



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312241-21

#### Development

PROTECTED STRUCTURE: change of use to hotel, demolition of single storey extensions, demolition of 3 storey extension and assorted areas, demolition of two storey laundry and store building to the rear, the construction of 4 storey extension consisting of 21 guest bedrooms and assorted facilities and all associated site works

#### Location

The Tower Hotel, The Mall, No. 36  
The Mall, the rear of No.'s 16-20  
Lombard Street and Rose Lane,  
Waterford.

#### Planning Authority

Waterford City and County Council

#### Planning Authority Reg. Ref.

21902

#### Applicant(s)

Neville Hotels

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission

**Type of Appeal**

Third Party

**Appellant(s)**

Monica Leech

**Observer(s)**

An Taisce

**Date of Site Inspection**

28<sup>th</sup> October 2022

**Inspector**

Emer Doyle

## 1.0 Site Location and Description

- 1.1. The site consists of a full block of buildings with buildings fronting onto Adelpi Quay, The Mall, Lombard Street and Rose Lane in the centre of Waterford City. The primary use of the block is as The Tower Hotel. This building rises up to 5 storeys in height with a penthouse floor set back from the front façade. The existing buildings on site have a stated area of 12,183m<sup>2</sup>.
- 1.2. No. 36 The Mall is a protected structure WA730260. There 2 No. lamp standards in front of the hotel which are also protected structures.
- 1.3. The Tower Hotel wraps around 3 sides of the block with a large gated car park for the hotel to the rear accessed from Rose Lane. Nos. 16-20 Lombard Street consists of a terrace of 4 No. four storey buildings which are currently unoccupied. No. 18 Lombard Street is the birthplace of William Hobson and a commemorative plaque to William Hobson is located in the façade of this building.
- 1.4. The site is located within Waterford City Architectural Conservation Area and within the Zone of Archaeological Potential in Waterford City as identified in the Urban Archaeological Survey of Co. Waterford.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per public notices, as follows:
  - (a) The change of use at ground floor from office to hotel use at No. 36 The Mall (Protected Structure RPS:260) and the forming of 2 No. internal openings to link to existing hotel
  - (b) The demolition of existing single storey modern extensions to the rear of Nos. 16-18 Lombard Street and the demolition of 3 storey modern extension to the rear of No. 19 Lombard Street
  - (c) The demolition of existing ground floor kitchen, chef area, toilets, ancillary accommodation and yard store at the Tower Hotel together with the demolition of existing two storey laundry and store building to the rear

(d) The construction of a new 4 storey extension to The Tower Hotel, fronting onto Rose Lane consisting of 21 No. guest bedrooms, laundry rooms, service yard, staff facilities and changing, office, kitchen, display area and ancillary accommodation and

(e) Alterations to front elevation of the Tower Hotel including the construction of a new outdoor terrace with retractable awning and glazed balustrade.

2.2. The application was accompanied by an Architectural Heritage Impact Assessment together with a letter submitted on behalf of the applicant explaining the rationale behind the development.

2.3. It is stated that there is no car parking provided within the current phase but there are plans for a three storey car park providing for 148 No. cars in Phase 3. In addition, Neville Hotels are arranging for car park spaces to serve the development at the Port of Waterford car park at the Quay. A letter from the Port of Waterford has been submitted regarding overflow car parking during the construction phase.

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. Permission granted subject to 13 No. Conditions.

Noteworthy conditions include the following:

**Condition No. 2** required the protection of Protected Structures adjacent to the site during construction works, the employment of a qualified Conservation Architect and for all repair and restoration works to be carried out in accordance with best conservation practice.

**Condition No. 3** required a revised layout to be submitted to the Planning Authority prior to commencement of development providing for the realignment of Rose Lane and the construction of a 2m footpath.

