



An
Bord
Pleanála

Inspector's Report

ABP-317191-23

Development

59 houses and 38 apartments to include demolition works, and associated site development works. Following Further Information, An NIS has been submitted.

Location

Mountsion, Mount Sion Road,
Ferrybank, Waterford, Co. Kilkenny

Planning Authority

Kilkenny County Council

Planning Authority Reg. Ref.

22213

Applicant(s)

Kilkenny Walsh Limited

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Kilkenny Walsh Limited

Observer(s)

Mary Cahill

Bernadette Cahill

Date of Site Inspection

17th June 2024

Inspector

Catherine Dillon

1.0 Site Location and Description

- 1.1. The subject site is on an elevated position above a cliff face lined with trees and shrubs which provides a backdrop to Waterford Quays and is situated above Plunkett train station in Waterford City. It is located within an area known as Ferrybank on a prominent ridge visible from the River Suir valley and Waterford city centre to its south, west and east. The site lies outside the boundary of Waterford City and within the townlands of Mount Misery and Mount Sion in County Kilkenny.
- 1.2. The proposed access into the site is on the southwestern side of Mount Sion Road which is connected to Rockshire Road. Rockshire Road rises steeply from the R711, which runs parallel to the train station and the River Suir to the south of the site. A two storey detached dwelling (known as Bakers) on the south western side of Mount Sion Road would be demolished to facilitate a vehicular access into the site. The rear gardens of a number of dwellings along the southwestern side of Mount Sion road overlook the site. Waterford Golf club abuts the northwestern boundary of the site, and the vacant Ard Ri hotel complex is to the southeast of the site. There is an existing vehicular entrance into the Ard Ri hotel off the R711 (Dock Road).
- 1.3. The site comprises a long linear entrance which rises above Mount Sion Road and extends across one agricultural field before expanding into an irregular rectangular configuration across two fields. The third field is overgrown towards the cliff edge. The site slopes towards Mount Sion road to the east and towards the Ard Ri hotel on its southern side. On the steepest part of the site there is a 22m fall over a distance of 95m. The subject site also includes part of a former tennis court belonging to the vacant hotel. The site has an overall stated area of 3.81 hectares.
- 1.4. There is a narrow laneway (currently blocked by a gate) which also leads into the site further north of the proposed vehicular access. This access lies to the north of a protected watchtower (RPS C456) known as Pope's Tower, which is one of a pair of watchtowers in the vicinity. Overhead electricity lines run through the site from east to west.
- 1.5. To the east and south east of the site are two large detached period properties known as Tower Hill and Sion Hill house, both set in spacious grounds. Sion Hill house is a protected structure.

- 1.6. Rice Bridge connects Waterford City centre with the R448 to the west and the R711 to the east, to the north of the River Suir. The subject site is approximately 1.6km from the train station from the proposed entrance along Mount Sion Road and approximately 2km from Waterford City centre.

2.0 Proposed Development

- 2.1. The appeal site forms part of a larger landholding within the applicant's ownership which extends to 17.7 ha and includes the former Ard Ri Hotel and the hotel grounds to the south.
- 2.2. The initial application was amended following an extensive request for further information (F.I) by the Planning Authority (P.A). The applicant has requested the Board consider both the initial proposal and the F.I proposal as two options for the development of the site. Both developments would access off Mount Sion Road. For ease of assessment, I refer to the initial proposal as Option 1 and the response to the F.I as Option 2. These options are as follows:

2.3. Option 1- Initial proposal submitted 4/4/2022

- 2.3.1. This development is described as phase 1 of the overall zoned lands. In summary the following tables set out some key aspects of the Option 1 development.

Option 1:

Table 1: Key Aspects

Site Area	3.81 ha (gross) (as specified in application form) 2.7 ha (net)
Floor area (gross floor)	11,442.54 m ²
Demolition of Baker house	109.68m ²
No. of units	97 residential units comprising 59 houses and 38 apartment units
Net density	35.92 unit/ha
Plot ratio	0.42
Site coverage	23%

Building height	2, 3 and 4 storeys
Aspect (Apartment blocks)	100% dual aspect
Open Space	0.48 ha/17.89% of site area centrally located between houses and apartment blocks
Creche	To be provided in second phase of the development
Part V	Apartment Block D Total: 10 units
Car Parking	Total: 190 spaces 133 for houses & 57 for apartments Visitor 1 per 4 no. residential units
Bicycle Parking	Not specified

Table 1.1 Summary of Residential& Apartment Mix

Houses						
Unit type	1 bed	2 bed	3 bed	4 bed	Total	% of overall total
			39	20	59	60.8%
Apartments						
Unit type	19	19			38	39.2%
Houses & Apartments						
Total Unit Type Mix	19	19	39	20	97	
% of overall total	19.6	19.6	40.2	20.6	100	
Apartment Blocks						
Blocks	1 bed	2bed	3 bed	Communal Open Space	Total	
A (3/4 storeys)	6	6		210 m ²	12	

B (4 storeys)	4	4		169m ² shared with Blocks C & D	8	
C (3 storeys)	4	4		169m ² shared with Blocks B & D	8	
D (3 storeys)	5	5		169m ² shared with Blocks B & C	10	
Total	19	19		379m ²	38	
Overall %	50%	50%			100%	

- 2.3.2. This option for the site would be served by a long roadway (c.80m) extending from Mount Sion Road through the site and would terminate at its north western corner. This road is proposed as a future distributor road and is indicated as linking Mount Sion Road with lands to the north west of the site. The road would spear off the main access to serve dwellings on the southern side of the site and to the north west side of the road. A 1.8m high plastered concrete fence is indicated around the entire site.
- 2.3.3. The development would be designed to overlook a central open space area with apartments located on the north eastern end of the site, which would bookend two rows of 12 back to back semi-detached dwellings. On the western side of the open space area would be lower density housing, with a mix of terraced, semi-detached and detached dwellings. A proposed attenuation area would be located in one of the former tennis courts to the Ard Ri hotel. An electrical substation is indicated to the south of the site. It is proposed that later phases on the adjoining lands within the applicant's ownership would incorporate a crèche and a café/restaurant linked to the Ard Ri hotel.
- 2.3.4. This development was accompanied by the following:
- Archaeological and Cultural Impact Statement;
 - Stage 1 – AA screening;
 - Traffic & Transport Assessment;
 - Design Statement;

- Visual Impact Statement;
- Engineering Assessment Report,
- Part V agreement submitted with planning application.

2.4. Option 2: Submitted by way of further information 1/3/2023

- 2.4.1. In summary the principal difference between this proposal and the initial proposal is that the dwellings on the western side of the site and the open space area, would be replaced by 4 aparthotel blocks. Both Options are described as phase 1 of the overall zoned lands.

Option 2:

Table 2: Key Aspects

Site Area	3.81 ha (gross) 2.7 ha (net)
Floor area (gross floor)	22,838m ²
No. of units	Total = 186 units comprising:- 24 semi detached houses 4 Apartment blocks with 38 units 4 Aparthotel blocks with 124 units
Percentage breakdown for overall units	24 Houses = 12.9% 38 apartments= 20.4% 124 apart` hotel units = 66.7%
Other uses in Aparthotel complex 3 Retail unit F&B (3x 134m ²) 4 Linen rooms 2 Laundry rooms 2 Refuse rooms Plant, store & switch & substation room Substation Security room Storage & kiosk areas Hotel lobby, reception room & office	

Net density	40.1 unit/ha (Residential)
Building heights Dwellings Apartment blocks Aparthotels	2 & 3 storeys 3 & 4 storeys 1-4 storeys
Aspect (Apartment blocks)	100% dual aspect
Open Space	Apartment A 360m ² Apartments B+C+D= 366m ² 0.44 ha
Creche	To be provided in second phase of the development
Part V	Apartment D Total: 10 units
Car Parking	Total: 289 spaces Houses: 54 Apartments: 58 Aparthotel & retail/F&B: 177 (153 underground)
Bicycle Parking	Total = 122 Apartments: 82 Aparthotel + retail/F&B: 40

Table 2.1: Summary of Residential & Apartment Unit mix

Unit type	1 bed	2 bed	3 bed		Total
Houses					
Housing Unit type			24		24
Apartments					
Apartment Unit type	19	19			38

Houses & Apartments					
Total unit type mix	19	19	24		62
% of total	30.64	30.64	38.7		100
Apartments					
Apartment Blocks	1 bed	2bed	3 bed	Communal Open Space	Total
A (2/3/4 storeys)	6	6		210 m ²	12
B (4 storeys)	4	4		169m ² shared with Blocks C & D	8
C (3 storeys)	4	4		169m ² shared with Blocks B & D	8
D (3 storeys)	5	5		169m ² shared with Blocks B & C	10
Total	19	19			38
Overall %	50%	50%		319m ²	

Table 2.3: Summary of aparthotels

Apart hotel blocks		
Block	Total no. of units	Retail
A (4 storeys)	23	134.36m ²
B (4 storeys)	31	134.36m ²
C (3 storeys)	35	N/A
D (3 storeys)	35	134.36m ²
Total	124	403.08m ²

- 2.5. The layout and configuration of this proposed development would be similar to a large extent to Option 1 with the same road layout and central open space area, including apartment blocks A, B, C & D bookending a row of 24 semi-detached dwellings in the northeastern end of the site. This option however would replace 34 dwellings with 4 Aparthotels comprising 124 units.

- 2.6. The aparthotels would be located on the southwestern part of the site configured in 4 detached four storey long rectangular blocks. The four-storey element to each block would be stepped in from the front elevation by c.3.5m to accommodate a balcony to the fourth floor accommodation on the southern elevation. All the blocks would be 17.9m wide and Blocks A and B would be 51.9m long, with Blocks C and D being 55m in length. It is proposed to have an underground car park beneath the aparthotel blocks serving 153 car parking spaces and ancillary services associated with the aparthotels.
- 2.7. There would be a total of 124, one bedroom units within the aparthotel complex, with a number of self-contained 1 bedroom units with separate living room/kitchen areas. The internal layout of the aparthotel blocks indicates Blocks A, B and D would have a retail/F&B unit on the ground floor each with an area of 134.36m², and the fourth block would have an aparthotel lobby on the ground floor. The blocks would be connected by an internal corridor with individual staircases to each block. There would be a laundry and a linen room and bin storage areas on the ground floor of each block. The aparthotels have been described within the supporting documentation as being 'designed to allow for a flexible layout to provide for alternative uses such as hotel, apartments and offices, to ensure the area is occupied regardless of the demand.'
- 2.8. The four aparthotel blocks would be separated by pocket parks between each block and there would be a minimum separation of c.17m between each block.
- 2.9. The proposed car parking for this option would be 289 car parking spaces, with a total of 177 spaces for the aparthotel and retail /F&B blocks with 153 spaces provided in the underground car park, including bike storage, kiosks, 1 security room and 1 plant room.
- 2.10. A new gravity foul drainage system is proposed on site to connect to the onsite foul drain to the south of the development site within the applicant's control, and a second connection on the Rockshire Road to future service the site. Storm water would be connected via a new gravity system and it is proposed to make a second connection on the Rockshire Road, to discharge the access road gullies. A number of SuDS measures are proposed including permeable paving, green roofing and tree

pits. A new water system on site would connect to the existing watermain on the Rockshire Road.

- 2.11. It is proposed to remove 7 trees as part of the development, and these are categorised of low quality.
- 2.12. The applicant has also proposed a third option which would be the removal of the aparthotel and commercial element from the proposed development.

Masterplan

- 2.12.1. A Masterplan was submitted as part of the F.I response at the P.A's request, and provides an indicative vision for the whole 'opportunity site', including the area within Waterford City and County lands which includes the site of the Ard Ri hotel. The overall masterplan area would comprise 87 dwellings, 260 apartment units, and ground floor commercial units to the apartments, ground floor creche and 4 aparthotels to include 124 units and 3 commercial/F&B units on the ground floor, underground car park and a 243 bedroom hotel. This masterplan was submitted by way of further information and did not form part of a statutory plan process.

Phase 1: Current appeal proposal including Options 1 & 2.

Phase 2: *Lands to the east of the current appeal proposal and to the rear of the houses in Mount Sion Road.*

This phase would comprise: 3 Apartment Blocks, 1 Apartment block with creche on the ground floor, a row of terraced houses, and open space area. One of the apartment blocks would be located to the rear of the dwellings in Mount Sion Road to the south of the accessway.

Phase 3: *Lands to north of proposed distributor road and to south of golf course.*

This phase would comprise: 15 detached dwellings, 2 apartment blocks and open space areas. One of the apartment blocks would be located to the rear of the dwellings in Mount Sion Road to the north of the accessway.

Phase 4: *Lands to the north of Ard Ri hotel*

This phase would comprise: Twelve semi-detached dwellings and 1 apartment block with an open space area.

Phase 5: *Ard Ri Hotel*

The hotel is indicated as being upgraded and extended to include 243 bedrooms, 3 restaurants, 2 bars, 2 swimming pools, hotel set down area, visitor and hotel car park, gym and day spa accessible to the occupants of the residential development and aparthotel units.

Phase 6: *Lands to the south and west of the red line area (within administrative area of WCCC)*

This phase would comprise the Guardian Statue, Gondola station and visitor centre, and an eco park with a possible future link to Newrath Road to the west.

The planning report submitted with the proposal states the aparthotel blocks would avail of the Dock Road entrance once the Ard Ri acquisition is resolved, however this is indicated as a pedestrian and cycle access only within the Masterplan layout.

2.13. The F.I was accompanied by the following:

- Planning Statement;
- Architectural Design Statement;
- Architectural Heritage Impact Assessment;
- Masterplan document;
- Geophysical Survey report;
- Pre connection enquiry;
- Natura Impact Statement;
- Updated Traffic & Transport Assessment report;
- Engineering Assessment Report;
- Quality Audit;
- Computer generated images & verified view photomontages of development and Masterplan;
- Archaeological Test Trenching & Impacts Assessment Report;
- Public Lighting layout;
- Arboricultural Impact Assessment;

- Landscape Works Specification;
- Outline Construction & Environmental Management Plan.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 28th April 2023 Kilkenny County Council refused planning permission for the proposed development for 5 reasons. These are as follows:

1. Having regard to the scale of the development, in particular the four aparthotel structures on a prominent high ground site, it is considered the proposal will impact the pleasing visual aspect of the rock face and the hilltop of Mount Sion when viewed from the surrounding areas. It is considered the proposed development on the ridgeline, particularly when viewed from across the river in Waterford and from the high points in the city would have a negative impact on the sensitive landscape and would therefore be contrary to the proper planning and sustainable development of the area.
2. In the absence of critical information and detail contained within the application which has given rise to a number of roads related issues, it is considered that the proposed development will result in a substandard development in relation to the road layout and the applicant has failed to demonstrate that the proposed development will not result in a traffic hazard. It is therefore considered the proposed development is contrary to the proper planning and sustainable development of the area.
3. In the absence of critical information and detail contained within the application which has given rise to a number of Environmental related issues in particular surface water management on the site and its possible impact on the Lower River Suir SAC, it is considered that the applicant has failed to demonstrate that the development will be undertaken in a manner which will not adversely affect the Environment and would thus be contrary to the proper planning and sustainable development of the area.

