



An  
Bord  
Pleanála

# Inspector's Report

## ABP-316302-23

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<b>Development</b>	Retention of alterations and building works to a protected structure.
<b>Location</b>	Main Street, Abbeyleix, Co. Laois
<b>Planning Authority</b>	Laois County Council
<b>Planning Authority Reg. Ref.</b>	22544
<b>Applicant</b>	John McIlroy on behalf of Ellmagabb Ltd
<b>Type of Application</b>	Retain
<b>Planning Authority Decision</b>	Grant Permission to Retain
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Florence White and Thomas Perrott
<b>Date of Site Inspection</b>	12 <sup>th</sup> October 2023.
<b>Inspector</b>	Dolores McCague

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## 1.0 Site Location and Description

- 1.1.1. The site is located at Main Street, Abbeyleix, Co. Laois. The site is located at the southern end of a terrace of buildings where it adjoins a dwelling to the north. The site is occupied by a public house which, on the date of inspection, was not operational. An arched vehicular entrance at the northern end of the building provides shared access to the subject site and the premises adjoining. At a break in the building line between the subject building and the building to the south there is also an access.
- 1.1.2. The subject development comprises the original terraced building and an extended area to the rear. It also comprises a covered 'beer garden' to the north of the rear extension (referred to in the grounds of appeal), a yard area to the rear of the extended building and a retaining wall, beyond which is a narrow area of ground, parallel to the rear boundary. This area is relatively inaccessible at present due to the difference in height between the gravelled area and the height of the retaining wall and soil bank behind. A gas tank is located on the higher ground. To either side of the property there is a height difference to the ground level of the adjoining properties. Along the northern side, a concrete block wall, referred to in the grounds of appeal, provides the boundary.
- 1.1.3. The site is given as 0. 12 ha.

## 2.0 Proposed Development

- 2.1.1. The proposed development is described in the notices as: retain development consisting of:
- a) altered location of LPG gas tank,
  - b) altered building to the side of kitchen providing a covered passage way,
  - c) building to the rear of kitchen which accommodates a cold room, freezer and preparation area,
  - d) extended dining area including a bar area and

e) a retaining wall constructed 7.5m away from rear of cold room building and associated and necessary site works at McEvoy's Bar and Restaurant (listed façade RPS 069 and NIAH no. 1290074).

It is stated, in explanation, that a small floor area was removed to provide a line of sight to the gas tank, which was also relocated for a sight line. Part of the building the subject of retention was in replacement for the area of the building area removed. The retention of the extended dining area is otherwise described as an area covered by a canopy. It is a roofed area without walls but partially enclosed by the side walls of the building to the south and west and the boundary wall to the north. This canopy is referred to in condition no. 16 of 18/517.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. The Planning Authority decision, dated 20<sup>th</sup> March 2023, was to grant permission subject to 9 conditions, including:

2 a) The development shall be operated so that the processes carried on or the plant or machinery installed are such as could be carried on or installed in any area without any detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, discharge.

b) Pest control measures shall be operated in accordance with best practice and the entire site maintained and managed in such a manner as not to give rise to a public health nuisance.

Reason: In the interests of visual amenity, pollution control and proper planning.

3 a) The development shall be restricted to use as described in the description of works namely a restaurant. The property shall not be used for any other use, without a prior specific grant of planning permission.

b) The canopy area hereby approved shall only be used as a dining area and ancillary bar. It shall not be used as a stand-alone bar. It shall not be used for any other use, without a prior specific grant of planning permission.

c) The canopy area shall not be used beyond 10pm on days of operation. Access through the canopy for fire escape purposes is permitted at any time.

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

4) No external roller shutters or their housings, awnings, canopies or grilles, shall be erected without a prior planning permission.

Reason: In order to prevent advertising clutter and in the interests of visual amenities.

5) All services to the building e.g. cooling devices, extractor fans (wall mounted and roof mounted) etc. shall be contained within the building or located externally with appropriate screening. No such units shall be located above the ridge height of the building or to the front façade of the structure.

Reason: In the interests of visual amenity.