**Condition No. 12** required the applicant to employ an archaeologist and submit an archaeological impact statement to the Planning Authority prior to commencement of development.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The planner's report considered that the current proposal retains No. 36 The Mall and does not include for the demolition of Nos. 16-20 Lombard Street and as such the previous reasons for refusal had been addressed.
- A note included at the end of the report from the Senior Executive Planner advised that having regard to the city centre location, the close proximity of a number of public car parks and the large quantum of car parking available at the Quay car parks, it is not considered that the application of development contributions for car parking is warranted in this instance.

### 3.2.2. Other Technical Reports

**Roads:** Recommends permission subject to conditions.

**Architects Office:** Considers that the application has addressed the concerns of ABP and Waterford City and County Council. Various conservation issues dealing with the protection of No. 36 The Mall and Nos. 16-20 Lombard Street, during construction and thereafter would need to be adequately addressed. The proposed development would have a positive impact on Rose Lane.

**Environment:** No objection subject to conditions.

**Conservation Officer:** Planner advises that the application has been discussed with the Conservation Officer but there is no formal report on file.

## 3.3. Prescribed Bodies

### **An Taisce**

Welcomes that the application addresses the previous refusals by ABP and Waterford Co. Co. by providing for the retention of the prominent Mall and Lombard Street corner building. Advises that any application for hotel extension should provide for the proper conservation and restoration of the late Georgian terrace at 16 to 20 Lombard Street, including the 1793 William Hodson birthplace.

## **Health and Safety Authority**

Considers the application to be outside the scope of the Regulations and has no observations.

### **3.4. Third Party Observations**

- 3.4.1. One third party observation was submitted to the Planning Authority. The main issues raised are similar to those in the grounds of appeal.

## **4.0 Planning History**

The planner's report sets out a comprehensive history of the site. Of most relevance to the Board include the following two applications:

### **PA Reg. Ref. PD19/82/ ABP 305100-19**

Permission refused by the Planning Authority and by the Board on appeal for a similar application. This application also provided for the demolition of a 4 storey terrace at Lombard Street.

### **PA Reg. Ref. PD20/883**

Permission refused for a similar development by the Planning Authority but was not appealed to the Board. This application also provided for the demolition of a 4 storey terrace at Lombard Street.

## **5.0 Policy Context**

### **5.1. Development Plan**

#### **Waterford City and County Development Plan 2022 – 2028**

The site is located in Waterford City Architectural Conservation Area.

The site is zoned as 'General Business' with a stated objective 'To provide for and improve General Business uses; this includes suburban district retail and local

neighbourhood centres. Hotels are identified as being permitted in principle in this zoning.

The site is located in Flood Zone A.

There is a transport objective as follows: 'Proposed Active Transport and/or public transport.'

No. 36 The Mall is a protected structure- WA 730260.

Chapter 11 deals with Heritage

Section 11.2 deals with Protected Structures

Section 11.3 deals with Architectural Conservation Areas

Section 11.17 deals with Archaeology

Volume 2 sets out Development Management Standards

Section 7 sets out car parking and bicycle parking standards.

Section 10 deals with Architectural Conservation Areas

## **5.2. Natural Heritage Designations**

- 5.2.1. The development site lies adjacent to the River Suir, which is identified as the Lower River Suir Special Area of Conservation (Site Code 002137).

## **5.3. EIA Screening**

- 5.3.1. Having regard to the nature and scale of the development, together with the brownfield nature of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

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

- 6.1.1. The grounds of appeal can be summarised as follows:

- It is submitted that 3 pieces of property and a billboard have been included in the application which are not in the ownership of the applicant.
- The application only mentions 1 No. protected structure where there are actually 4 No. protected structures at this location.
- There is no record that Nos. 17 and 18 Lombard Street or the 2 No. ornamental lamps located outside the Tower Hotel have been removed from the list of protected structures. The public notices are therefore misleading and inaccurate.
- The applicant has not submitted clear and concise details of how the historic elements are to be protected during the construction phase.
- An advertisement on the gable of No. 16 Lombard Street was recently removed without planning permission.