4. In the absence of enabling tourism infrastructure associated with the redevelopment of the Ard Ri hotel and the provision of alternative access (cableway) to the tourism element (Apart Hotel) of this development within the jurisdiction of Waterford City and County Council, the proposed commercial development (tourism) would be premature and its viability and sustainability questionable. The proposal which provides for all traffic, both residential and commercial, to be taken through the proposed access on Mount Sion Road is viewed as inappropriate and could have a potential negative impact on the existing and future residential amenities. The proposal will therefore be contrary to the proper planning and sustainable development of the area.
5. The proposed entrance to the development is dependent on the extinguishment of an existing public right of way along the old public road, which is a reserved function of the Council. The process to extinguish the use of the road lies outside the control of the applicant and a grant of permission for such a large scheme dependent of a process outside of the control of the applicant would be contrary to proper procedure.

3.1.2. In considering the application the P.A sought an extensive F.I (44 no. items) including the following:

- Regard to the zoning objectives, scale, level of residential, impact on surrounding area,
- A high level Masterplan for the lands to assess the cumulative impact of the proposal,
- Archaeology,
- Traffic/Accessibility including revised Traffic Impact Assessment & compliance with DMURS,
- Water Services, including surface water drainage and run off from the site,
- Architectural Heritage Impact Assessment,
- Treatment of open spaces,
- Assessment of the visual impact including photomontages, and
- Appropriate Assessment & NIS.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 3.2.2. Initial planners report dated 24/5/2022 for a total of 97 units, had concerns regarding the extent of residential development proposed for the site conflicting with the opportunity site objective as identified in the Ferrybank LAP. The objective for the site sought to allow for a mixed-use development with a broad range of uses based around a tourism/recreational function. In the absence of an overall masterplan for the area the development was considered piecemeal and premature.

Given the strategic nature of the site and the overall landholding of the applicant, an opportunity by way of Further Information (F.I) was issued to explore the deficiencies in the application and develop a masterplan for the future lands. The F.I contained 44 points to be addressed.

The second planner's report dated 28/4/2023 had regard to the F.I response, which had been amended to replace the dwellings on the western end of the site with 4 aparthotel blocks (Option 2 outlined above) and a masterplan. Concerns were raised regarding elements of the masterplan particularly regarding the aparthotels which were considered a viable option only if they linked to the Quays, and cable car/gondola and tourism elements proceeded for which there is currently no timeline. Without the aforementioned elements the viability of the mixed use was considered questionable and the commercial element of aparthotels considered premature.

There were a number of significant outstanding issues regarding the revised proposal which were considered could not be conditioned in the event of planning permission being granted regarding the overall design of the aparthotels, environmental, drainage, road and right of way issues. Planning permission was therefore refused.

3.2.3. Other Technical Reports

Senior Assistant Chief Fire Officer: 25/4/2022: Development will require a Fire Certificate before works commence on site.

Senior Engineer/Water Section: 16/5/2022: Recommends further information regarding inter alia; risk assessment for the proposed works due to rock being close to surface, calculations for proposed surface water attenuation tanks, details of

surface water attenuation system, CEMP, Waste Management Plan and bin storage for terraces.

Roads Design, Senior Executive Engineer: 18/5/2022: Considers application maybe premature pending the approval of the required masterplan and whether it was subject to an SEA. Extensive F.I request (31 issues) including Traffic & Transport Assessment Report, Road Safety Audit, DMURS, public lighting, pedestrian crossing at Rockshire Road, construction & management plan, extinguishment of right of way at Rockshire Road, provision of EV charging points, vehicular link from the site to the Quays, anomalies in the drawings, landscaping and location of ESB sub station.

Roads Design, Senior Executive Engineer to F.I: 24/4/2023: Commented on receipt of F.I. which had substantially changed from the original submission. Number of issues which required clarity which due to insufficient time could not be clarified and could not be resolved by way of condition. Recommended refusal.

Parks Department: 19/5/2022: Raised a concern regarding the impact of the proposed development on the ridgeline when viewed from across the river in Waterford and from the Gracedieu area. The proposed flat building lines will contrast with the jagged and undulating line of the ridgeline. There is little detail regarding existing trees/hedgerows. Any landscaping plan should have regard to the shallow soils suited to an elevated and exposed location. Indicate linkages from the proposed development to the surrounding neighbourhoods.

Parks Department to F.I: 26/4/2023: On receipt of F.I, this section considered given the elevated nature of the site and soil type, the existing tree cover and the proposed young tree planting signify that this site does not support large tree canopy cover. It would take a long time for any trees to gain impact to soften the impact of the aparthotel elements into the landscape.

Architectural Conservation Officer: 23/5/2022: Site is not in a Conservation area. Conservation section had concerns regarding the scale of the development and its overall visual impact on the surrounding area including the RMP Gibbet, golf course, Waterford city and estuary, and Quays. The removal of the house in Mount Sion Road was considered a positive as it would open up vistas to Pope's Tower. F.I requested regarding archaeological testing, Architectural Heritage Impact

Assessment with regards to the Pope's Tower zone of influence/curtilage, further montages of the development from the east (Abbey Road) and other vantage points from the Waterford side of the estuary, breaking of visual impact between the Gibbet and the Tower and a visual lighting montage.

Architectural Conservation Officer to F.I: 16/3/2023. On receipt of the F.I response, notes the revisions that have been made including modifications to retain the vista between the Gibbet and Pope's Tower and Rockshire Hill, improved vista from south and south west but remains concerned about the overall visual impact of the proposal and does not support the development. Recommendations are made in the event of planning permission being granted, including the removal of aparthotel blocks A-D, retention of tree line, retaining Field 3 free from development, increasing the distance between the proposed access road and the Tower, for visual/setting and structural security.

Housing Section: No report although Part V agreement submitted with planning application.

3.3. Prescribed Bodies

- 3.3.1. **Department of Housing, Local Government & Heritage:** 20/3/2023: In receipt of Archaeological Test Trenching & Impact Assessment report by Aegis Archaeology Limited. According to the report no features of archaeological potential were identified during Archaeological testing of features identified during a geophysical survey and other areas of the proposed site. Areas available for testing trenching were restricted due to impenetrable gorse and overhead power lines. Therefore, there remains a possibility that previous unrecorded archaeological features may lie sub surface on the western side of the site. Recommends conditions regarding archaeological monitoring and that topsoil removal at the western portion of the site which was not subject to geophysical survey be archaeologically monitored under licence from the Department at the time of construction.
- 3.3.2. **Uisce Eireann:** 3/5/2022: No objection subject to a condition regarding applicant signing connection agreement. Notes PCE agreement completed. COF letter not on file at time of completing the Planning Obs report. Of note the letter states Kilkenny County Council recommends water will require boosting as proposed site is higher

than reservoir. Capacity of Waterford City WWTP unknown, to be confirmed by Waterford County Council. Assuming levels are ok, nearest point for sewer connection would be SMH 1008167 in the corner of Brockton Grove. It is not possible for surface water to enter the sewer system as per the application.

Uisce Eireann to F.I: 25/3/2023: No objection subject to conditions regarding a connection agreement prior to commencement of the development. Of note the letter states water connection is feasible without infrastructure upgrade by UE. Waste water feasible subject to upgrades. Foul connection to north of site on Mount Sion Road will require a 190m extension on the public road from the site entrance to the existing foul manhole.

- 3.3.3. **Waterford City and County Council (WCCC):** Report dated 13/5/2022: Confirms the applicant has not engaged with WCCC in the preparation of an overall design framework plan for the entire landholding. The council were concerned that the current proposal did not address the significant tourism potential of the site or any redevelopment of the adjacent hotel buildings and would be contrary to Kilkenny County Council's policy statement that, "it is not intended that residential would form the primary use" at this location.

WCCC therefore suggests that the proposed development would be premature pending the preparation and approval of an "overall design framework plan" to deliver a mixed-use development, across the entire landholding (split between the functional areas of Kilkenny County Council and WCCC), which would "support appropriate tourism attractions and or innovative links/connectivity with the North Quays and onto the city centre."

3.4. **Third Party Observations**

- 3.4.1. The planning authority received 13 submissions to the initial proposal and 7 submissions to the F.I proposal. Their concerns were noted in detail and considered in both planner's reports. Many of the issues raised are similar to that outlined in Section 6.1 below.

4.0 **Planning History**

Subject Site:

- 4.1. **P.A Ref 96/1120 & ABP Ref: 10.101944:** Planning permission refused for 19 serviced sites on part of the current site in 1997.
- 4.2. **P.A Ref: 10/381:** Planning permission refused for the erection of a 24 metre high telecommunications multi-user monopole with associated equipment attached and equipment cabin and cabinets within a palisade fenced compound with an extension to an existing access track.
- 4.3. **ABP Ref: 10.241960 & P.A Ref: 13/60 &:** Planning permission granted by ABP for a telecommunications mast on the site.

Residential Zoned Land Tax (RZLT)

- 4.4. **P.A Ref: KK-C205-10 & ABP Ref: VY10.316552:** Confirmation on 17th July 2023 of the determination by Kilkenny County Council (Reg: Ref: KK-C205-10) to include lands (11.56 ha) under the ownership of Seamus Walsh's control on the RZLT map. Refers to 11.56 hectares of land and includes lands that formed part of the Ard Ri hotel.

Ard Ri Hotel site:

- 4.5. **P.A. Ref:03/895:** Planning permission granted for replacement windows, projections to front elevation, extend circulations pace and 40 bedrooms and addition of sun louvres to front elevation and cladding to roof system.
- 4.6. **P.A Ref: 03/1883:** Planning permission granted for a single storey extension and refurbishment of ground floor hotel bar and associated areas including alterations to the car park and all associated site works.
- 4.7. **P.A Ref: 04/1902:** Planning permission granted for extensions and refurbishment works to the hotel and existing leisure centre and apartments blocks.
- 4.8. **P.A Ref: 08/822:** Planning permission refused to demolish the hotel and construct a mixed-use development ranging from 3 to 8 storeys, as it contravened the Ferrybank-Belview LAP, design and impact on residential amenity.
- 4.9. **P.A Ref: 10/547:** Extension of Duration of planning permission granted for planning permission Ref. in Planning Register P. 04/1902.

Residential Zoned Land Tax (RZLT)

- 4.10. **P.A Ref: WFD-C15-34 & ABP 316551-23** Confirmation on 9th October 2023 of the determination by Waterford County Council to include lands under the ownership of Seamus Walsh's control on the RZLT map and located at the former Ard Ri site, at Ferrybank, Waterford.

5.0 Policy Context

5.1. National Planning Context

National Planning Framework, Project Ireland 2040 (NPF)

- 5.1.1. Waterford is recognised as one of 3 cities within the southern region in the NPF, and it states the key challenge for Waterford is to build scale and enhance urban quality through employment-led growth, including developing and implementing a strategic Metropolitan Area Spatial Plan (MASP) for the area. The purpose of the MASP is to secure long-term transformational and rejuvenation-focused city development, with a special emphasis on capitalising on the potential of underutilised and publicly owned and centrally located sites and activating their potential to boost the population and economic output levels of city centre areas as drivers for wider regions.
- 5.1.2. A number of overarching National Policy Objectives (NPOs) are applicable to the proposed development from the NPF, including:
- NPO 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- NPO 3b: Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.
- NPO 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- NPO 7: Requires a tailored approach to urban development and to accelerate the development of Waterford, Cork and Limerick Cities to grow by at least half, i.e. by 50% to 60% to 2040.

NPO 8: Sets out a Minimum Target Population for Waterford City and Suburbs by 2040 of 81,000. This will require targeted growth focused on significant housing and employment locations identified.

NPO 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

NPO 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

NPO 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.

NPO 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

NPO 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

NPO 67: Provides for the provision of Metropolitan Area Strategic Plans (MASPs) for Waterford and other cities in the country, in tandem with and as part of the relevant Regional Spatial & Economic Strategies.

NPO 68: A Metropolitan Area Strategic Plan (MASP) may enable up to 20% of the phased population growth targeted in the principle city and suburban areas, to be accommodated in the wider metropolitan area i.e. outside the city and suburbs or contiguous zoned area, in addition to growth identified for the Metropolitan Area.

NPO 70: Provision will be made for urban area plans, based on current local area plan provisions, and joint urban area plans and local area plans will be prepared

where a town and environs lie within the combined functional area of more than one local authority.

5.2. Regional context

Regional Spatial and Economic Strategy (RSES) for the Southern Region

- 5.2.1. The NPF identified Waterford as an important driver of national growth and a 'Regional city of Scale' with a defined metropolitan area. The Waterford Metropolitan Area is located around Waterford Harbour and the River Suir and centred on the City of Waterford and its suburbs with an extensive rural area beyond the built-up area including lands to the north within Kilkenny County. The subject site lies within the MASP area.

Waterford Metropolitan Area Strategic Plan (MASP)

- 5.2.2. The vision for the Waterford MASP area is to develop a concentric city both north and south of the River Suir and encompasses an area of 143km², of which 85.05km² is in Waterford City and County Council, and 57.60km² is within Kilkenny County Council. The majority of the population (89%) lives in the built-up area of the City and suburbs located mainly on the southern side of the River Suir but also extending to the north side of the river into Co. Kilkenny. Improved cross city connection between Waterford City/environs (south of the River Suir) and the North Quays SDZ/Ferrybank area is identified as a strategy to link both sides of the river.
- 5.2.3. The NPF proposed a series of key future growth enablers which have been further developed into a number of key themes and derived guiding principles and policies in the RSES MASP. The five principle themes include:
- **Integrated Land Use and Transportation** to deliver investment and the concentric city.
 - **Housing and Regeneration** across the city and its diverse neighbourhoods to achieve compact, infrastructure led growth.
 - **Employment and Enterprise** to bring about transformational change.
 - **Natural Environment** to support the recreational needs of the expanding population while protecting and enhancing biodiversity; and,

- **Social Infrastructure** of a standard to support communities and advance the learning city and county and associated social and economic development.

5.2.4. Short term/early enabler steps to achieve the MASP objectives, in terms of physical development, include:

- (a) the development of a new bridge to link the City Centre to the North Quays,
- (b) relocation of the railway station to a new Integrated Transport Hub on the North Quays and
- (c) development of the Abbey Link Road in Ferrybank. All three enablers support significant population and employment growth north of the river.

5.2.5. Long Term steps to achieve the MASP objectives include a need for a high degree of co-ordination across the entire Metropolitan Area. The implementation structures will need to oversee a rebalancing of overall population in favour of higher growth and population allocations north of the River. Significant growth targets set for the overall Metropolitan Area will not impede growth or development in the city centre and suburbs south of the river.