6 a) Adequately sized and sited fats, oils, greases interceptors shall be installed on all commercial kitchen waste drainage lines in a manner which is satisfactory to the planning authority and these shall be cleaned on a regular basis.

b) All passive grease separators installed shall conform to the Irish Standard EN 1825 Grease Separators – Part 1 (Principals of Design, Performance, Testing, Marketing and Quality Control) and Part II (Selection of Nominal Size, Installation, Operation and Maintenance) published by the National Standards Authority of Ireland.

c) All automatic grease removal units installed shall conform to the Standard PDI-G101 Testing and Rating Procedures for Grease Interceptors with Appendix of Sizing and Installation Data.

d) The grease separator shall be suitably sized for the size of the operation, in accordance with IS EN:1825 Part II or in accordance with PDI-G101, whichever is appropriate.

e) Grease separators that use biological additives may only use a certified bacteria product to control the discharge of fats, oils and grease in conjunction with a passive grease separator. The performance of the bacteria product must be certified by IAB or an equivalent body within the EU. Evidence of certification shall be provided to the planning authority prior to installation.

g) The use of food macerators on the kitchen waste drainage line (s) is not permitted.

- h) Dishwashers are not permitted to discharge to automatic grease removal units.
- i) Where it is proposed to install a dishwasher and/or a combi oven then it shall be necessary to submit proposals to install a passive grease separator which shall be sized in accordance with IS EN:1825 Part II.

Reason: In the interests of public health.

7 a) All surface water run-off from roofs, entrances and parking areas shall be collected and disposed of to the public surface water sewer network. No such surface water run-off shall be allowed to flow onto the public roadway or adjoining premises.

b) The development shall not interfere with existing land or road drainage.

Reason: To prevent flooding of the public road, in the interests of traffic safety and in the interests of public health.

8) All external lighting shall be cowled and directed away from the public roadway and adjoining properties.

Reason: In the interests of traffic safety and residential amenity.

9) Development contribution.

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

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

3.2.2. The first planning report, 24<sup>th</sup> October 2022, recommending a request for further information on 4 points: Architectural Heritage Impact Assessment, hours of operation, excavation (volume and Waste Management Act), and third party submission, which issued, includes:

- The proposed extensions would be sizeable and together with the proposed significant alteration to site levels, would bring about considerable change to the rear. Thus the proposal would give rise to certain impacts on the historic buildings and their settings. These impacts need to be considered and weighted in balance against all other relevant material planning considerations, including matters relating to town centre rejuvenation.
- This building has been previously extended to the rear. Most recently works were carried out under planning ref 09/311. Neighbouring amenity – hours of

operation stated Thurs to Sat – 5.30pm to 12 am and Sunday 5.30pm – 10.30 pm with 18 employees. The site is located within the town centre as such comings and goings are to be expected in this area.

- Condition 16 of 18/517 set out that a planning application for retention of the canopy structure containing the outdoor bar shall be made not later than 16 weeks following the date of grant. This application was not submitted, however the applicant is seeking to regularise this situation now.
- The area adjoins the private rear garden of the adjacent residential property to the north. It is unclear from the application submitted whether the outdoor bar area would be open during the above mentioned hours. Clarify.
- It is estimated that considerable excavation has been undertaken in order to level the site at the rear. A retaining wall has been installed. It is unclear as to the volume of material that has been excavated and where the material has been deposited. Permission was granted under planning file reference 18/517 for the levelling of the rear of the site and the construction of associated retaining walls. However, the works that have been undertaken and the locations of the retaining wall are not in accordance with this permission.

### 3.2.3. Other Technical Reports

Environmental Health Office/ HSE, 7<sup>th</sup> October 2022 – no observation.

Portlaoise Municipal District Office, 23<sup>rd</sup> September 2022 – no objection.