## 6.2. Applicant Response

6.2.1. The response submitted on behalf of the applicant can be summarised as follows:

- The applicant has full title to the lands.
- Nos. 16-20 Lombard Street are not protected structures and no interference with the original fabric of any of the Lombard Street buildings is proposed.
- It is not proposed to interfere significantly with the historic element of No. 36 The Mall. It is proposed to form a new opening into the Hotel at ground floor and repartition the ground floor interior.
- The advertising structure removed was not within the curtilage of the current application and planning permission was not required for the removal of this unsightly structure.
- All works will be carried out in full compliance with planning permission and good building conservation practice.
- The two ornamental lamps on The Mall are not being interfered with.
- A full Architectural Heritage Impact Assessment was included in the application documentation.



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

- None submitted.

### 6.4. **Observations**

6.4.1. An observation has been submitted from An Taisce which can be summarised as follows:

- The land ownership issue raised in the third party appeal does not come under the remit of An Taisce.
- An Taisce concurs with the other grounds of appeal in relation to inadequate plans and specifications for the treatment of Nos. 16 to 20 Lombard Street and their interface with the proposed development.
- While Nos. 17 and 18 are no longer protected structures, the five houses are of late 18<sup>th</sup> Century date are an important part of the city built fabric and streetscape.

## 7.0 **Assessment**

7.1. It is proposed to consider the appeal under the following headings:

- Land Use and Development Principle
- Impact on Protected Structures
- Other Matters
- Appropriate Assessment

### 7.2. **Land Use and Development Principle**

7.2.1. The appeal site is located in the centre of Waterford City, on lands zoned for General Business, wherein hotel use is permitted in principle. It is the stated objective of this zoning 'To provide for and improve General Business uses; this includes suburban district retail and local neighbourhood uses.'

7.2.2. The Tower hotel is currently located on the site and no issues have been raised in relation to the principle of development at this location. I consider that the existing site is underutilised at present and the redevelopment of the site is therefore regarded as appropriate in principle.

### **7.3. Impact on Protected Structures**

- 7.3.1. The main concern raised in relation to protected structures are that the planning notices are inaccurate as they fail to include all the protected structures on the site, and insufficient information has been submitted in relation to the protection of protected structures. An observation from An Taisce shares the concerns raised in relation to the protection of Nos. 16 to 20 Lombard Street.
- 7.3.2. In terms of clarity, I note that The Waterford City and County Development Plan has been adopted since the Planning Authority decision on this case. No. 36 The Mall is identified on the Record of Protected Structures – WA730260. Nos. 17 to 20 Lombard Street were identified as Protected Structures in the Waterford City Development Plan 2013-2019, however on the 18<sup>th</sup> of February, 2018, the RPS was amended by resolution of the Council to delete 341 properties including Nos. 17-20 Lombard Street. Nos. 17 and 18 Lombard Street remain on the National Inventory of Architectural Heritage and I have attached details in relation to both these buildings to this report. The site is located in the Waterford City Architectural Conservation Area.
- 7.3.3. Two ornamental lamps are located on the footpath outside the Tower Hotel outside of the application boundary which are included in the Record of Protected Structures. The appeal response clarifies that these will not be interfered with and there is no reference in the application to say that they will be removed. The appeal response also states that Nos. 16-20 Lombard Street are not protected structures and are not within the curtilage of the site and no interference with the original building fabric of any Lombard Street building is proposed.
- 7.3.4. I note that the Planning Authority previously refused two applications for similar development on the site under PA Reg. Ref. PD19/82 and PA Reg. Ref. PD20/883. PA Reg. Ref. PD19/82 was appealed to the Board under ABP-305100-19 and refused on appeal. PA Reg. Ref. PD20/883 was not appealed. The main difference