5.2.6. The RSES provides for a population increase for the MASP area of 14,610 by 2026 and 7,305 by 2031, however this would see an increase in population from 3,321 in 2026 to 3,506 in 2031 in the Kilkenny area for the same years. The RSES contains 27 policy objectives for the Waterford MASP area. Of relevance are the following:

Objective 6 (b) Improved connectivity between the city centre and the North Quays Innovation District and wider Ferrybank area including provision of a pedestrian/public transport bridge and proposed road bridge from The Mall to Ferrybank.

Objective 8: Housing and Regeneration

a. Support the high-quality compact growth of Waterford City Centre and suburban areas, the assembly of brownfield sites for development and the regeneration and redevelopment of Waterford City Centre to accommodate residential use. The MASP will support initiatives which facilitate compact growth, and which promote well designed high-density residential developments which protect amenities and in the city centre and suburban areas.

b. Ensure investment and delivery of comprehensive infrastructure packages to meet growth targets that prioritises the delivery of compact growth and sustainable mobility in accordance with NPF and RSES objectives.

Objective 9: Vibrant City Centre

It is an objective to support Local Authorities and Public Bodies in seeking investment and implementation of actions to develop a vibrant urban centre focused on Waterford City Centre, including priority for investment in the infrastructure to deliver New Bridges connecting the North Quays / wider North Shore & Ferrybank area to the City Centre, Relocation of the Railway Station to the North Quays with more direct access to city centre on the south shore, improved access into the City Centre for City Bus Services, improved services with more Bus Priority on city streets and through neighbourhoods and development of additional Greenway links through the City Centre, subject to the outcome of environmental assessments and the planning process.

Objective 11: Strategic Residential Development

Local Authorities and Public Bodies shall support the delivery of Priority Infrastructure to support the delivery of strategic housing development in support of the overall development and planned growth of the Waterford Metropolitan Area, subject to the outcome of environmental assessments and the planning process. This indicated the development of lands zoned for residential development in Ferrybank for c.850 units.

Objective 18: Tourism

a. It is an objective to support investment in infrastructure, including increased capacity of road, rail, ports and Waterford Airport to maximise the potential of tourism subject to the outcome of environmental assessments and the planning process.

b. It is an objective to support the Waterford Metropolitan Area as a tourism destination.

5.3. Section 28 Ministerial Planning Guidelines

5.3.1. The following includes a list of relevant Section 28 Ministerial Guidelines:

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

Applicable policies include:

- Section 3.3: contains Table 3.3 which requires net residential densities in the range 35-50 dph to be generally applied at suburban and edge locations of Metropolitan Towns.
- Section 3.4: guides that while densities within the applicable range are acceptable, densities closer to the mid-range should be encouraged at intermediate locations.
- Section 4.4: contains Policy and Objective 4.1 which requires the implementation of principles, approaches and standards in the Design Manual for Urban Roads and Streets, 2013, including updates (DMURS).
- Section 5.3: includes achievement of housing standards as follows:
- SPPR 1 – Separation Distances which requires a minimum of 16m between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level.
- SPPR 2 – Minimum Private Open Space for Houses which requires a minimum of between 20sqm (1 bed) to 50sqm (4+ bed) dependant on number of bedrooms in a house (private open space for duplexes and apartments as per the Apartment Guidelines).
- Policy and Objective 5.1 which requires a public open space provision of between 10%-15% of net site area. A higher range may be applicable in sites that contain significant heritage, landscape or recreational features and sites that have specific nature conservation requirements.
- SPPR 3 – Car Parking which restricts the maximum rate of car parking provision for residential development in intermediate locations to 2 no. spaces per dwelling (exclusive of visitor spaces).
- SPPR 4 – Cycle Parking and Storage which requires a general minimum standard of 1 no. cycle storage space per bedroom (plus visitor spaces), a

mix of cycle parking types, and cycle storage facilities in a dedicated facility of permanent construction (within or adjoining the residences).

‘Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018’ (Building Height Guidelines). Applicable policy includes:

- Section 1.9 requires building heights of at least 3 to 4 storeys, coupled with appropriate density, in locations outside city and town centre areas to be supported in principle at development management level.
- SPPR 4 requires:

It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/ town locations for housing purposes, planning authorities must secure:

1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines;
2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and
3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.

‘Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, July 2023’ (Apartment Guidelines). Applicable policy includes:

- Section 2.4 identifies intermediate urban locations as being suitable for medium-high density residential development of any scale that includes apartments to some extent (minimum density is indicated as 45dph).

‘Design Manual for Urban Roads and Streets’ (DMURS) 2019

‘Childcare Facilities, Guidelines for Planning Authorities, 2001’ (Childcare Guidelines).

‘Framework and Principles for the Protection of Archaeological Heritage’ (Dept. of Arts, Heritage, Gaeltacht and the Islands, 1999).

5.4. Kilkenny City and County Development Plan 2021-2027

- 5.4.1. The Kilkenny City and County Development Plan 2021-2027 is the operational plan for the subject site. It came into effect on 15th October 2021. This Development Plan states Kilkenny County Council is committed to developing Ferrybank/Belview as part of a concentric city as envisaged in the Waterford MASP and remains conscious of maintaining the area's social, cultural, sporting and political identity into the future.

Core Strategy

- 5.4.2. The Core Strategy and its objectives are consistent with national and regional development objectives set out in the NPF and RSES. It is envisaged within the Plan that targeted growth will be in a compact form, with 40% of the projected growth within Kilkenny city, towns and villages and 30% to be within the existing built footprint. The Plan provides for a population increase of 2,320 persons, with a requirement for 910 housing units and 26 hectares of residential land over the 2025-2031 plan period.
- 5.4.3. The exception to this rule is the Waterford Metropolitan Area Strategic Plan (MASP) area, which contains Ferrybank and environs, where 50% of new housing growth for Waterford City is to be delivered within the existing built-up footprint, including that part within County Kilkenny.

Objective 13A To compile an analysis and a development guidance criterion for housing opportunities in Kilkenny City's backland areas, underutilised lands and brownfield sites.

Chapter 6- Housing & Community, relevant objectives include:

6A: To ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

6E To implement the provisions of the Housing Strategy contained in Appendix B.

6F To require 10% of the land zoned for residential use, or for a mixture of residential and other uses, be made available for the provision of social housing.

6G To require that a mixture of residential unit types and sizes are developed to reasonably match the requirements of different categories of households within the city and county.

6J To ensure the widest possible range of housing options in each new development and to prevent the proliferation of limited option house types in any particular area.

5.4.4. **Chapter 9 Heritage Culture & the Arts**

There are a number of archaeological features along the boundary of the site. A recorded standing stone and mound Ref: WA009-017001 and 017003- are situated on a scrub covered area to the southwest of the site's boundary and a recorded Gibbet Ref: KK046-007 to the western boundary within the golf course grounds.

Objective 9A-H Development Management requirements, for archaeological assessment/monitoring for planning applications in areas of archaeological importance.

5.4.5. **Chapter 10 Infrastructure & Environment**

Section 10.2.8: Development Management Requirements for Surface Water Drainage which specifies for larger scale developments a report will be required specifying the SUDS measures considered in principle. If natural measures are not included, the reasons why not should be outlined.

5.4.6. **Chapter 12 Movement and Mobility**, relevant objectives include:

12A To plan for and progressively implement a sustainable, integrated and low carbon transport system by enhancing the existing transport infrastructure in terms of road, bus, rail, cycling and pedestrian facilities and interfacing different modes as the opportunity arises.

12B To plan for a transition towards sustainable and low carbon transport modes, through the promotion of alternative modes of transport, and 'walkable communities' together with promotion of compact urban forms close to public transport corridors to encourage more sustainable patterns of movement in all settlements.

5.4.7. Section 4.3.2 of the CDP refers to the Waterford MASP (Ferrybank/Bellview) area, and Objective 4I of the CDP seeks to commence the review of the Ferrybank/Belview Local Area Plan within 6 months of the coming into effect of the

CDP having regard to the MASP and to incorporate into the Kilkenny City & County Development Plan by way of variation.

5.5. Ferrybank-Bellview Local Area Plan (LAP) 2017

- 5.6. The subject site was within the boundaries of the lands contained within this LAP, and the planning application the subject of this appeal, was considered under the policies within this LAP. However, Kilkenny County Council has commenced the process of reviewing the Ferrybank – Bellview LAP 2025-2031 and the consultation period expired on 12th July 2024. The Ferrybank-Bellview Local Area Plan (LAP) 2017 has therefore expired. However, I consider it is worth noting several aspects of this LAP in relation to the proposed development.

Zoning:

- 5.6.1. The subject site was zoned as an ‘opportunity site’ within this LAP, the objective for this zoning was:

‘To allow for a mixed-use development with a broad range of uses, primarily based around a tourism/recreational function subject to the preparation of an overall design framework/Masterplan for the entire site. It is not intended that residential would form the primary use, but that a proportion of the uses, would be residential.’

Section 5.2.5 of this LAP made special reference to the Ard Ri hotel site as providing possible tourism potential within the Ferrybank-Belview area. This section describes the site and its very prominent position on the north side of the River Suir and offering panoramic views of Waterford City below. Due to its dramatic location, the site was considered to present opportunities in terms of the development of amenity and leisure facilities. The LAP stated Kilkenny County Council would liaise with Waterford City and County Council in relation to this site.

Development Objectives within this LAP which I consider of relevance to the subject site was:

8F: Work with Waterford City and County Council to explore development options for the Árd Rí hotel site as an Opportunity site.

5.7. Waterford City & County Development Plan 2022-2028

- 5.7.1. The southern boundary of the subject site adjoins Waterford City and includes part of the Ard Ri hotel complex (8 hectares), and an area of open space to the south west.

Zoning:

Former Ard Ri Site, Dock Road:

- 5.7.2. This site extends through the Ard Ri hotel, which is zoned within the Waterford CDP as a 'Regeneration and Opportunity site' (Ref: OPS17) with a zoning objective to 'Provide for enterprise and /or residential led regeneration'. The vision within this Plan for this site is stated as:

'Development on this strategic brownfield site should provide strong architectural design as a key landmark/gateway to Waterford City; Future developments shall comprise a high quality design complementing the North Quay planning scheme; Development on this site should be mixed use high density with emphasis on tourism, apartments and city living; Development should maximise the sites elevated location and views across the city; The site has the potential to accommodate taller building(s).'

Open Space area to south west of subject site:

- 5.7.3. This area is zoned 'Open space and Recreation' with an objective to 'preserve and provide for open space and recreational amenities'.
- 5.7.4. Section 3.3.7 of this CDP refers to the Ferrybank neighbourhood which is divided between Waterford and Kilkenny local authorities and emphasises the need for co-operation and joined up thinking between the two local authorities in the delivery of services, through the process of development management and planning for the future of the area.

Policy Objective W City 22: MASP Implementation

Plan for, and deliver, the concentric city envisaged in the Waterford PLUTS and Waterford City MASP, as a leading member of the MASP implementation body, in collaboration with the Southern Regional Assembly, Kilkenny County Council, and other principle stakeholders with regard to governance and implementation, service and infrastructure delivery.

Policy Objective W City 31: Ferrybank Collaboration

While we recognise the independence of statutory planning in the Ferrybank area of South Kilkenny as expressed in the Ferrybank and Belview Local Area Plan 2018, we will collaborate with Kilkenny County Council and other key stakeholders in order to implement priority actions to deliver the shared vision, to achieve a concentric city and the enhancement of all our communities and neighbourhoods.

5.8. Natural Heritage Designations

5.8.1. The site is not located in a European site, a Natural Heritage Area (NHA) or a proposed NHA (pNHA).

5.8.2. The European site designations in proximity to the appeal site include:

European Site (site code)	Distance from proposed development	Direction
Lower River Suir SAC (002137)	c.105m	south
River Barrow & River Nore SAC (002162)	c.7.44km	east
Tramore Backstrand SPA (004027)	c.10.9km	south
Tramore Dunes & Backstrand SAC (000671)	c.10.9km	south
Mid Waterford Coast SPA 004193)	c.14.6km	south

5.8.3. Grannyferry pNHA (site code: 000833) is c.2km from the north western boundary of the site. King's Channel pNHA (site code: 001702) is c.3.1km from the south eastern boundary.

5.9. EIA Screening

5.9.1. See completed Form 2 on file. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required. (Refer to Appendix 1 and 2 of this report).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal has been received against the P.A refusal of planning permission. In addition there are 2 third party observations representing Ms. Mary & Bernadette Cahill, Mount Sion Road, in support of the P.A's decision to refuse. The main issues raised are summarised as follows:

6.1.2. Grounds of First Party:

The First Party request that the initial development (Option 1) and the response to the F.I development (Option 2) are both considered by the Board, subject to modifications, conditions/and or a split decision.

Principle of the development (Option1)

- Development fully aligns with the NPF & Housing for All.
- Ferrybank & Bellview LAP had an indicative housing target of 910 units, and has only delivered 49 houses in that time (P.A Ref: 06/1838).
- LAP allows for residential development as part of a mixed-use development on the overall "Opportunity site".
- Site is only site to provide deliverable housing in the short term for the area. References North Quays SDZ currently having no funding.
- Initial submission allowed for a phasing of the site.
- Tourism was not considered necessary as the P.A had initially sought a predominantly residential development at pre planning meeting.
- Remainder of opportunity site has a dominant tourism element in the Ard Ri hotel complex with the capacity to expand including the Guardian and gondola cable car aspirations of Waterford City & County Council.

Principle of the development (Option 2)

- Due to extensive F.I, applicant incurred substantial expense, had meetings with the P.A., and there was a high expectation development would be granted.

- P.A sought the introduction of a non residential element and had no objection to aparthotel element.
- Design changes were made to render the visual impact of the aparthotel complex acceptable.
- The Planning Authority considered a tourism element was required in the development.

Compliance with Masterplan

- Applicant originally submitted a Design Statement incorporating a masterplan to satisfy Objectives 8F & 8DMA of the LAP.
- Applicant has engaged with WCCC to facilitate the reopening/redevelopment of Ard Ri hotel including the Waterford Guardian & g ondala proposal.
- Objective 8DMA of the LAP requires the P.A to work with WCCC to ensure developments with Ard Ri, an opportunity site, are only considered within an overall design framework plan for the entire site, which includes the protection of the ridgeline, View FB3 and the watchtower.
- WCCC made a submission on the proposal and concerns related to the applicant's lack of engagement in respect of the overall design framework and the potential of Ard Ri was not addressed. Considers the applicant has made an effort to engage with WCCC, and gone as far as possible in meeting the LAP objectives. It is taken WCCC had no objections to the final Masterplan as they did not respond to the F.I.
- Following F.I request a standalone Masterplan has been submitted and revised Design statement. Both Councils are aware the legal issues regarding Ard Ri and the difficulty in meeting the objective on the site with regards the tourism element.
- If the applicant has failed to prepare a Masterplan in conjunction with WCCC it is through no fault of theirs and this issue should carry no weight.

