances. This is by reason of the additional patronage in an uninsulated structure, late-night outdoor patronage, and general intensification of use. There is, for example the issue of associated cooking/frying, odours, servicing of site and servicing in a constrained site.
- 8.3.2. In this regard I note that the site is located in an area removed from the village core and in an area zoned 'existing residential' and also in a terrace that is predominantly residential in character. Accordingly, I consider the permanent addition of some 94 sq.m. in serving area to be substantial relative to the existing internal floor area and particularly incongruous in use in terms of the use during evening times that could be provided year-round. I note the environment section has attempted to address nuisances, such as arising from noise and odour by way of extensive details to be submitted for agreement. In view of the terraced context and glazed nature of the structure I do not consider this can be addressed without requiring a significantly insulated and possibly different structure I do not consider this issue can be reasonable addressed by condition.
- 8.3.3. There is also the issue of a permanent structure and raising the boundary treatment along the southern boundary of the open space to the front of Baymount – its only (semi) private amenity area given the arrangement to the rear and quality of amenity to the rear. The proposed structure and use would have an overbearing impact on

this space and would accordingly detract from the use and enjoyment of the adjacent residence.

- 8.3.4. In a town that is planned for further growth, it is likely that such a use will intensify and permission for the nature and scale of development would I consider give rise to undue disturbance by reason of associated noise and disturbance which would seriously injure the residential amenities of the area and would therefore conflict with zoning objective for the area 'to protect, provide and improve residential areas and their amenities.' While I note the extant use, in view of the scale and location I do not consider the proposed extension of a restaurant serving area meets with the objective DMD O1 which seeks to facilitate and encourage the development of commercial/retail development within Dunmore East village centre and at the neighbourhood centre of a scale and use appropriate to that location. I therefore consider reasonable that permission be refused on the basis of injury to residential amenity and conflict with zoning objective for the area.

#### **8.4. Intensification of use and related storage and public health**

- 8.4.1. The issue of intensification of use is of concern, particularly to residents of the neighbouring houses, due to the generation of additional servicing needs for the increase in restaurant serving area and duration of use. Based on the submissions there are ongoing issues with the use of the yard area for ancillary use in relation to, bins, kegs and other related items. During my site inspection it is evident that the yard is extensively occupied by a large volume of bins including, judging by strong odours, those for food waste. There were also large amounts of cooking oil containers, crates of bottles, some kegs and furniture – although furniture would likely be removed by the proposed enclosures. This yard area is not included in the site as outlined in red and it seems logical that a substantial increase in business turnover (as is the basis for the proposal) would generate additional requirements for ancillary storage. The existing storage arrangements in communal area are not obviously segregated from the adjacent residences/properties. There are no details of how this is currently managed or planned to be managed within the rights of the applicant and in a manner that is conducive to avoiding undue nuisance. Moreover, I would have reservations about intensification of a restaurant use and generation of grease emissions and additional food waste in a what appears to be a communal

residential type area. And also having regard to the juxtaposition of these properties. I consider this to be a public health issue that cannot be satisfactorily addressed by condition for agreement without possibly infringing on third party rights.

**8.5. Other matters: authorised use, obstruction of rights of way and procedural**

- 8.5.1. The objections challenge the legitimacy of the extant restaurant use in the existing premises by detailed reference to the historic use and planning history and what is submitted to be permission for a change of use at first floor level to restaurant use and alterations that is based on what is claimed to be an erroneous understanding of 'established' use in that appeal decision. The case is made that accordingly permission for an extension to an unauthorised use is inappropriate as it legally questionable and this logic is supported by reference to a number of judgments in respect of extensions to unauthorised uses. The planning authority has taken the position, as clarified in its response to the appeal grounds, that restaurant use is authorised within the premises. I consider this to a matter of legal opinion on the extant use - permission for which has not been subject to any judicial proceedings. The Commission may wish to seek further information and/or legal opinion on this matter, however in view of the substantive reasons for refusal I do not consider this to be warranted.
- 8.5.2. One observer refers to an obstruction to a claimed pedestrian right of way. I refer the Commission to the Development Management Guidelines (2007) in this regard and the limitations of planning permission within the context of section 34(13) of the Planning Act regarding such matters. The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. I therefore do not consider refusal of permission on this basis to be reasonable.
- 8.5.3. In respect of description of the development in the application and adequacy of details, while I note some limitations in the details of architectural history and building morphology and related drawings as referred to by the Conservation officer, I do not consider there to be any substantive breach of the requirements of the Planning and Development Regulations to warrant a refusal of permission.