between the previous applications and the current application is that Nos. 16-20 Lombard Street are now excluded from the boundary of the site and it is no longer proposed to demolish these buildings. A letter submitted with the application states that 'this application comprises a revised design proposal and approach for 'Phase Two' of the Tower Hotel redevelopment which was previously refused under Planning Ref. 20/883. The design approach is both resulting from, and responding to, the determinations of the Planning Authority within their Planner's Report, whereby it was ultimately stipulated that No. 36 The Mall (RPS: 260), and No's 16-20 Lombard Street must be retained. As we have noted on previous occasions, the conflicting floor levels together with window fenestrations make the integration of these structures into the proposal impossible and economically unviable for our Client.' The letter goes on to state that 'In the current proposal No. 36 The Mall is to be fully retained, with a change of use from Office to Hotel Use at ground floor level and the formation of 2 no. internal openings to link to the hotel the only changes proposed. There are no changes proposed to No's 16-20 Lombard Street which are intentionally not within the red line boundary but for the removal of several modern extensions (not original building fabric) to the rear to facilitate the new development.'

- 7.3.5. I note that the planner's report refers to an Architects' report which states that 'it would appear that the current application/ proposal has addressed the concerns of An Bord Pleanála and Waterford City and Council in dealing with similar recent development applications on this site.'
- 7.3.6. The site is located in an ACA and it is important that any redevelopment or renewal in this area respects the existing historical and architectural character of the area. There is a huge variety of building types in the area and I consider that the proposed redevelopment would contribute in a positive way to the area and in particular the Rose Street elevation which currently has a somewhat haphazard and run-down appearance. I note that the RPS states in relation to No. 36 The Mall that it is 'an example of a 19<sup>th</sup> Century Structure but has lost much of its context and importance with adjoining structure and loss of historical fabric. However due to its scale and mass, it adds to the historical character of The Mall.' I would concur with this in that the adjoining Tower Hotel is of a very modern design and there is no doubt that the area has lost a great deal of historical fabric, however No. 36 is an attractive building and the retention of its façade, railings, entrance steps and upper floors will preserve

the historic character of the building. A minimum of historic material is proposed to be removed and the addition of the loggia and recessed window on the adjoining façade in lieu of an existing glazed panel at the same location will seek to match the high standard of craftsmanship and finish on the original building. The proposal will facilitate an appropriate sustainable use of this under used protected structure and in my view the interventions as outlined have been justified. I refer the Board to photomontages 1-4 submitted with the application. I am satisfied that the design proposed respects the scale of the historic building and maintains it's primacy as a corner building within the streetscape.

- 7.3.7. I note that an Architectural Heritage Impact Assessment was submitted with the application which focuses entirely on No. 36 The Mall. Whilst I am satisfied that no changes are proposed to Nos. 16-20 Lombard Street, apart from the removal of some recent extensions, I consider that the application lacks detail in terms of how these buildings are to be protected during construction works. I consider that these buildings are an important element of the historic fabric of the Architectural Conservation Area and should the Board be minded to grant permission, I would suggest a condition be included to ensure that these buildings together with the ornamental lamp stands on The Mall are adequately protected during the construction works to avoid any damage to the historic fabric together with regular monitoring of the buildings during the construction process by an accredited conservation expert.
- 7.3.8. Overall, I am satisfied that the proposed works will not materially impact on the Architectural Conservation Area or be detrimental to the character and setting of the historic streetscape and visual amenities of the area. However, I consider that careful attention must be paid to how existing buildings and the ornamental lamp posts are to be protected during construction works and I am satisfied that this matter can be addressed by condition.

#### **7.4. Other Matters**

##### Parking Provision

- 7.4.1. I note that the hotel currently has a large car park to the rear accessed from Rose Street. No car parking is proposed as part of this application. A letter submitted with

the application states that it is proposed to provide 148 spaces in a 3 storey car park in phase 3 of the development and Neville Hotels are arranging for car spaces to serve the development at the Port of Waterford nearby car park at the Quay.