Refusal reason 1:

- The applicant provided 3D images to demonstrate there is no negative visual impact from the proposed development.

- Architectural Design statement clearly explained how the four aparthotels structures were designed to minimise visual impact.
- Top floors of aparthotels were stepped back on advice of P.A.
- The Park's section objected due to the lack of landscaping to screen the development – this is a short term impact.
- A blanket development ban where the aparthotels are located is unreasonable given the site's zoning.
- Applicant has no objections if the Board are minded to modify/remove the aparthotel element of the development and reintroduce the proposed housing.
- The scale and design of the proposed buildings have to be considered in the context of 2 jurisdictions and in the context of what both authorities aspire for the site. Objective OPS17 of WCCC Plan seeks a high quality design, mixed use and maximise the elevated location of the site and the potential to accommodate taller buildings.
- Compared to the proposed WCCC's Guardian statue the granted North Quays development, the appeal development would be significantly lower.
- National Policy encourages tall buildings.
- Difficult to design on a hillside without having an impact. However, the visual impact of the 4 aparthotel structures has been reduced by several means including site selection, scale & proportion, setback from the edge of the hillside, design, materials, landscaping and appropriate lighting.
- The applicant is willing to modify the aparthotels to 2 or 3 storeys, or remove them from the development to overcome this reason for refusal.

Refusal reason 2:

- This refusal reason can with modest redesign be dealt with by planning conditions.
- Traffic & Transport Assessment indicates the proposed junction onto Mount Sion Road has the capacity for the development.

- It will be possible to access the Aparthotels from the Ard Ri hotel entrance when it is reopened/redeveloped.
- The overall design has been undertaken in accordance with DMURS.
- Stage 2 & 3 Road Safety Audits following a grant of permission & construction can typically require further design changes.
- Development is addressing housing demand, ease of accessibility & connectivity to the city.

Refusal reason 3:

- Considers the points raised by the environment section on F.I were minor and could have been dealt with by planning conditions.
- Storm water is now connected to a storm outfall only as indicated on drawings submitted with F.I.
- A ground investigations survey was undertaken outlining the suitability of the site for development.
- Storm attenuation measures and SuDs proposals have been submitted in F.I.
- CEMP report submitted regarding mitigation measures during construction and mitigation measures proposed in NIS to prevent surface run off into River Suir.
- There will be an element of cut and fill and it is intended to reuse cut material. All remaining topsoil to be transported to a licenced waste facility.
- Uisce Eireann have no objection to the development and the finer details of water and waste water connection are subject to planning condition regarding compliance and agreement with Uisce Eireann.
- KKC raised no concern about stormwater disposal.

Refusal reason 4:

- Does not consider the traffic generated by the aparthotel would have any negative impact on the residents of the proposed housing and no indication is given of these negative effects.
- Traffic impacts would be no greater than those associated with housing.

- It is expected when the legal dispute is resolved the Aparthotels can access Dock road.
- The commercial development is not premature and is in accordance with the proper planning and sustainable development of the area.

Refusal reason 5:

- This refers to the development being dependent on the extinguishment of an existing public right of way along the public road, and the Applicant contends if this was an insurmountable issue, the application should have been refused from the outset.
- Refers to Section 34 (13) of the Planning Act and that the right of way is not an impediment to granting permission.

No Planning Authority objection to residential development

- The 5 reasons for refusal relate to the Aparthotels and tourism element.
- Respectfully submit that the Board can grant residential development as originally submitted or as the proposed development in the F.I response. If the Board has a concern with the aparthotel element, it can permit the original housing submission to overcome the P.A's concern over tourism traffic accessing Mount Sion road.

Environmental Impact Assessment Screening

- Proposed development is below the mandatory requirements for an EIAR, less than 500 dwelling units.
- Does not consider the development is project splitting and provided a Masterplan for the whole site at the request of the P.A, which included the Ard Ri site (8.2ha). However, it is intended that the hotel remains a tourist use, and therefore the proposed works would not trigger an EIAR. An SEA is not required for the Masterplan.
- The development of the Guardian statue and gondola cable car exceeding 500m in length to be developed by the Applicant in conjunction with WCCC may require an EIAR.

- Masterplan submitted with the application indicated c.347 further units which is below 500 unit threshold for EIAR.

Residential Zoned Land Tax

- Both KCC and WCCC have included the applicant's entire land holding in their RZLT maps based on it being lands that is readily serviceable and developable.

6.2. Observations

- 6.2.1. Two observations were received to the appeal on behalf of Ms. Bernadette Cahill of Sunrise, Mount Sion Road (to the south of the proposed entrance), and Ms. Mary Cahill of Hilltop, Mount Sion supporting the decision of the Council's reasons for refusal on the following grounds:

Refusal reason 1: Scale of development and visual impact

- The self catering style aparthotel accommodation will be a substandard type of development for this prominent site, and will not help the housing crisis, and the transitory nature of the units, will not contribute to a sense of place or contribute to the wider community.
- Scale is inappropriate in this location and will impact on views.

Refusal reason 2: Traffic hazard

- Council engineer raised implications if the extinguishment of the cul de sac could not be implemented it would not be possible to achieve a safe entrance into the site.
- Detailed drawing for the proposed entrance has not been provided.
- Proposed access onto Mount Sion Road is a traffic hazard and raises issues in relation to servicing existing houses on Mount Sion road regarding refuse bins etc..

Refusal reason 3: Environmental issues

- Further information is required.

Refusal Reason 4: New entrance onto Mount Sion Road

- There is an 8m difference in height between the entrance and neighbouring property and residential amenity would be impacted by lights from cars at night using the entrance.
- Access would accommodate residential and commercial traffic which would have a negative effect on existing and future residential amenities.

Refusal reason 5:

- The right of way along the public road, was included within the red line area boundary of the application site, but it is not in Applicant's ownership.
Application is invalid as the applicant does not have the owner's consent to include these lands- reference is made to a High Court case in this regard.
- Access encroaches onto other properties.

Additional aspects:

- Masterplan area should be considered in conjunction with the concerns raised regarding the proposed entrance into the masterplan area, and as the site is higher than the lands in Mount Sion Road any development would dominate the rear gardens to this road.
- No details provided regarding the existing shared boundary hedge with neighbouring land and the proposed entrance into the site, difference in levels etc..
- Impact of public lighting along proposed vehicular entrance to neighbouring property.
- Site is sitting on rock; ground conditions and structural impact survey should be carried out prior to development.
- Outstanding high court proceedings on part of adjoining lands and established rights makes the application premature and invalid.
- No consultation with residents by applicant.

6.3. Applicant Response

The Applicant has responded to the issues raised by Third Parties as follows:

Encroachment onto neighbouring land with letters of consent

- There is no known encroachment and Section 34 (13) of the Planning Act safeguards the position of the Planning Authority without rights of way being altered and /or extinguished, in the event of permission being granted.
- Should additional land or control of land currently outside the applicant's control be required, the appropriate consent will have to be sought before development proceeds, and the applicant accepts this.

Structural impacts, including blasting

- Blasting is not proposed.

Potential for landslides

- Development will be carried out in accordance with an agreed Construction Management Plan which will require best practices and measures to avoid land slippage.

Impact on schools

- No concerns were raised by the P.A regarding school capacity and this would have been a consideration when the lands were zoned. There are primary and secondary schools in both Ferrybank and Waterford City.
- As so few of the 850 houses planned to be built in the area have been constructed it is reasonable to conclude that school capacity would not be an issue.

Devaluation of property in the area

- No evidence to support this contention. Property values in the area reflect the zoning designations.

6.4. Planning Authority Response

None

7.0 Assessment

7.1. Introduction

7.1.1. I have examined the appeal details and all other documentation and P.A's reports on the case file, inspected the site, and had regard to the relevant national, regional, and local policies and guidance, and read all the submissions made at appeal. The development was significantly revised by way of F.I, and therefore the scope of this assessment also relates to Option 2 as decided by the P.A. Option 1 is referenced as an alternative proposal in the first party appeal.

7.1.2. I am therefore satisfied that the main planning issues arising for consideration in this case can be addressed under the following headings:

- Principle of the development;
- Visual impact;
- Residential amenity;
- Roads and traffic;
- Drainage services;
- Other issues, and
- Appropriate Assessment

7.2. Principle of the development

7.2.1. Although the Ferrybank LAP has expired since the appeal development was refused planning permission by the Planning Authority, I consider this LAP provided the general principle and plan-led approach thinking to the development of the subject site. It is worth noting that this LAP zoned the site as an 'Opportunity site', the objective of which was to 'To allow for a mixed-use development with a broad range of uses, primarily based around a tourism/recreational function subject to the preparation of an overall design framework/Masterplan for the entire site'. It was not therefore intended that residential would form the primary use, but that a proportion of the uses, would be residential. Any development of this 'opportunity site' was to align with Waterford City and County Development Plan, around the Ard Ri hotel and

that the site had the potential to accommodate a significant tourism/residential project.

- 7.2.2. The Kilkenny City and County Development Plan's Core Strategy targets 40% of the county's growth in Kilkenny city with 30% in the remaining towns and villages. The exception to this rule is the Waterford Metropolitan Area Strategic Plan (MASP) area which contains Ferrybank and environs, where 50% of new housing growth for Waterford City is to be delivered within the existing built-up footprint including that part within County Kilkenny. It is not specific however, as to the extent of housing on the lands in the Kilkenny area but it does specifically refer to the existing built up footprint which would not include the subject site which is essentially a greenfield site.
- 7.2.3. The vision for the Waterford MASP is to develop a concentric city both north and south of the River Suir including areas within County Kilkenny. It identifies key housing areas including Waterford city centre regeneration areas, development of the North Quays and under used land and buildings in inner urban areas and new residential development within and adjacent to the existing built-up area. It further promotes the provision of recreational and amenity needs for an expanding population through a focus on the provision of public open space, green infrastructure and access to the River Suir and Waterford Harbour. The MASP Plan identifies the Ferrybank District centre as a strategic employment location for mixed use employment and regional assets. The subject site does not lie within the Ferrybank district centre, which is to the east of the subject site beyond Rockshire Road.
- 7.2.4. The RSES provides for a population increase for the Waterford MASP area of 14,610 by 2026 and 7,305 by 2031, with an increase of 370 and 185 people respectively for the same years in the Kilkenny area. I consider the bulk of the increase in population therefore has been allocated to the Waterford side of the MASP area, which is appropriate given its city status.
- 7.2.5. Although the LAP has expired for the Ferrybank area since the application was refused, the applicant in their grounds of appeal considered the LAP had failed to deliver housing at the rate required to meet the national and regional planning policy targets, and that the only other large housing development in the vicinity of the site is

in the neighbouring North Quays for around 300 residential units. I acknowledge the number of units for the whole LAP area may not have materialised and there is a backlog in supply/demand, however, the subject site is a greenfield site and was not identified for large scale residential development compared to other areas within the LAP lands such as in the Ferrybank urban core to the east of Rockshire Road and to the north and south of Belmont Road.

- 7.2.6. The LAP is currently at review stage and therefore would be subject to a new housing needs assessment similar to the core strategy in the CDP. I consider to permit the number of residential units proposed in both Options 1 and 2 in this location at this time has the potential to be prejudicial to the plan led process and contrary to the Kilkenny City and County Development Plan and the objectives of the MASP, which identifies future residential development in the existing built up areas and in particular Waterford City.
- 7.2.7. The applicant has specified in their submission that both Options 1 and 2 represent phase 1 of the overall zoned lands. The aparthotel blocks have been described within the supporting documentation as being designed to allow for a 'flexible layout to provide for alternative uses such as hotel, apartments and offices.' I note the layout of the aparthotels comprising 124, one bedroom units over three floors, with a retail/F&B use in 3 of blocks allocated to the ground floor. A substantial number of the units have separate kitchen/living/dining areas to the bedrooms with external balconies. Although the applicant has not provided a breakdown of the floor areas for each of the units, I note that some of the units have internal floor areas of 60m², in excess of the minimum floor area specified in the Government's guidelines for studio or 1 bedroom apartments. I therefore consider the aparthotels have the potential to be used as independent residential accommodation as opposed to solely tourist accommodation as suggested above.
- 7.2.8. I note a letter was submitted in the F.I response from a senior officer working in both financial and operational level at hotels in Waterford City, who in her experience considers there is a shortfall of hotel beds for both the leisure and cooperate guest in the region. I note the contents of the letter, but I consider the application must firstly be considered in the context of planning policy. I would have reservations in the event there is not a demand for the aparthotels the blocks could lie vacant or become permanent living accommodation for which they were not intended.

- 7.2.9. I am aware there is an outstanding court case relating to the Ard Ri hotel, which straddles the county boundary between Kilkenny and Waterford, which has laid vacant since 2005 and is in the applicant's ownership. Should the court case be resolved there would be a potential in excess of 300 bedspaces available on the overall lands in the applicant's ownership in the event the aparthotels are completed. Although the overall site and in particular the hotel site is close to the existing train station and Waterford town centre, the development as currently submitted would require the occupiers of the aparthotels to drive to the accommodation given the length of the entrance into the site and its location to the west of the overall site.
- 7.2.10. Whilst the financial viability of a development is not a material planning consideration, I am cognisant that planning policy seeks to promote sustainable development and that any development on land delivers an outcome which meets the common good and provides an understanding for the need for the development in a particular location. I am not satisfied from the evidence as submitted by the applicant that, firstly; the provision of the number of residential units and the number of aparthotels in this location meets the Core Strategy of the Kilkenny City and County Development Plan or the Waterford MASP objectives, and secondly; there is a demand or capacity for aparthotel accommodation in this location. I am mindful the applicant has sought the Board to consider a split decision which would include removing the aparthotel blocks, however I consider the number of residential units proposed for both options would be contrary to the Kilkenny City and County Development Plan and Waterford MASP, which identifies predominantly existing built up areas or Waterford city centre to provide additional residential accommodation.
- 7.2.11. The Masterplan submitted with the F.I response provides an indication of how the overall site could be developed. The current proposal the subject of this appeal is considered as Phase 1 of the overall lands. There is a strong reliance within this Masterplan on future development by Waterford City Council to provide the tourism/recreational element on the site, all of which lie outside the subject site's boundary, with the potential to integrate the proposed development with these elements. Future phasing in the masterplan is indicatively shown as providing additional housing/creche/commercial uses on the lands within the applicant's ownership closer to the entrance onto Mount Sion Road. I would concur with the planning authority that the viability of the mixed aparthotel and retail element (Option

2) is a concern in the event the Ard Ri hotel is not developed, and the tourism aspects are not provided by Waterford City. The masterplan design relies heavily on a singular vehicular access into the site off Mount Sion Road, with the earlier phasing of the masterplan area removed c.260m from the Mount Sion Road entrance. I do not consider the Masterplan provides a sequential approach to the overall development of the site but presents an adhoc and piecemeal form of development of the site.