## 9.0 AA Screening

Having regard to the nature and scale of the development and to the nature of the receiving environment and separation distance from the nearest designated site, no appropriate assessment issues arise, and it is considered that the development would be unlikely to have a significant effect individually or in combination with other plans or projects on any European sites.

## 10.0 Water Framework Directive

- 10.1. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive.
- 10.2. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.
- 10.3. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive.
- 10.4. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

## 11.0 Recommendation

- 11.1. I recommend that permission be refused for the proposed development.

## 12.0 Reasons and Considerations

1. Having regard to the nature and extent of alterations to the prominent facades of a Protected Structure (RPS number WA750858 ), it is considered that the proposed development would adversely impact on its character and therefore detract from the integrity of this protected building by itself and by way of detracting from its setting as part of an attractive terrace which includes other Protected Structures and which

constitutes an integral architectural and historic composition in the Dunmore East Architectural Conservation Area. It is therefore considered that the proposed development would be contrary to the Built Heritage Objectives of The Waterford City and County Development Plan 2022-2028 and in particular, policy objective BH11 Maintaining and Enhancing Special Character which states that ‘it is the policy of the Council to protect structures and curtilages included in the RPS or historic structures within ACA, from any works which would visually or physically detract from the special character of the main structure, any structures within the curtilage, or the streetscape or landscape setting of the ACA.’ The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed provision of a permanent glazed covered seating area would give rise to a significant intensification of use of a licenced premises and that the proposed development would therefore, by reason of associated noise and disturbance, seriously injure the residential amenities of the area. Furthermore, it is considered that the proposed structure relative to and south of the amenity space within the curtilage of the adjacent residential property would give rise to overbearing presence that would detract from the residential amenity of this property. The proposed development would therefore conflict with the zoning objective for the area ‘to protect, provide and improve residential areas and their amenities.’
3. Based on the submitted details, the Commission is not satisfied that the proposed development would not pose a risk to public health by reason of the constraints of the site and its capacity to safely segregate and store kitchen waste and contain odour emissions emanating from the premises.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.”

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Suzanne Kehely  
Senior Planning Inspector  
11<sup>th</sup> May 2026

### Appendix 1: Form 1 EIA Pre-Screening

|   |   |
|---|---|
| <b>Case Reference</b>   | 500708  |
| <b>Proposed Development Summary</b>   | Alterations to a restaurant – protected structure                           |
| <b>Development Address</b>  | Azzurro Restaurant, Dunmore East, Co. Waterford                             |
| <b>IN ALL CASES CHECK BOX / OR LEAVE BLANK</b>  |   |
| <b>1. Does the proposed development come within the definition of a ‘Project’ for the purposes of EIA?</b>  | <input checked="" type="checkbox"/> Yes, it is a ‘Project’. Proceed to Q.2. |
|   | <input type="checkbox"/> No, No further action required.                    |
| (For the purposes of the Directive, “Project” means:<br>- The execution of construction works or of other installations or schemes,<br>- Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources) |   |
| <b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>   |   |
| <input type="checkbox"/> Yes, it is a Class specified in Part 1.<br><br><b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>   | <b>State the Class here</b>   |
| <input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3  |   |
| <b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type</b>   |   |

**of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?**

No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.  
**No Screening required.**

Yes, the proposed development is of a Class and meets/exceeds the threshold.  
**EIA is Mandatory. No Screening Required**

**State the Class and state the relevant threshold**

Yes, the proposed development is of a Class but is sub-threshold.  
**Preliminary examination required. (Form 2)  
OR  
If Schedule 7A information submitted proceed to Q4. (Form 3 Required)**

**State the Class and state the relevant threshold**

**4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?**

Yes

No  **Pre-screening determination conclusion remains as above (Q1 to Q3)**

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

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