### 3.3. Further Information

3.3.1. The further information request issued, 25<sup>th</sup> October 2022.

3.3.2. Further Information Response, 20<sup>th</sup> December 2022, including:

3.3.3. A letter from the agent Leslie Colton, Engineering and Architectural Services, which includes:

- The hours of operation are stated.
- Enclosed photographs show the sloping nature of the ground prior to the works and the building of the retaining wall.
- Response to third party submissions:

- It must be noted that when they purchased earlier this year they must have been aware and familiar with the Bar and Restaurant etc. The area under the canopy was in use as an outdoor area.
- The retaining wall improved visibility to the gas tank from a delivery point of view.
- The gate to the Main Street in the shared archway was in place when the 'Blue House' was purchased. No alteration has been made. Drainage from the rear of the property has not been impaired.
- The grease trap is in place for the business and the main sewer is more than a metre away from the new kitchen extension.
- The kitchen door and window are on the ground floor, and no threat to privacy.
- On the roof is an extraction fan not a water tank.
- The canopy has been in use for more than eight years. The developer was instructed to apply for retention under 18/517 but this was not acted upon and this application is to rectify same.
- The noise from the extraction fan is the same as previously.
- The existing means of escape from the canopy covered area is as stated, through the archway. This gate should not be padlocked during opening hours.
- The reason for moving the LPG tank was due to the suppliers of the gas insisting that the tanker operative would have a sighted refuelling which necessitated the removal of the fridge and cold room and relocating them to the rear of the extended kitchen area.
- Bats noted in the area have lived with street lighting. This is a long established commercial business.
- Re. the back filling which bounds the Blue House boundary wall, this portion of back filling will be removed to the previous level and evenly distributed across the wild flower garden.



3.3.4. An Architectural Heritage Impact Report, prepared by Karen Feeney MRIAI, Conservation Architect Grade 3, was submitted in response to the request for further information. It includes looking back on planning applications for this property: 09/311, 18/517, it appears that all original features were already removed.

### 3.4. Further Technical Reports

3.4.1. The second planning report, 20<sup>th</sup> January 2023, recommending a request for clarification of further information on 1 point: hours of operation, which issued, includes: satisfied with other responses.

### 3.5. Clarification of Further Information

3.5.1. A clarification of further information request issued 23<sup>rd</sup> January 2023 – it includes:

Hours of opening of the outdoor bar area within the canopy would be Monday to Thursday 11 am to 11 pm, Friday – Saturday 11 am to 00.30 am and Sunday 12.30pm - 11 pm. However it is noted from Supplementary Application Form A submitted with the application that the restaurant opening hours are Thurs to Sat – 5.30pm and Sunday 5.30pm – 10.30 pm. This would suggest that the outdoor bar within the canopy would be open outside the main restaurant opening hours. Clarify. The Planning Authority would not be favourably disposed to granting permission for use of this canopy bar beyond 10pm on days of operation.

3.5.2. The clarification of further information response, received 23<sup>rd</sup> February 2023, states that the opening hours stated in the Supplementary Application Form A relates solely to the restaurant opening hours. The opening hours stated in the bar licence are Monday to Thursday 11 am to 11 pm, Friday – Saturday 11 am to 00.30 am and Sunday 12.30pm - 11 pm. The applicant confirms that he is agreeable to the closing time of 10pm on days of operation for the outdoor canopy bar area, however access through the canopy area is required as a fire escape for the times that the public bar is open.

### 3.6. Further Technical Reports

3.6.1. The third planning report, 20<sup>th</sup> March 2023, recommending permission, which issued, includes: satisfied with responses.

### 3.7. Prescribed Bodies

- 3.7.1. Uisce Éireann, 13<sup>th</sup> September 2022 – conditions.
- 3.7.2. TII, 14<sup>th</sup> September 2022 - no observation.

### 3.8. Third Party Observations

- 3.8.1. Third party observations on the file have been read and noted.

## 4.0 Planning History

**18/517** Planning permission granted to: carry out internal alterations and the construction of a single storey extension to the south of McEvoy's Bar and Restaurant at Main Street, Abbeyleix. The works also include the demolition of outbuildings to the rear of the adjacent property, together with internal alterations, refurbishment of the property and construction of a two storey extension to the rear to provide a café deli on the ground floor and a 3 bedroom apartment on the first floor. The proposed works also include the provision of a car parking area to the rear of the properties and all associated site works. Both properties are listed on the Record of Protected Structures in the Laois County Development Plan 2017-2023.