7.2.12. A submission was received from Waterford City and County Council (WCCC) to the initial proposal. I am also aware that the Ard Ri site within the Waterford City County Development Plan is identified as a brownfield site and is considered suitable for high density development. However, WCCC raised concerns that the proposal did not address the significant tourism potential of the site, or any redevelopment of the adjacent hotel building, and would be contrary to Kilkenny County Council's policy statement and that "it is not intended that residential would form the primary use" at this location. I would agree with WCCC in this regard to both options 1 and 2. There is no support on the appeal file from WWCC regarding the proposed tourist attractions within the administrative area of Waterford city, which according to the proposed masterplan includes a tall 'Guardian of the Deise' Statue and Gondala station and visitor centre to the south of the subject site. There is therefore no timeframes or funding details as to the delivery of these elements. I note WCCC did not comment on the F.I proposal but I do not agree with the applicant's view that this means they have no objection to the F.I response as submitted.

7.2.13. I note the planning statement submitted with the application contends the mixed-use element of the proposed development is not dependent on the WCCC tourism elements being provided. However, in the event these structures are not implemented, and the hotel remains vacant, the development as proposed in both Options would be considered in isolation with little connectivity to the surrounding area. I also consider given the existing road into the Ard Ri hotel is not open to members of the public, that the development only provides one vehicular route into the site, and pedestrian connectivity to the proposed commercial element of the proposal is poor for the wider area. I acknowledge the Masterplan includes the access from Dock Road via the existing Ard Ri hotel, but this is dependent on the hotel coming back into use and is not indicated as accommodating vehicles

accessing the aparthotel complex. I therefore consider the phasing within the Masterplan is not sequential in its approach to the development of the site as it proposes to develop the central and western areas of the site rather than the lands closer to Mount Sion Road and, to existing services within the Ferrybank District centre. I consider the proposed Masterplan as presented would be contrary to NPO 33 of the NPF which seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to its location.

Conclusion

- 7.2.14. This is a prominent and strategic site within the Kilkenny county boundary, adjoins an identified brownfield site within Waterford City boundary and, forms part of the Waterford MASP area. The NPF places an emphasis on applying a tailored strategy and coordinated approach to urban development in such locations. NPO 33 in particular encourages the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to its location.
- 7.2.15. Although the site lies within the MASP area, it has not been specifically identified as providing for the housing demand in the area. Given the site's strategic location, I consider the collaboration and holistic approach of both Local Authorities is essential to meet the strategic objectives for the site and to make a recreational/tourism development viable on the lands. I note the applicant has suggested that the number of aparthotels could be reduced or removed entirely from the proposal, but this would result in a predominantly isolated residential development on what is essentially a greenfield site.
- 7.2.16. I am cognisant that the applicant is unable at this time to develop the Ard Ri hotel for legal reasons. However, the objective of the Waterford MASP and Kilkenny City and County Development Plan is to achieve a more balanced Waterford city on both sides of the River Suir. This site provides a prominent backdrop to the overall area particularly when viewed from the southern side of the River Suir and Waterford City, and therefore a coordinated approach to the development of the site between both local authorities is paramount in providing a development that is compatible with the overall vision for this site and the general area, including, the relocation of the train

station, the North Quays SDZ, the Waterford MASP and aligning infrastructure with investment. I therefore consider the proposed development is premature and contrary to the coordinated and sustainable development of the MASP area.

- 7.2.17. The proposed development as identified in the Masterplan would be dependent on private car transport and does not promote compact sustainable development or active travel to enable the development to integrate with the surrounding area. The development in both Options 1 & 2 would be contrary to NPO 33 of the NPF, which seeks an appropriate scale of development relative to a site's location, and the vision for the Waterford MASP and in particular Policy Objective 6 (b) which identifies the need to improve a concentric city with cross-city connectivity between the city/environs (south of the River Suir) and the North Quays Strategic Development Zone/Ferrybank area.

7.3. Visual Impact

- 7.3.1. Refusal reason No.1 of the P.A's decision refers to the scale and visual impact of the proposed development in particular the four aparthotels when viewed from across the river in Waterford city. The applicant in their grounds of appeal have provided a number of alternatives for this element of the development including the removal of the aparthotels, and/or, the number or height of the blocks being reduced. However, the applicant submits that the proposed development is representative of the compact, high density, high quality sustainable type of urban growth envisaged in the NPF and RSES for Waterford city. I will assess the visual impact of the development in terms of scale, massing, design and layout.

Scale, massing and design

- 7.3.2. Verified view photomontages for the proposed development were submitted as part of the F.I response. The views are predominantly taken south of the river but also include views from the golf course but not from Mount Sion Road.

Aparthotels

- 7.3.3. The aparthotels would be set back between 11m and 14.6m from the southern boundary of the subject site and would be between 14.7m and 14.8m in height based on the new ground levels. The blocks would be 4 storeys in height on the south facing side, and would project into the northern boundary of the site and drop

down to single and two storeys in height. Blocks A and B closest to the west boundary would have an overall depth of 51.9m. Blocks C & D would have depths of 55m projecting into the site. The blocks have been designed in a contemporary manner with split levels and flat roofs and are reflective of the existing Ard Ri hotel design, which provides a significant landmark building when viewed from the south of the River Suir and Waterford city centre. The applicants acknowledge the development would be seen from the surrounding area and that this unavoidable.

- 7.3.4. Although I consider splitting the aparthotels into 4 separate blocks helps to reduce the massing and overall bulk of the aparthotel development, the Blocks would have a total length of c.150 across the ridge. The computer-generated design photomontages of the aparthotels indicate the proposed aparthotels would be visible along the ridge from a number of locations south and north east of the river points namely points 1, 3, 4, 5, 6, 8, and 10 (refer to photomontages). I also note the photomontages include an image of an extension to the Ard Ri hotel and the proposed Guardian statute and gondola cable car which have not been subject to planning permission, and therefore in my opinion does not provide a true representation of the proposal against the existing site context.
- 7.3.5. The existing landscaping along the ridge line above the cliff face currently provides a verdant backdrop and softens the cliff face when viewed from Waterford City centre. However, given the overall height, proximity to boundaries and depths of the proposed aparthotels blocks they would dominate the skyline and ridge line particularly when viewed from the Waterford side projecting c.14m above the cliff face. I would therefore concur with the Parks Department of Kilkenny County Council which considered given the elevated nature of the site and soil type, the existing tree cover and the proposed young tree planting, is an indicator that this site does not support large tree canopy cover and it would take a long time for any trees to soften the impact of the aparthotel elements into the landscape.

Conclusion

- 7.3.6. I note the WCCDP considers this a strategic brownfield site with the potential to accommodate taller buildings, but this is seen in the context of the Ard Ri Hotel and the provision of a key landmark/gateway development to Waterford City comprising a high-quality design complementing the North Quay planning scheme. However, the

North Quay development is located at the same level as the road and is not on an elevated position such as the subject site. Tall buildings on this site therefore should be of a strategic nature and given the elevated nature of the site provide an attractive landmark in the skyline, offering a connection with the area. Although any future development of the overall site would need to be mindful of the WCCDP objective, the appeal site is not located within the administrative area of Waterford.

7.3.7. The height of the aparthotels would be higher than the established character of buildings within the immediate area which would make them appear further out of character being on top of the ridge line. I therefore consider the proposed aparthotel blocks would appear incongruous and out of character with the surrounding area and could not be considered as providing a key landmark development that would demonstrate and enhance Waterford's existing and future city status and identity.

7.3.8. Apartment Blocks and houses

7.3.9. The photomontages indicate there would be intermittent views of the apartment blocks, from south and west of the river (Views 1, 6 & 10 on the verified view photomontages). This part of the development would also be visible from the golf course but given the open expanse of the golf course and the site being at a lower level I do not consider the apartment blocks would have a significant visual impact on the setting of the golf course. Although, the photomontages do not provide views of the development from Mount Sion Road, I consider the apartment blocks would not impact on the visual amenity of the area, as they would be set back from Mount Sion Road and would be similar to the Ard Ri hotel in terms of height and design. They also provide a coherent urban structure to the development by bookending the proposed houses and provide an element of natural surveillance onto the proposed road and park area.

7.3.10. Although the subject site is a large site, I consider it essentially a greenfield site, which relies on a singular access but if phased in a sequential manner the apartments as proposed would be acceptable in this location.

7.3.11. Housing – Options 1 & 2

The proposed dwellings on the site being 2/3 storeys in height would have less of an impact on the surrounding area from a visual aspect, compared to the Aparthotel blocks and apartment blocks.

7.3.12. The proposed houses in Option 1 would have a net density of 35.92 units per hectare. It is acknowledged that national guidelines encourage the provision of higher density development within urban areas in order to use serviced lands in a sustainable manner, but regard has to be given to the existing nature of development in the vicinity of the subject site as well as the nature of the subject site, and scale of the surrounding area and existing residential estates and other land uses. Overall, given the location of the subject site in proximity to Waterford City, the density could be higher, subject to sustainable access arrangements being available.

Conclusion

7.3.13. I acknowledge the need for more compact higher density forms of development are required in the interest of sustainable development, however a careful balance between enabling long-term and strategic development of relevant areas, and ensuring the highest standards of urban design, architectural quality and place-making outcomes is required. I consider that the development potential and layout of the subject site is constrained by a number of factors, namely its elevated nature, the differential site levels between the site and the existing housing in Mount Sion Road, the singular linear access, and straddling two administrative areas. Although the Waterford City & CDP recognises the site within its administrative boundary as a brownfield site and would encourage tall landmark buildings, I consider the greenfield nature of the subject site has less potential to accommodate tall buildings and a high-density scheme, particularly given its piecemeal layout and its singular access into the site.

7.3.14. Having regard to the prominence of the site particularly when viewed from Waterford City, I consider the scale, massing and design of any new development needs to be carefully considered given the strategic location and position of the site. While urban densification is supported in the MASP area, I consider that this elevated greenfield site is not appropriate for a high-density development unless carried out in a strategic manner with both local authorities, that would ultimately enhance the existing character of the surrounding area.

7.3.15. The 4 aparthotel blocks c.14m high on this prominent ridge with an overall length of 150m across the ridge would be visible from a number of aspects of the city to the south, and in my opinion the scale, massing and design of the blocks cannot be

considered a strategic landmark development for the common good of the city. I consider the aparthotels should be intrinsically linked to the existing hotel, rather than a separate identity. I therefore agree with the P.A that the proposed development and in particular the four aparthotels would appear prominent when viewed from the south of the river.

7.4. Residential amenity

Existing residential amenity

- 7.4.1. The observer to the appeal raises concerns regarding the impact of the proposed development on the residential amenity of existing residents regarding noise and disturbance from traffic, lights shining into property from vehicular traffic and public lighting, overlooking, and ground stability. I will consider these in turn.

Layout

- 7.4.2. The layout of the proposed development relies on a singular access into the site. As outlined previously I have concerns about a singular vehicular access serving the site due to the impact on the existing residential amenity.

Noise and Disturbance

- 7.4.3. It is proposed to form a new access into the site by the demolition of an existing dwelling on Mount Sion Road known as Bakers. There would be an element of noise and disturbance along the proposed entrance during the construction works from construction traffic. However, the site has been zoned for development, and therefore it would not be unreasonable to expect a level of noise and disturbance during the construction period of the site's development, but this would be for a short-term period. I also note the applicants submitted a Construction and Environmental Management Plan (CEMP) which would ensure good construction practices including vehicle washing, the use of fuel spill kits and silt fencing. In the event of planning permission being granted a CEMP would be subject to the agreement of the P.A.
- 7.4.4. Refusal reason no.4 concerns the use of the proposed access onto Mount Sion Road for residential and commercial traffic having a negative impact on existing and future residential amenity, in the absence of an alternative access for the tourism

element of the development (aparthotel blocks). The Applicant considers, in the event the aparthotels are removed from the development refusal reason nos. 4 is no longer applicable. I would not agree with the applicant on this point, as reason no.4 relates to the access into the site which is the same for both options. The Masterplan does not suggest the aparthotel development would have a vehicular access onto the Ard Ri access.

- 7.4.5. There are no cross sections provided for the vehicular access and the proposed dwellings on either side. The dwelling to the south of the vehicular access would be at a lower level and, the dwelling to the north at a higher level than the proposed entrance into the site. The road level details on Dwg FI-1.03 indicate the vehicular access would be c.3.1m higher than the road level at the rear of both these properties and would continue to rise along the entrance into the site. The road would rise from Mount Sion Road by 3.1m for a distance of 50m and then increase by a further 26.9m for 30m into the site. The proposed access road for the development would be set in between 3.4m and 8m from the boundaries with the adjoining houses. The road level rises from Mount
- 7.4.6. Having regard to the extent of the development, i.e., between 97 - 186 units (Options 1 & 2), and the topography of the site, I consider the residential amenity of the occupiers of the dwellings on either side of the proposed vehicular access and close to the entrance, would be impacted by vehicular car lights shining into the rear and side windows of their properties at night, the revving of engines entering the site due to the road gradient, general comings and goings including delivery and refuse vehicles etc., into and out of the site. I acknowledge this could be ameliorated to an extent by a substantial landscaping scheme and acoustic fencing/walls along the boundaries of these properties to the side of the proposed road. However, I consider landscaping would not overcome issues regarding revving of engines, the noise and disturbance arising from the significant amount of traffic given the size of both developments proposed.
- 7.4.7. I note the Roads Design section of the Council have commented on the public lighting being amended to 3000K and LED lights to accord with KCC Public Lighting Manual and Product specification. The issue of public lighting would be dependent on the position of the lighting, but it would be my opinion the intensity of the public

lighting could be controlled and directed through the use of cowls not to shine into adjoining properties.

- 7.4.8. In conclusion I consider given the singular access and the extent of the gradient from the road into the site and the level of development proposed (i.e between 97-186 units) the level of activity associated with the development would have a detrimental impact on the adjoining residential occupiers on either side of the proposed access in terms of noise and disturbance.