7.4.2. The planner's report recommended a car parking contribution of €23,100 in lieu of 11 spaces calculated at the rate of 1 space per two bedrooms in Waterford City Centre based on the 2013-2019 Waterford City Development Plan. This car parking requirement remains the same as set out in Table 7.1 of the Waterford City and County Development Plan 2022-2028. A note from the Senior Executive Planner attached to the planner's report states that 'given the city centre location of the existing hotel and development permitted herein, the existing Hotel car park, the close proximity of a number of public car parks; Bolton Street carpark and the large quantum of car parking available at the Quay car parks, it is not considered that the application of development contributions for car parking is warranted in this instance and as such has been omitted.'

7.4.3. I concur with this view and am satisfied that there is sufficient car parking available both within the existing car park and in the general vicinity to facilitate the proposed development.

#### Land Ownership

7.4.4. I note that an issue in relation to land ownership was raised in the appeal. This is similar to concerns raised under ABP-305100-19. I am satisfied that the applicant has provided adequate information to submit the planning application and that this is a civil matter. I would be satisfied that the provision of Section 34(13) of the Planning and Development Act, 2000 as amended, which states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development' is sufficient to ensure that the civil issue is addressed prior to commencement of development on the site.

#### 7.4.5. Advertising structure

The appeal makes the case that an advertisement on the gable of No. 16 Lombard Street was recently removed without planning permission. The appeal response states that this advertisement structure was not within the curtilage of the current application and planning permission was not required for the removal of this unsightly structure. The Planning Authority has not submitted any comments in

relation to this issue to the Board. I note that the Board has no role in enforcement matters and this is a matter for the Planning Authority.

## **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites and the brownfield nature of the site in a serviced city location, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## **Recommendation**

- 7.6. I recommend that permission be granted subject to the following reasons and considerations and subject to conditions as set out below.

## **8.0 Reasons and Considerations**

Having regard to the city centre location of the site, the provisions of the Waterford City and County Development Plan 2022-2028, the scale and nature of the proposed development and to the pattern of development in the area, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not adversely affect the character or setting of the protected structure or of the Architectural Conservation Area in which it is located or any other protected structures in the vicinity and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **9.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be

required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) A revised site layout shall provide for a 2m footpath from the corner of Rose Lane/ Lombard Street along Rose Lane providing pedestrian connectivity with the existing footpath at this location.

A complete set of revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority/ An Bord Pleanála prior to commencement of development.

**Reason:** In the interests of traffic safety.

3. Water supply and drainage arrangements, including the disposal of surface water from the site, shall be in accordance with the detailed requirements of the planning authority.

**Reason:** In the interests of public health.

4. Details (including samples) of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

5. The developer shall control odour emissions from the premises in accordance with measures including extract duct details which shall be submitted to, and

agreed in writing with, the planning authority prior to the commencement of development.

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

6. (a) A conservation architect with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works to the protected structure at No. 36 The Mall and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.

(b) All works to the protected structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of the Arts, Heritage and the Gaeltacht. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

(c) The protected lamp stands in front of The Tower Hotel and the terrace of buildings at Lombard Street which are located in a designated Architectural Conservation Area shall be adequately protected during construction and demolition works to avoid any damage to the historic fabric with regular monitoring during the construction process by an accredited conservation expert and executed by contractors with proven conservation expertise.

**Reason:** To ensure that the integrity of the protected structure and historic fabric in this Architectural Conservation Area is maintained and that the proposed repair works are carried out in accordance with best conservation



practice with no unauthorised or unnecessary damage or loss of historic building fabric.

7. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues: (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

8. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

9. No additional development shall take place above roof parapet levels, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, machinery or telecommunications aerial, antennas or equipment unless authorised by a further grant of planning permission.

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

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

11. The construction of development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall provide a demolition management plan, together with details of

intended construction practice for the development, including a detailed traffic management plan, hours of working, and noise management measures.

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

12. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Emer Doyle  
Planning Inspector

27<sup>th</sup> January 2023