Conditions:

12g) the gabion and retaining wall structures shall be of sufficient strength, capacity and durability to adequately cater for the loading thereon.

13) adequate on-site car parking and bicycle parking facilities shall be provided...

16) A planning application for retention permission for the canopy area in the rear curtilage shall be made to the planning authority not later than 16 weeks following the date of grant of this permission.

**11/250** Planning permission granted to: a) demolish an Existing Single Storey Storage room off the Existing Kitchen Area to the Rear/South-East Elevation & to demolish an Existing Courtyard Stonework Wall to the Side/North-East Elevation (b) Full Planning Permission to provide a 85sq. m Ground Floor Single Storey Extension to the Side/North-East Elevation of McEvoy's Public House, Main Street,

Abbeyleix, Co. Laois (a protected structure - RPS No. 069 under the County Development Plan 2006-2012).

**09/311** (note: the site plan includes property to the south) Planning permission granted: at McEvoy's Public house a protected structure - RPS No. 069 under the County Development Plan 2006-2012) for the following:

- a) full planning permission for 2 no 1 bedroom apartment units to first floor level,
- b) retention permission for 83sq m ground floor area to the rear of McEvoy's public house which consists of 7 sq m store to rear of bar area, 4 sq m external store to courtyard area & 72sq m of floor area for kitchen, storage room, toilets and corridor areas to the rear of the lounge area,
- c) retention permission for existing roof areas to the rear of McEvoy's Public house above the kitchen, storage, toilet & lounge area,
- d) retention permission for existing stonework wall to rear of McEvoy's public house to form courtyard area to rear of lounge area with all works to include all ancillary & landscaping works at McEvoy's public house, Main street, Abbeyleix, Co.Laois.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. Laois County Development Plan 2021-2027 is the operative plan. Relevant provisions include:

Zoned town centre.

Objective: to protect and enhance the special physical and social character of the existing town centre and to provide for and improve retailing and commercial activities.

The purpose of this zoning is to enhance the vitality and viability of town and village centres through the development of under-utilised land and brownfield sites and by encouraging a mix of uses to make the town and village centres an attractive place to visit, shop and live in. The character of the town and village centres shall be protected and enhanced. The Council will encourage the full use of buildings and

backlands; in particular, the full use of upper floors in buildings, preferably for residential use.

The proposed use is normally acceptable.

TC 9 Provide for night-time economy in town centres including public houses, nightclubs, restaurants and takeaways, subject to considerations of undue concentration/proliferation, and mitigate any adverse effects of these uses and other uses on the residential amenity of town centre residents.

Located within an Architectural Conservation Area.

The building on the site is a Protected Structure, ref RPS 069.

## 5.2. Natural Heritage Designations

- 5.2.1. The River Barrow and River Nore SAC (site code 002162), located c 2.35 km to the south-west, is the closest Natura site.

## 5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity 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 appeal by Florence White and Thomas Perrott, includes:
- They object to the use of the shared laneway as a permanent fire exit to facilitate the development.
  - They object to the impact of backfill during unauthorised development on their boundary wall.

- They have a vehicular right of way which they share with a pedestrian right of way to the restaurant.
- The Fire Officer has directed the use of the shared laneway as a permanent exit to facilitate the retention. This necessitates full and open access to Main Street during opening hours, exiting through their property. They understood that the use of the pedestrian right of way was ancillary to the established use. The retention will result in leaving both gates open: to Mac's courtyard and the Main Street with full access, which will have a significant impact on their privacy, amenity and security. They have been advised that they will need to take out separate public liability insurance due to the use of the lane as a permanent fire exit, which expense they shouldn't have as a result of the neighbouring business.
- If the appropriate consents had been sought before development was undertaken they would have raised their concerns and a different arrangement could have been agreed.
- Either the canopy needs to be removed to facilitate the original Fire Safety strategies or an alternative Fire Exit needs to be arranged.
- The applicant has carried out backfilling of soil, to a depth of 2m, against their wall. The result is that structural damage has been caused to their wall, which now represents a health and safety risk. An Engineer's report is attached. The retention permission should have included boundary works, including making safe the boundary wall. No provision for this was made.