Overlooking

- 7.4.9. Apartment Blocks B, C and D would be located on the eastern end of the subject site in both options 1 and 2 described above and would face Mount Sion Road and would range in height from 10.2m to 13.3m. These blocks would be set back c.225m from the rear boundaries of the dwellings along Mount Sion Road. Although Block B would be four storeys in height, I consider given the separation distance there would be no impact on privacy, loss of light or overlooking to the rear of the existing properties in Mount Sion Road from the apartment blocks. The blocks would be separated from each other and have been designed with flat roofs of varying heights which although much taller than the dwellings along Mount Sion Road, would not appear monolithic in their appearance. However, I note Blocks B and C would not follow the natural topography of the site and would be raised between 0.6m and 1.6m above existing ground level.
- 7.4.10. Block B would be four storeys in height with windows on its southern elevation, facing Tower Hill House. However, Block B would be positioned c.136.5m away from the closet elevation to Tower Hill House. Again, I do not consider this block would have an overbearing impact on this property in terms of loss of light, overlooking or dominance. The row of semi-detached houses would have a greater separation between them and Tower Hill House. A new internal road would spar off the spine road and extend from Block B along the front of the semi-detached dwellings to serve the proposed dwellings in Option 1 and the aparthotels in Option 2 westwards into the site. Whilst this would result in an increase in the level of activity along the southern boundary of the site, with substantial landscaping along the proposed road I do not consider it would impact on the amenities of the occupiers of Tower Hill House, to warrant a refusal on this ground alone. Also, the separation distances from

the rear elevations of both Block B and the semi-detached houses are in compliance with SPPR 1 of the Sustainable Residential Development Guidelines (i.e., in excess of 16m).

- 7.4.11. The location of the aparthotels on the western part of the site would not impact on the daylight or privacy of the immediate occupiers in the vicinity of the site due to the significant separation distance.
- 7.4.12. In conclusion I do not consider the development would result in overlooking of the neighbouring residential properties.

Ground Stability

- 7.4.13. The observer has raised the issue of ground stability as a consequence of cut and fill and rock being close to the site's surface. The applicant has confirmed in their grounds of appeal that blasting is not proposed, and the development would be carried out by contractors in compliance with an agreed CEMP which would require best practices to be adopted. However, I would recommend in the event that planning permission is granted, a condition is attached stating no blasting is to occur.
- 7.4.14. The ground investigations survey indicates ground elevations range from c.50m OD at the southeastern corner rising to c.75m OD at the west/northwest and c.38m OD at the south western portion of the site. The level of cut and fill has not been specified by the applicant, however given the difference in levels within the site and the extraction required for the underground car park I consider there would be a significant amount of rock extraction required. The plans and section suggest depths of up to 5.8metres.
- 7.4.15. In the preliminary ground investigation report submitted as part of the F.I response, a total of 6 trial pits were carried out as part of this investigation. Topsoil was encountered in each of the trial pits with a thickness varying from 0.10m to 0.25m to bedrock and consisted of soft to firm sandy clay. GSI mapping indicates part of the site has bedrock at or close to the surface, with sandstone till (Devonian) subsoil. The report states that the firm glacial till should be capable of providing a safe or allowable bearing capacity of the order of 80 to 90kN/m², increasing to at least 175 to 200kN/m² as the rock mass quality improves.
- 7.4.16. Nevertheless, this report notes that given the large variations in topography at the site, that bulk earthworks are anticipated. The report recommends possible slope

angles which would depend on rock mass quality and characteristics at particular locations, but these are not specified. It further recommends a programme of detailed ground investigations should be undertaken to include a geophysical survey of soil thickness and depth to rockhead, followed by probing, plate load tests, rotary core drillholes and rock excavation trails. Based on the preliminary ground investigations, I am not satisfied that the practicality of undertaking the level and depth of excavation up to 5.8m for an underground car park has been demonstrated on this site.

Future Residential Amenity

- 7.4.17. The applicant provided a schedule of the details of storage, private and public open space etc., for Apartment Blocks A-D which would all meet the minimum standards specified in the Apartment guidelines. Overall, the percentage of 1 bed units for both options would equate to 50%, which I consider high for the isolated and backland/greenfield nature of the site. I note Section 13.13 of the Kilkenny C&CDP states all apartment schemes should provide for a mix of units comprising of one bedroom, two bedroom and family units but does not specify any percentage for an overall apartment development. The LAP anticipated there would be a demand for smaller house types and apartments in the plan area in the future, due to the current national trend for smaller household sizes and that there are few of these unit types on offer in the area. However, the LAP recommended that such developments would be encouraged within the urban village zone, which is to the east of Rockshire Road. Nevertheless, I am satisfied the apartment development would provide a suitable standard of living accommodation for the future occupiers of the units.
- 7.4.18. The balconies in Apartment Block A would be positioned between 3.3m and 14.7m from the closest rear side boundary of the semi-detached houses to the east. Blocks D and C would be positioned between 2.4m and 15.3m from the semi-detached houses to the west. Although SPPR 1 of the Sustainable Residential Development and Compact Settlement Guidelines, requires a minimum of 16m between opposing windows serving habitable rooms at the rear or side of houses, duplex units and, apartment units above ground floor level, the windows and balconies to the apartments would meet this criteria as there would be no overlooking between opposing windows within 16m.

7.4.19. The semi-detached houses would have a separation distance of 24-27m between opposing windows serving habitable rooms which is in excess of SPFR 1. The proposed garden areas for the semi-detached dwellings would have rear garden areas ranging from 72-90m², which is substantial and reflects the 3-4 bedroom mix of the units which would cater for family accommodation. Option 1 would provide 60.8% of the units for houses and Option 2 would provide 13% for houses compared to apartment units within both schemes. However, I consider the layout of the houses does not provide for a diverse and varied range of housing types and styles within both options given the projected needs in the LAP for smaller unit sizes, by way of an innovative range of housing typologies that support greater housing affordability and choice in the form of a universal design to include retirement homes, live work units etc..

Community, Social and Cultural Infrastructure Audit

7.4.20. The proposed development is Phase 1 of the overall development of the lands in the applicant's ownership. The development would not include a creche for the future occupiers of either Options 1 or 2 as outlined above. However, Option 2 would fall below the mandatory requirement for creche provision being less than 75 dwellings in accordance with Sections 2.4, 3.3.1 and Appendix 2 of the 'Childcare Facilities Guidelines for Planning Authorities' (2001). In the event that planning permission is granted I would recommend a creche is provided before the occupation of the 75th dwelling in phase 1 of Option 1.

7.4.21. The applicants in their grounds of appeal consider there were no concerns raised by the P.A regarding school provision and this was clearly a relevant consideration when the lands were zoned for residential development. They state as so few of the houses planned to be built to accommodate the envisaged population increase for the LAP area have been constructed, it is reasonable to conclude that school capacity will not be an issue.

7.4.22. I note the LAP referred to the area being served by 2 primary schools, both in Waterford's administrative area and according to the LAP, the Dept of Education considers both schools are close to or at capacity, and that, 'There are more children in the area than the schools can enrol but overall, in Waterford City the primary schools have capacity to meet the demand'. Furthermore, the LAP had made

provision for the expansion at St. Mary's, with the zoning of 0.9 hectares immediately to the east of the existing school for Community Facilities. Therefore, there is sufficient land available for expansion of the schools if the need arises, but this does not mean there is an existing surplus of school places, as implied by the applicant.

7.4.23. I find there is a level of ambiguity regarding the capacity of schools in the area and I consider it is not sufficient for the applicant to state, as it was not raised by the P.A., it is not an issue. The majority of the proposed housing units within both schemes are family type accommodation and therefore school capacity is an issue for the development. In view of the type of housing proposed for the Masterplan area I consider it should have been accompanied by a school and creche needs assessment of the area.

7.4.24. I appreciate the site is in close proximity to Waterford town centre and the railway station. However, the topography and the linear layout of the development does not promote pedestrian mobility for future occupiers of the development. I note the Masterplan proposes a pedestrian and cycle route in the event the Ard Ri is refurbished/developed which would promote sustainable travel and reduce the need to travel by car. Nevertheless, there is no certainty regarding the delivery of this element of the Masterplan. I also consider options to promote the dual use of the proposed car park for the aparthotels and the hotel for example, or more life work units should be considered for the proposed future facilities at the site.

Conclusion

7.4.25. I consider the overall size, number of units, and layout of the development, and in particular the proposed singular vehicular entrance into the subject site would impact on the existing residential amenities of the properties along Mount Sion Road by reason of noise and disturbance. I would therefore concur with the P.A's refusal reason No.4 in this regard.

7.4.26. There would be a disconnect with the surrounding area and facilities for future occupiers of the development. I consider the social infrastructure for future occupiers of the development has not been given due consideration in the overall development to optimise amenities and local services in the area for pedestrians. This further reinforces my opinion that the site is not an optimum site for a predominant residential use, and the housing mix could be more innovative to promote a greater

range of housing typology and support greater housing affordability and choice for future occupiers of the development.

7.5. Roads and Traffic Road

- 7.5.1. Refusal reasons 2, 4 and 5 of the P.A's decision concern traffic/road related matters. A Traffic and Transport Assessment was submitted with the initial planning application (Option 1). According to the Transport Assessment there is a bus stop within 3minutes walk from the site and the bus and train station are c.20-25minutes walking distance from the site. The TRICS study indicates that both Rockshire Road and the proposed access have significant capacity for the proposed development and masterplan.
- 7.5.2. There was no Transport study carried out for Option 2 or the Masterplan, which includes the Aparthotels. The P.A were satisfied that the proposed site access junction onto Mount Sion Road was acceptable, and its design took into account both the predicted traffic from the initial proposed development and the potential future masterplan development traffic and 45m sightlines are achievable in both directions. I would be of the opinion the development changed significantly between Option 1 and Option 2, regarding the traffic aspect of the development, from a predominantly residential scheme of 97 units to a residential/commercial use with the inclusion of the 124 aparthotel units and 3 retail units, in terms of number and frequency of vehicles.
- 7.5.3. Refusal reason no. 2 refers to critical information and detail within the development, which was submitted by way of the substantial F.I response, giving rise to a number of road issues which would result in the development being substandard. However, the applicant considers the issues raised in the Road Design report are minor and could be resolved by simple design changes and are primarily as a result of the introduction of the aparthotels and commercial element at the F.I stage, requested by the P.A.. Nevertheless, they consider any outstanding matters could be addressed by way of condition, or alternatively by removing the aparthotel elements.
- 7.5.4. I note the issues raised by the Senior Executive engineer in the Road Design section of the Council relates to issues including inter alia; barrier system and accessibility for mobility impaired people when using the underground car park, shared surfaces

around the commercial units, the potential for haphazard parking to the commercial units, revisions to road junction 2, bicycle parking for retail units, taking in charge issues relating to the road, the tightening of junctions along the northern side of the distributor road within the site, inconsistencies in road and footpath widths, landscaping obscuring sightlines in areas, the need for a Vehicle Restraint System due to site levels, incorporation of amendments to Road Safety Audits, and EV charging points.

- 7.5.5. I would agree some of these aspects could be conditioned in the event of planning permission being granted but consider in doing so may leave the conditions unenforceable if not worded precisely in that they may not be capable of being complied with. The Department's Guidelines on Development Management discourages the use of 'matters to be agreed' with the planning authority in order to reduce the number of compliance submissions that have to be dealt with subsequent to the grant of planning permission. If the matter in question is of genuine planning concern, it should be dealt with in the decision order, or be made the subject of a further permission or an agreement with the planning authority; if the matter is not proper to planning, it should be omitted entirely from the decision. I consider there are too many outstanding issues regarding the road design and parking aspects of the proposal to be dealt with via a prior to commencement condition. I note the applicant has suggested the removal of the aparthotels, however I have addressed this aspect in 7.3 above.
- 7.5.6. Refusal reason 5 relates to the extinguishment of the existing right of way along the old public road to accommodate the vehicular access into the site. I note the P.A's concerns that the access onto Mount Sion Road is dependent on the right of way being extinguished and is outside the control of the applicant, however in the event the right of way is not agreed by council members the development would not be possible as intended. I agree with the Applicant that this is, a civil matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act as amended, and the extinguishment of the right of way does not impede the granting of planning permission and refusal reason no. 5 is not applicable.

Conclusion

- 7.5.7. As outlined in the preceding paragraphs of this report, I have concerns about the impact of the development on the residential amenity of the existing occupiers in Mount Sion Road as a result of the layout and extent of the development (Options 1 & 2) and the use of a singular access into and out of the site. The site is a c.20-30 minute walk to the train station and city centre and there is a local bus route connecting Rockshire Road to Waterford city. However, the layout of the development is such in both options that future occupiers of the development would be over reliant on the use of the car.
- 7.5.8. I note the sightlines are achievable and Mount Sion Road and Rockshire Road have the capacity to take the additional traffic as a result of the proposed development. However, I consider in the interest of sustainable and orderly development of the site, and to meet the objectives of the MASP an integrated transport and access plan for the overall Masterplan lands should be provided.

7.6. Surface water

- 7.6.1. Refusal reason No. 3 of the Planning Authority's decision concerns surface water not being adequately dealt with within the curtilage of the site and that it could ultimately impact on the Lower River Suir SAC. The Environment section in particular were not satisfied on receipt of the F.I that the application had clearly demonstrated how the surface water from the access road to the development could be captured and discharged to the surface water attenuation system, and considered further details concerning the access road gradient, surface water collection points, location of the hydro-brake and the specification of both interceptors proposed within the surface water drainage system were required. The First Party considers the issues raised by the environment section were minor and could be dealt with by planning condition, and storm attenuation measures were dealt with in the F.I submission.
- 7.6.2. I note that Dwgs.Nos. DP/01-DP/04 submitted by way of F.I provide details on the proposed surface water's layout system, cross sections of the attention tanks and ground levels. An engineering assessment report provides calculation details of the drainage attenuation and treatment measures that would be incorporated as part of the development including SuDS measures such as permeable paving, green roofing

and tree pits. However, given the scale of both development options there is no specific report specifying the SuDS measures considered in principle as required in Section 10.2.8 of the Kilkenny CDP development management requirements for large schemes.

- 7.6.3. There would be 2 separate storm water catchment systems serving the site. The systems have been designed to cater for a 1 in 100 year storm. There is an existing storm drainage network which crosses below the subject site to the south and it is proposed to form a new gravity system on the site to connect to the onsite storm drain as indicated on drawing L/02. Drg. No. DP/01 indicates a storm water system would flow towards the aparthotels to the west of the site, into an attenuation tank with a storage capacity of 594m³ via a petrol interceptor and hydro brake of 13/l/s and flow beyond the red line boundary to the south towards the Ard Ri hotel. The second storm water system Drg. No. DP/02 indicates a new system would start to the south of the protected tower and extend along the proposed access road into an attenuation tank with a storage capacity of 50m³ via a petrol interceptor and hydrobrake of 1.0 l/s and released to a sewer onto Mount Sion Road. The storm and foul sewer systems would be separate.
- 7.6.4. It is stated both systems would be gravity fed and the surface water drainage system towards the entrance of the site indicates it would be gravity fed based on the inlet and cover levels of the manholes. However, I would agree with the P.A that cross sections should be provided of this catchment as the land rises from the proposed entrance into the site and therefore it is difficult to assess how the surface water drains would function in terms of being gravity fed. Given the levels on the site, this is an important detail of the development that in my opinion should be finalised prior to the issue of a planning permission, particularly if the water is to be pumped to the attenuation tank.
- 7.6.5. Dwg. No. L/04 submitted with the F.I response indicates a temporary works plan which proposes 2 retention basin areas; one to the south east of the site (beyond the red line boundary) and the second one to the south west of the site (partially within the red line area) and a drainage swale connecting both retention basin areas. It would seem these proposed SuDs measures are temporary works during the construction of the development. However, there are no specific details provided of these SuDs measures and whether they would have the capacity to contain the

surface water run off during the development works, and in particular when the underground car park is being developed for the aparthotel element. I also note the NIS refers to these temporary SuDS measures but does not provide any specific details in this regard, i.e capacity, cross sections, retention time calculations etc..

- 7.6.6. The site is currently in agricultural use and slopes significantly from the north to the south and from the north to the east of the site. The surface water drainage calculations indicate there would be c.59% (19,300m²) of impermeable area as part of the overall development, which is a significant amount of impermeable area compared to an existing greenfield site. I consider the application should clearly demonstrate that capacity exists to accommodate run off levels in excess of the existing green-field rates, given the nature of this steeply sloping site and level of proposed hardstanding.
- 7.6.7. I note the site is located on poor aquifer bedrock which is generally unproductive except for local zones. The groundwater body WFD status for the subject site 2016-2021 is good and the Riverbody WFD for the same period for the River Suir is classified as moderate. However, the GSI groundwater vulnerability for the site ranges from 'rock at near surface' in parts to areas of extreme ground water vulnerability that makes it vulnerable to contamination.
- 7.6.8. Conclusion:
- 7.6.9. The lands are currently on sloping agricultural lands. The proposed development would result in a significant amount of hardstanding (59%), and in overall terms there would be an increase in run off from the site compared to the existing use. Whilst the area is not subject to flooding there is a significant drop in levels from the north to the south, and the development would result in the loss of predominant green space to absorb the future surface run off. The application does not provide details that the proposed drainage system would replicate the same runoff characteristics for the pre-development condition of the site. I also note the surface water drainage calculations do not allow for urban creep in the development, such as extensions to dwellings, hardstanding of car park area and gardens etc..
- 7.6.10. Given the size of the overall site I consider there is a general lack of SuDS measures, and other nature-based drainage solutions, which would help to ensure the disposal of surface water complies with the requirements of the planning

authority for such works and services. The inclusion of additional SuDS measures, such as bioswales, retention ponds and direct harvesting of rainwater measures for car washing and for urban creep such as the addition of patios, extensions and impermeable driveways etc., could have a material impact on the proposed layout or design of the proposed development. Although I consider that further SuDS measures could be implemented as part of the scheme by way of a condition, I am not satisfied the application has provided sufficient information to ensure the proposed development would not result in an increase in surface and storm water compared to the existing greenfield rate.

7.6.11. I also agree with the P.A's assessment that cross sections of the road entrance through the proposed drainage system are required, as it not clear exactly how the proposed surface water drainage would operate at this end of the site. Although the engineering assessment has calculated attenuation flows for the housing/apartment development, the peak flow downstream of the site will continue to rise because of the greater volumes being discharged from each sub catchment area, as a result of the loss of the existing greenfield areas. Given the sloping nature of the site, the extent of extraction works required, presence of rock and extent of proposed hardstanding, there would be considerable changes to the existing site and I am not therefore satisfied that all surface water would be intercepted on site and that the proposed surface and storm water measures are adequate for the proposed development.

7.7. Other Issues

7.7.1. Part V

7.7.2. The Board will note that the observer has raised concerns in relation to the provision of Part V houses within the development. In particular, that the proposed Part V units are not appropriately integrated throughout the site, and that the units are segregated from the rest of the development.

7.7.3. I have noted this concern but would consider that the Council is best placed to decide what accommodation is required to be provided within this location. In terms of compliance with Part V, the applicant proposes to transfer ten units, in order to satisfy their obligations with regard to Part V under Section 96(3)(b)(iv) of the

Planning & Development Act, 2000 as amended. I have no objections in this regard, and an appropriate condition should be attached to any grant of planning permission.

7.7.4. Archaeology & Cultural Heritage

Archaeology

- 7.7.5. According to the Archaeology report no features of archaeological potential were identified during testing, however areas available for testing trenching were restricted due to impenetrable gorse and overhead power lines. Therefore, there remains a possibility that previous unrecorded archaeological features may lie sub surface on the western side of the site. In the event of planning permission being granted I would recommend the Department of Housing, Local Government & Heritage's recommendation regarding archaeological monitoring at the western portion of the site is carried out under licence at the time of construction.

Impact on views of tower

- 7.7.6. The proposed road into the site would extend to the south of the protected tower Ref: RPS C450 known as Pope's tower. Options 1 or 2 as currently proposed would be at a lower level than the tower and I therefore do not consider they would impact or detract from the setting of this tower.
- 7.7.7. I do not consider the proposed development would have a significant impact on the archaeology or cultural heritage of the area.

8.0 **Appropriate Assessment (AA)**

8.1. **Stage 1 – Screening Determination for Appropriate Assessment**

- 8.1.1. Having carried out Appropriate Assessment screening (Stage 1) of the project (please refer to Appendix 2 of this report), it has been determined that the project may have likely significant effects on the Lower River Suir SAC (site code: 002137) and the River Barrow & River Nore SAC (site code: 002162) in view of the sites' conservation objectives and qualifying interests. (Refer to Appendix 3 in this regard.)
- 8.1.2. An Appropriate Assessment (Stage 2) is therefore required of the implications of the project on the qualifying interests of the SACs in light of their conservation objectives.

8.2. Stage 2 – Conclusion for Appropriate Assessment

- 8.2.1. The proposed development has been considered in light of the assessment requirements of Sections (177U and 177V) of the Planning and Development Act, 2000, as amended. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.
- 8.2.2. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects could adversely affect the integrity of the Lower River Suir SAC (site code: 002137) and River Barrow & River Nore SAC (site code: 002162) in view of the Conservation Objectives of these sites with regards to impacts on water quality from the discharge of uncontaminated water run off during the construction and operational phase of the proposed development to ground and surface water affecting aquatic QIs..
- 8.2.3. This conclusion is based on:
- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of the Lower River Suir SAC (site code: 002137) and River Barrow & River Nore SAC (site code: 002162).
 - I consider that there remains a reasonable scientific doubt as to the absence of adverse effects on the integrity of on Lower River Suir SAC (site code: 002137).

I submit to the Board that this is not a new issue as compliance with the Habitats Directive and the potential for contaminated run-off from the proposal to reach the Lower River Suir SAC was raised in the appeal.

9.0 Recommendation

- 9.1. I recommend planning permission be REFUSED for the development for the reasons and considerations below.

10.0 Reasons and Considerations

1. On the basis of the information provided with the planning application and appeal and in the Natura Impact Statement and in particular having regard to:
 - (i) the lack of sufficient clarity regarding the drainage management of the site,
 - (ii) in the absence of a detailed ground investigations report,
 - (iii) given the nature of the thin soils and the topography of the site, and
 - (iv) the disposal of surface water on the site,the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the Lower River Suir SAC (Site Code: 002137) and River Barrow & River Nore SAC (Site Code: 002162), or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.
2. The development occupies a prominent and elevated position in a strategic location adjoining two Local Authorities, however it is considered that:
 - (i) In the absence of an agreed overall layout for the subject site and adjacent lands, the proposed development would not align with the objectives of the Kilkenny and Waterford City and County Development Plans, the Waterford Metropolitan Area Strategic Plan (MASP) and NPF which seek to provide for high quality compact growth and improve connectivity between Waterford City centre and the wider Ferrybank area,
 - (ii) The pattern and layout of development would result in an adhoc form of development and does not provide for an integrated approach in terms of urban compact form, accessibility and transportation;
 - (ii) The predominant residential nature of the proposed development which does not align with the housing allocation for the overall MASP area ; and
 - (iii) The overall height and scale of the aparthotels blocks which would appear incongruous and out of character along the ridge and are not considered as providing a key landmark development that would enhance Waterford City's status and identity,

The proposed development would therefore be contrary to NPF NPO 3b, NPO4, NPO7, NPO33, Objectives 9 and 11 of the Waterford MASP and the Core Strategy of the Kilkenny County Development Plan 2021-2028. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3. Having regard to the topography of the site, the layout and nature of the development and in particular the single point of access to serve the proposed development, and in the absence of appropriate pedestrian links to serviced amenities and to Waterford City centre the development would principally be dependent on private car transport and would not promote active travel use for future occupiers of this large scale development and would impact on the residential amenity of the existing occupiers at the entrance into the site. The development would therefore be contrary to Objective 6 (b) of the Waterford MASP which seeks to promote compact growth and sustainable mobility and would be contrary to the proper planning and sustainable development of the area.

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.

Catherine Dillon
Planning Inspector

22nd January 2025

Appendix 1 Form 1 -EIA Pre screening

An Bord Pleanála Case Reference	317191-23		
Proposed Development Summary	Option 1- 59 houses & 38 apartments to include demolition works and associated site development works.		
Development Address	Mountsion, Mount Sion Road, Ferrybank, Co.Kilkenny.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	✓	Schedule 5 Part 2 Class 10 (b) (i), (b) (iv), & (dd)12 (c) (sub threshold)	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			No EIAR or Preliminary Examination required
No	✓		Proceed to Q.4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	Preliminary Examination required (Form 2)	
5. Has Schedule 7A information been submitted?			
No	✓	Screening determination remains as above (Q1 to Q4)	
Yes		Screening Determination required	

Inspector: Catherine Dillon

Date: _____

Appendix 2 Form 2- EIA Preliminary Examination

An Bord Pleanála case Reference:	317191-23
Proposed Development Summary:	Option 1- 59 houses & 38 apartments to include demolition works and associated site development works, including new foul & surface water drainage connections, 2 substations & all associated works.
Development Address:	Mountsion, Mount Sion Road, Ferrybank, Co.Kilkenny
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development is for the demolition of an existing dwelling (109.68m² gfa) fronting Mount Sion Road and the construction of a total of 97 units (11,442.5m² gfa- Option 1). The development is on an elevated site along a ridge above the River Suir Valley with an overall site area of 3.81 hectares, and a net density of 35.92 u/ha. Although it lies with Kilkenny County Council boundary it straddles the boundary with Waterford City and County Council. The site forms part of the Waterford MASP area.</p> <p>The proposed development includes a masterplan for additional housing, apartments, creche and further mixed use development but subsequent phasing would be subject to EIA screening.</p> <p>There are significant differences in level within the site, as it rises c. 29m above Mount Sion Road at its highest point, and there is a fall of 22m across the site from NE to SW. It is proposed to excavate at the site to accommodate the development, but details of extent of removal of soil/rock has not been specified.</p> <p>During the construction phase the proposed development would generate waste during demolition, excavation and construction.</p>

	<p>The extent of excavation has not been specified however, I do not consider that the level of waste generated would be significant in a local, regional or national context. A CEMP is proposed to ensure good site management practices are put in place.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>There are no ecologically sensitive locations in the immediate vicinity of the subject site. The river Suir SAC is c.105m south of the site. There is no notable development within the vicinity.</p> <p><u>Natural Heritage</u></p> <p>The site is a greenfield site and the majority of the site is grassland of limited ecological value and the submitted information demonstrates that it is not a significant habitat for any protected species. Localised impacts would include tree loss.</p> <p>The proposed development would be exceptional in that it is located on an elevated site and would involve a significant amount of cut and fill, to accommodate the aparthotels and underground car park and it is not clear whether the extent of SuDS measures and attenuation tanks would prevent surface water run off.</p> <p><u>Cultural Heritage</u></p> <p>The site lies to the south of a protected watchtower (RPS C456) known as Pope's Tower, however it is not considered the development would impact on the setting of this tower as it would be at a lower level.</p> <p><u>Archaeology</u></p> <p>According to the Archaeology report there were no archaeological features found on the site. The Dept have recommended further testing during construction for the site western part of the site.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity,</p>	<p>The river Suir SAC is c.105m south of the site. The Lower River Suir SAC (site code: 002137) is c.105m to the south of the site and is connected to the site via surface water. The River Suir flows in an easterly direction into the River Barrow & River Nore SAC (site code: 002162) which is 7.44km downstream from the River Suir.</p> <p>As the site of the proposed development is at a remove from both European sites, no direct effects would occur. In terms of indirect effects the key element is the potential impact on water quality</p>

duration, cumulative effects and opportunities for mitigation).	during construction and operation phases. This can be addressed under the AA process. (Refer to Appendix 3 of this report).
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Conclusion

Having regard to the nature and scale of the proposed development, which is below the threshold in respect of Class 10b(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

- the location of the site on lands within the development boundary of Kilkenny County Development Plan 2012-2027 and on lands identified within the Waterford MASP area and the results of the strategic environmental assessment for the aforementioned plans, undertaken in accordance with the SEA Directive (2001/42/EC).
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. See section 5.9 this Report.

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

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3 AA Stage 1 & 2

Screening for Appropriate Assessment Stage 1 Screening Determination
<p>Step 1: Description of the project, site and context</p> <p>I have considered the proposed development (Options 1 & 2) at Mount Sion, Ferrybank, Co.Kilkenny in light of the requirements of S177U of the Planning and Development Act 2000 as amended.</p> <p><u>Brief Description of the proposed project</u></p> <p>A detailed description of the proposed development is provided in Section 2 of this report and expanded upon below where necessary. The proposed development comprises the demolition of an existing dwelling on Mount Sion Road and the construction of 97 residential units (Option 1) or 62 residential units and 4 aparthotels comprising 124 units (Option 2), and both options would include landscaping, surface and car parking, including underground car parking in Option 2. Both options would include new foul and drainage connections, 2 sub stations and all associated works. Access into the site would be via a new vehicular access off Mount Sion Road, which is at a lower level than the site.</p> <p>It is proposed to connect the foul and surface water for the development to an existing foul and surface water drainage network which crosses below the development site (within the applicant's ownership), with a second connection onto the Rockshire Road. There would be 2 surface water catchment areas with attenuation tanks, one within the main site (sw) and the second close to the site access (ne). The latter catchment would collect and discharge surface and storm water to connect with the public network on Rockshire Road. The discharge would be via a hydrocarbon interceptor before release into the public network. The development proposes a number of SuDs measures including, green roofs, tree pits & permeable paving. Temporary SuDs measures are proposed which include two retention basins connected via a swale during construction works to the south of the site beyond the red line boundary. Water supply and wastewater drainage connections will be made in agreement with Uisce Éireann (Irish Water).</p> <p><u>Subject site and context</u></p> <p>A detailed description of the site is provided in Section 1 of this report. The subject is on an elevated site located to the north of Waterford city centre and the River Suir. It is predominantly agricultural/grassland, with no buildings and there are no watercourses within the site. It is bounded on the eastern side by houses along Mount Sion Road, a golf course to the north, Ard Ri hotel to the south and cliff edge/grassland/fields to the west. There is a mast in the north western corner of the site.</p> <p>The site is predominantly open grassland, the site is not recorded as being subject to flooding and there are no underground streams. The site is located on poor aquifer bedrock which is generally unproductive except for local zones. Soil depths range from 0.65-2.3m below ground levels.</p> <p><u>Submissions & Observations</u></p> <p>Uisce Eireann has no objections to the proposal subject to upgrades. The foul connection to the north of the site onto Mount Sion Road will require a 190m extension on the public road from the site entrance to the existing foul manhole. They state the capacity of WCCC WWTP is unknown, but they have no objection subject to signing a connection agreement. I note from Uisce Eireann's wastewater treatment capacity register Waterford City and suburbs treatment plant has spare capacity.</p>

Department of Housing, Local Government and Heritage (Development Applications Unit) provides heritage related recommendations on archaeology. The issues raised are not of consequence to this appropriate assessment.