## 6.2. Applicant Response

### 6.2.1. In response the applicant states:

- To the concern regarding the use of the shared laneway as a permanent fire exit to facilitate the development, the shared access has always been used as a fire exit and is not a new fire escape especially for the retention application.

The position in relation to the use as a fire exit is exactly the same as when the appellants bought the property in 2022.

The gateway leading to the street has been a fire exit prior to 2009; a copy of a drawing from 09/311 is attached.

A letter from the applicant's solicitors is provided stating that deeds of grants of rights of way were executed in 2014 in respect of both rights of way referred to in the appeal.

The statement that both gates will have to remain open: to Mac's courtyard and the Main Street with full access to the public street, is incorrect. This is a means of fire escape and the gates have merely to remain unlocked during the operation hours of the commercial premises.

- To the concern regarding backfill during unauthorised development on their boundary wall.

Prior to the retaining wall being constructed in 2022, the site sloped from the rear along the boundary wall for a distance of 21.6m with a slope falling from 2.25m to 0m.

The level of the rear of the site is unaltered.

When the boundary wall was constructed by the previous owners to sub-divide the commercial building from the private dwelling, the earth removed to construct the wall was pushed back against the boundary wall at the same slope to the remainder of the site.

In order to make a level yard space behind the commercial building, a retaining wall was constructed to retain the earth which was removed from the yard space. To protect the boundary wall, a tanking membrane was installed to ensure no water or moisture ingress. A space is visible between the tanking and the boundary wall. The owner of the commercial premises undertakes to remove the earth from the boundary wall to the levels prior to the retaining wall being constructed.

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

- 6.3.1. The Planning Authority has not responded to the grounds of appeal.

## **7.0 Assessment**

- 7.1.1. I consider that the main issues which arise in relation to this appeal are appropriate assessment, the principle of the development, residential amenity, legal issues and the protected structure, and the following assessment is dealt with under those headings.

### **7.2. Appropriate Assessment**

- 7.2.1. Having regard to the nature and scale of the proposed development, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### **7.3. Principle of the Development**

- 7.3.1. The site is in an area zoned town centre. The site is occupied by an established public house with restaurant, where the proposed uses are normally acceptable.
- 7.3.2. In my opinion the proposed development is acceptable in principle.

### **7.4. Residential Amenity**

- 7.4.1. The appellants have concerns that their residential amenities will be affected by the use of the right of way: that their privacy, amenity and security will be impacted. Their observation to the planning authority, which they have copied for the Board, includes amongst their concerns the use of the outdoor smoking area as a permanent outdoor dining area, permanent bar and live music area, immediately adjoining their boundary wall and within metres of their kitchen door.
- 7.4.2. The initial planning report noted, in relation to impact on protected structures and the ACA, that impacts need to be considered and weighed in balance against all other relevant material planning considerations, including matters relating to town centre rejuvenation.
- 7.4.3. Town centre objectives in the development plan include to provide for the night-time economy in town centres including public houses, nightclubs, restaurants and

takeaways, subject to considerations of undue concentration/proliferation, and mitigation of any adverse effects of these uses and other uses on the residential amenity of town centre residents.

- 7.4.4. The importance of retaining and encouraging residential use in town centres is part of the Town Centre First Policy<sup>1</sup> launched in February of last year, in which residential use is identified a key part of the social and economic revival of towns.
- 7.4.5. Late night activity is appropriate in a town centre and contributes to the vitality of these places and their important function as centres of social interaction.
- 7.4.6. I consider that the use for late night activity needs to be balanced against the encouragement of residential use in town centres as an aspect of town centre rejuvenation. Facilitating the expansion of the restaurant/bar use into the covered area where the retention of the canopy is proposed, and potentially the spill over of guests into the area to the rear, where the levelled, surfaced area is to be retained, in this case, needs to be balanced against the proximity of dwellings and in particular the dwelling adjoining to the north.
- 7.4.7. The applicant has agreed to limitations on the use of the canopy area.
- 7.4.8. Condition no. 3 of the decision seeks to limit the use of the area to restaurant, dining area and ancillary bar, not a stand-alone bar, and not for any other use, without a prior specific grant of planning permission. It seeks to limit the period of use to 10pm on days of operation; access for fire escape purposes being permitted at any time.
- 7.4.9. I consider that based on the information provided with this application and appeal the nature of the use should be restricted. However conditions must be enforceable. It is worth noting that is a licensed premises and therefore subject to opening hour restrictions: Monday to Thursday from 10:30am to 11:30pm. Friday and Saturday from 10:30am to 12:30am and on Sunday from 12:30pm to 11:00pm. Within these hours, the premises can open at the discretion of the management. In my opinion imposing other operational hours would give rise to enforcement difficulties and could be regarded as unreasonable.

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<sup>1</sup> 'Town Centre First Policy', Department of Rural and Community Development and the Department of Housing, Local Government and Heritage, published 3<sup>rd</sup> February 2022



7.4.10. One of the main concerns likely to arise in the proposed retention, is in relation to noise. In my opinion this is amenable to condition. I consider that it would be reasonable to require that outside the building, whether under the canopy or otherwise, no television, no live music, and no sound amplification should be provided. This would limit, rather than eliminate potential noise impact; conversation, human activity and plant noise would continue to impact. In my opinion this is in line with balancing late-night activity in town centres with the encouragement of residential use.

## 7.5. Legal Issues

### 7.6. Impact on Boundary Wall

7.6.1. The wall which forms the boundary between the subject site and the adjoining residential property to the north is referred to in the grounds of appeal. The appellant's state that backfilling during the unauthorised development, impacts on their boundary wall. They provide details of cracks in the wall and the angle of tilt which has occurred.

7.6.2. The applicant's response is that the site sloped from 2.25m to 0m prior to the retaining wall being constructed in 2022 and that the ground level at the rear of the site is unaltered. The response states that to protect the boundary wall, a tanking membrane was installed to ensure no water or moisture ingress and that a space is visible between the tanking and the boundary wall. The owner of the commercial premises undertakes to remove the earth from the boundary wall to the levels prior to the retaining wall being constructed.

7.6.3. The damage to the boundary wall is a legal issue and not a matter on which the Board can adjudicate.

7.6.4. It is a planning matter that a wall which supports and retains ground should be properly designed for that purpose, as a retaining wall.

7.6.5. In my opinion that is amenable to condition, such as that drafted as condition no 2.

### 7.7. Right of Way

7.7.1. The appellants object to the use of the shared laneway as a permanent fire exit to facilitate the development. They state that this necessitates full and open access to

Main Street during opening hours, exiting through their property. They understood that the use of the pedestrian right of way was ancillary to the established use. The retention will result in leaving both gates open: to Mac's courtyard and the Main Street with full access, which will have a significant impact on their privacy, amenity and security. They have been advised that they will need to take out separate public liability insurance due to the use of the lane as a permanent fire exit, which expense they shouldn't have as a result of the neighbouring business.

- 7.7.2. In response the applicant states that the position in relation to the use as a fire exit is exactly the same as when the appellants bought the property in 2022; the gateway leading to the street has been a fire exit prior to 2009 (09/311); and it is incorrect to state that both gates will have to remain open. As a means of fire escape the gates have merely to remain unlocked during the operational hours.
- 7.7.3. At the street edge access is via a metal door, within which there are doors leading to left (appellant's property) and right (applicant's property) at the rear building line. It appears to me to be possible to secure both properties by means of these separate doors.
- 7.7.4. The use of the right of way is a legal issue and not a matter on which the Board can adjudicate. In my opinion the use of the right of way should not be a reason to refuse or modify the proposed development.

## **7.8. Protected Structure**

- 7.8.1. The site is located within an Architectural Conservation Area and the building on the site is a Protected Structure, listed as of regional importance RPS 069.
- 7.8.2. The National Inventory of Architectural Heritage lists it as of regional interest for architectural and artistic reasons (NIAH 12900714 1880-1900), describing it as an end-of-terrace five-bay two-storey house, c. 1885, with integral carriageway and timber pubfront to part ground floor.
- 7.8.3. The Architectural Heritage Impact Report, (prepared by Karen Feeney MRIAI, Conservation Architect Grade 3), which was submitted in response to the request for further information states that it appears that all original features were already removed, prior to the previous planning applications: 09/311 and 18/517.

- 7.8.4. The proposed retention refers to works carried out to the rear of the building and does not impact on the conservation area.
- 7.8.5. In my opinion the proposed development does not impact on the building's status as a protected structure or its context within a conservation area.

## 8.0 Recommendation

- 8.1.1. In accordance with the foregoing, I recommend that the planning application be granted for the following reasons and considerations and subject to the following conditions.

## 9.0 Reasons and Considerations

The proposed retention would provide extended dining area and bar area, together with ancillary building areas and services to an established licensed premises in the centre of Abbeyleix, which is a protected structure and within a conservation, where it would be compatible with the town centre zoning objectives and in compliance with the Laois County Development Plan 2021-2027, would enhance commercial activity in the town centre, including the night-time economy, and, subject to the following conditions, would not unduly impact on the residential amenities of properties in the vicinity; accordingly the proposed development would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 20 <sup>th</sup> day of December 2022 and 23 <sup>rd</sup> day of January 2023, 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
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	<p>and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Within 4 weeks of the date of this permission, details prepared by an Engineer with professional indemnity insurance, shall be submitted for the written agreement of the planning authority, for the removal of the soil from the vicinity of the adjoining boundary wall to the north, at least to the levels prior to the retaining wall being constructed, the support or sloping of the face of the embankment thus exposed, and any support necessary for the boundary wall in the immediate vicinity. When agreement on the foregoing has been reached, the planning authority shall determine the period within which the work is to be undertaken and the work shall be carried out under the supervision of an Engineer.</p> <p><b>Reason:</b> In the interest of clarity.</p>
3.	<p>Outside the building, whether under the canopy or otherwise, there shall be no use of television, no live music, and no sound amplification except in accordance with a further planning permission.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
4.	<p>No steps, or access shall be provided to facilitate use of the raised area at the rear of the site except in accordance with a further planning permission.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
5.	<p>Full details of any external lighting and signage proposed shall be subject to the prior written agreement of the Planning Authority</p> <p><b>Reason:</b> In the interest of orderly development and visual amenity.</p>

6.	<p>Prior to operation of the development hereby retained, the developer shall enter into water and waste water connection agreements with Uisce Eireann and shall implement any necessary works, prior to the commencement of use.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>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 use 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.</p> <p><b>Reason:</b> 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.</p>

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

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Planning Inspector

24<sup>th</sup> October 2023

Appendix 1 - Form 1

**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála</b> <b>Case Reference</b>			
<b>Proposed Development Summary</b>	retain development consisting of a) altered location of LPG gas tank, b) altered building to the side of kitchen providing a covered passage way, c) building to the rear of kitchen which accommodates a cold room, freezer and preparation area, d) extended dining area including a bar area and e) a retaining wall constructed 7.5m away from rear of cold room building and associated and necessary site works at McEvoy's Bar and Restaurant (listed façade RPS 069 and NIAH no. 1290074)		
<b>Development Address</b>	Main Street, Abbeyleix, Co. Laois		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	/
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	/		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>Conclusion</b>			
<b>No</b>	/	N/A	No EIAR or Preliminary Examination required

<b>Yes</b>		Class/Threshold.....		Proceed to Q.4
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<b>4. Has Schedule 7A information been submitted?</b>				
<b>No</b>	/		<b>Preliminary Examination required</b>	
<b>Yes</b>			<b>Screening Determination required</b>	

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

Appendix 2 Photographs

Appendix 3 Laois County Development Plan 2021-2027