Following the submission of the NIS the planning authority undertook an appropriate assessment of the proposal. The planning authority considered the NIS failed to adequately demonstrate how surface water from the access road to the development could be captured and discharged to the surface water attenuation system, and in the absence of this information it cannot be concluded that the development as planned would not adversely affect the integrity of the identified European Site (Lower River Suir SAC). Refusal 3 of the planning permission relates to environmental issues in particular surface water management and the possible impact on the Lower River Suir SAC, in the absence of critical detail.

Step 2: Potential effect mechanisms from the project

The subject site is not located within or directly adjacent to any European site and it is not an ex-situ site for any qualifying interest of any European site and therefore there is no potential for direct impacts to occur.

There is the potential for indirect effects to occur as follows:

- A) Changes in water quality arising from surface water run off during construction phase.
- B) Changes in water quality arising from surface water run off during operation phase.
- C) Habitat loss/fragmentation of QI species.

Step 3: European Sites at risk

The NIS in Section 1.1 of the report identified a number of European sites in their initial screening consideration and this is presented in Table 1 below. In determining the potential zone of influence for the proposed development I have had regard to the nature and scale of the project, the distance from the development site to European sites, and any potential pathways that may exist from the development site to a European Site. The application site is not located within or adjacent to any European site. In applying the 'source-pathway-receptor' model, in respect of potential indirect effects, having regard to the characteristics of the project in terms of the site's features and location and the lack of a hydrological and other ecological connections, I would agree there would be no impact on the Qualifying Interests of Tramore Backstrand SPA (site code: 004027), Tramore Dunes & Backstrand SAC (site code: 000671) and Mid Waterford Coast SPA (site code: 004193) and they can be screened out.

The Lower River Suir SAC (site code: 002137) is c.105m to the south of the site and is connected to the site via surface water. The River Suir flows in an easterly direction into the River Barrow & River Nore SAC (site code: 002162) which is 7.44km downstream from the River Suir. .As such there is a hydrological connection to both European sites. Having regard to the foregoing, the screening assessment will focus on the impact of the development on the conservation objectives of these two sites.

Table 1: European Sites at risk from impacts of the proposed project			
Effect Mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
A) Deterioration of water quality via surface water during construction works from pollutants B) Deterioration of water quality via surface water during operation phase from pollutants. C)Habitat loss/fragmentation of QI species.	c.105m to south of the site.	Lower River Suir SAC (site code: 002137)	Habitats & species
As above	c.7.44km to the east & c.9.4km downriver of the River Suir.	River Barrow & River Nore SAC (site code: 002162)	Habitats & species
As above	None- c.10.9km to south of site.	Tramore Backstrand SPA (site code: 004027)	Birds, wetland & waterbirds
As above	None- c.10.9km to south of site.	Tramore Dunes & Backstrand SAC (site code: 000671)	Water habitats
As above	None- c.14.6km south of site.	Mid Waterford Coast SPA (site code: 004193)	Birds

Step 4: Likely significant effects on the European site(s) 'alone'

Table 2: Could the project undermine the conservation objectives 'alone'				
European Site and qualifying feature	Conservation objectives: To maintain favourable conservation condition (M) and to restore favourable conservation condition (R)	Could the conservation objectives be undermined (Y/N)?		
		Effect A – Surface Water Run off during construction	Effect B – Surface water run off during operation phase	Effect C Habitat Loss/Fragmentation
Lower River Suir SAC				
Atlantic salt meadows [1330]	To <i>restore</i> favourable conservation objectives	Y	Y	Y

Mediterranean Salt Meadows	To <i>restore</i> favourable conservation objectives	N	N	n
Water courses of plain to montane levels [3260]	To <i>maintain</i> favourable conservation objectives	N	N	N
Hydrophilous tall herb fringe communities [6430]	To <i>maintain</i> favourable conservation objectives	Y	Y	Y
Old Oak woodlands [91A0]	To <i>restore</i> favourable conservation objectives	N	N	N
Alluvial forests [91E0]	To <i>restore</i> favourable conservation objectives	Y	Y	Y
Taxus baccata woods [91J0]	To <i>restore</i> favourable conservation objectives	N	N	N
Freshwater Pearl Mussel [1029]	To <i>restore</i> favourable conservation objectives	N	N	N
White-clawed Crayfish [1092]	To <i>maintain</i> favourable conservation objectives	N	N	N
Sea Lamprey [1095]	To <i>restore</i> favourable conservation objectives	Y	Y	Y
Brook Lamprey [1096]	To <i>restore</i> favourable conservation objectives	N	N	N
River Lamprey [1099]	To <i>restore</i> favourable conservation objectives	Y	Y	Y
Twaite Shad [1103]	To <i>restore</i> favourable conservation objectives	Y	Y	Y
Salmon [1106]	To <i>restore</i> favourable conservation objectives	Y	Y	Y

Otter [1355]	To <i>maintain</i> favourable conservation objectives	Y	Y	Y
European Site and qualifying feature	Conservation objectives: To <i>maintain</i> favourable conservation condition (M) and to restore favourable conservation condition (R)	Could the conservation objectives be undermined (Y/N)?		
		Effect A – Surface water run off	Effect B – Storm water run off	Effect C – Habitat Loss/Fragmentation
River Barrow & River Nore SAC				
Estuaries [1130]	To <i>maintain</i> favourable conservation objectives	Y	Y	Y
Mudflats and sandflats [1140]	To <i>maintain</i> favourable conservation objectives	Y	Y	Y
Colonizing mud and sand [1310]	To <i>maintain</i> favourable conservation objectives	N	N	N
Atlantic salt meadows [1330] (R)	To <i>restore</i> favourable conservation objectives	N	N	N
Mediterranean salt meadows [1410] (R)	To <i>restore</i> favourable conservation objectives	N	N	N
Killarney fern [1421]	To <i>maintain</i> favourable conservation objectives	N	N	N
Water courses of plain to montane levels [3260]	To <i>maintain</i> favourable conservation objectives	N	N	N
European dry heaths [4030]	To <i>maintain</i> favourable conservation objectives	N	N	N
Hydrophilous tall herb fringing communities [6430]	To <i>maintain</i> favourable	Y	Y	Y

	conservation objectives			
Petrifying springs [7220]*	To <i>maintain</i> favourable conservation objectives	N	N	N
Old sessile oak woods [91A0]	To <i>restore</i> favourable conservation objectives	N	N	N
Alluvial forests [91E0]*	To <i>restore</i> favourable conservation objectives	N	N	N
Nore freshwater pearl mussel [1990]	To <i>restore</i> favourable conservation objectives	N	N	N
Freshwater Pearl mussel [1029]	Currently under review	N	N	N
Desmoulin's whorl snail [1016]	To <i>maintain</i> favourable conservation objectives	N	N	N
White-clawed crayfish [1092]	To <i>maintain</i> favourable conservation objectives	N	N	N
Sea lamprey [1095]	To <i>restore</i> favourable conservation objectives	Y	Y	Y
Brook lamprey [1096]	To <i>restore</i> favourable conservation objectives	N	N	N
River lamprey [1099]	To <i>restore</i> favourable conservation objectives	Y	Y	Y
Twaite shad [1103]	To <i>restore</i> favourable conservation objectives	Y	Y	Y
Atlantic salmon [1106] (only in freshwater)	To <i>restore</i> favourable conservation objectives	Y	Y	Y
Otter (1355)	To <i>restore</i> favourable conservation objectives	Y	Y	Y

Where relevant, likely significant effects on the European site(s) ‘in-combination with other plans and projects’

There are no proposals within plans that could act in-combination with the Proposed Development. I note the proposed development includes a masterplan for the adjoining lands in the applicant’s ownership, but this masterplan is not a statutory plan. There has been development in the immediate area notably the North Quays development that could have the potential to contribute to in-combination/cumulative effects, however, appropriate mitigating measures were included in the EIAR and NIS for this development.

Appropriate Assessment: Stage 1: Conclusion- Screening Determination

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the proposed development is likely to have a significant effect on the QIs of the Lower River Suir SAC and River Barrow & River Nore SAC ‘alone’ as identified in Table 2 above, in respect of effects associated with construction and operation of the development as a result of possible contamination of water quality from surface and storm water run off and accidental spillage which would result in increased siltation.

An appropriate assessment is required on the basis of the effects of the project ‘alone’. Further assessment in-combination with other plans and projects is not required at this time.

**Appropriate Assessment
Stage 2**

Aspects of the Proposed Development:

The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interests of European Sites Lower River Suir SAC (site code: 002137) & River Barrow & River Nore SAC (site code: 002162), using the best scientific knowledge in the field. All aspects of the project that could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are both considered and assessed.

A description of both sites and their Conservation and Qualifying Interest/Special Conservation Interest, including any relevant attributes or targets for these sites are set out in the NIS and summarised in Table 2 AA above of this report as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through NPWS website (www.npws.ie).

The NIS submitted on behalf of the Applicant concluded:

‘The development, as planned, will not adversely affect the integrity of the identified European site. During the assessment the emissions to surface water were identified as a pathway for

potential indirect effect on the Qualifying Interests of the Lower River Suir SAC or the River Barrow and River Nore SAC.'

Identification of Likely Effects & Mitigation Measures

As the site of the proposed development is at a remove from both European sites, no direct effects would occur. In terms of indirect effects the key element is the potential impact on water quality during construction and operation phases. Tables 2 & 3 of the NIS describes the QIs of the Lower River Suir SAC & River Barrow & River Nore SAC that have the potential to be impacted upon from the proposed development and screens out those QIs which will not be impacted from the development, based on either due to the distance involved or because the features are not sensitive to change in water quality and the reason from exclusion is outlined. Table 4 provides a summary of the QIs/SCIs associated with both European sites which would be impacted upon from the proposed development, either due to the distances involved or because the features are sensitive to change in water quality.

Construction phase:

In terms of water quality impacts there is the potential for site clearance, significant excavation and ground works carried out during the construction phase of the development to give rise to excessive amounts of silt and sediment which could enter the River Suir 105m south of the site. There is therefore the potential for habitat loss or deterioration through surface water pollution (silt/ hydrocarbon/ construction related) from construction works resulting in changes to environmental conditions such as water quality/ habitat degradation.

During the construction phase of the development two temporary retention basins are proposed, one to the south east of the site's boundary connected via a drainage swale to the other retention pond to the south west of the site boundary. There are no details provided of these SuDs measures contained within the CEMP report or the NIS. It is therefore not clear whether surface water would be discharged at greenfield rates following the proposed attenuation measures during construction.

Operational phase:

During the operational phase there is the potential for surface water run off from the site to discharge into the Lower Suir river and negatively impact on its water quality and for accidental spillages of fuels.

A surface water management system for two catchment areas (north east and south west of the site) with onsite attenuation, several SuDs features (namely attenuation tanks, green roofs, tree pits and permeable paving), and two associated surface water/storm water drains, one connecting to the Rockshire Road and the other to the south of the site.

Mitigation Measures

The description and consideration of the proposed development on the River Suir SAC and River Barrow & River Nore SAC are the subject of the NIS. A range of mitigation measures are identified during the construction and operation phases of the project to protect the water quality of the European sites, primarily in the NIS and CEMP. The mitigation measures in respect of the development are set out in 4.5 of the NIS and Construction Management Plan in relation to protecting water quality at construction and operational phase which include:

Construction Phase:

- A berm should be constructed at the southern boundary of the site complete with a staked Geotextile silt net fence to prevent surface run off into the River Suir.
- A swale and a retention basin will be constructed prior to any development to capture run off.
- Swale will be connected to the retention basin to enable any silt or pollutants to settle out and allow for evapotranspiration.
- Fencing placed around all mature trees and in front of hedgerows.

Standard good work practices to include:

- Earth works to take place during periods of low rainfall to reduce run off and siltation of watercourses.
- Dust suppression on site roads and regular plant maintenance.
- Weather forecast checked prior to the movement of earth/ no such works during bad weather.
- All plant and machinery to be serviced before being mobilised on site.
- No plant maintenance on site.
- Refuelling on bund trays//use of drip trays etc..
- Fuel and oil stores checked for leaks and damage.
- Contingency plans for emergencies.
- Contractor to assign environmental officer.
- Weekly checklist for compliance.
- Ecologist to check during construction phase & complete a final audit report& forwarded to KCCC if required.
- CEMP.

Operational Phase:

- A no. of SuDS measures on the site.
- A portion of the development will collect and discharge surface water and storm water down to connect with the public network on the Rockshire Road.

- The discharge will be filtered through a hydrocarbon interceptor before being released into public network.
- Green roofs on the aparthotel buildings, tree pits and permeable paving in the driveways and car parking areas.

Assessment of mitigation measures:

The NIS makes references to the proposed swale and two retention ponds intercepting and delaying the run off to facilitate the settling of any pollutants and being kept open to allow for evaporation of surface water and infiltration to ground in the construction phase. However, these specific measures lie outside the application site but within the blue line boundary in the applicant's ownership. In the context of mitigation measures I consider there is a lack of design detail and the detail is ambiguous.

During the operational phase further detail regarding the attenuation tank to the north east of the site is required to assess how the surface water would be gravity fed to this tank. Details on the existing greenfield rates to the storm water drains have not been provided, and it is not clear whether excess stormwater will discharge at greenfield rates.

For the reasons set out above I am not satisfied that the mitigation measures are sufficient to address potential impacts from the proposed development. I note that Appropriate Assessment must not contain lacunae or gaps, and that precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned is required. I am not therefore satisfied that the potential for deterioration of habitats and species identified within the European Sites is not likely.

Where relevant, likely significant effects on the European site(s) 'in-combination with other plans and projects

I have had regard to the information included in the NIS and information submitted in the first party appeal response relevant to a consideration of in-combination impacts. I have also had regard to planning applications (proposed/ decided) close to the site which have been accompanied by NISs and (as relevant) subject to AAs. I do not identify any significant in-combination effect from same. In respect of relevant plans, I identify that SEA was undertaken by the planning authority in respect of the Ferrybank LAP and Kilkenny CDP 2021-2027

Appropriate Assessment Stage 2 Conclusion

The project has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. On the basis of objective information, I have assessed the implications of the project on the Lower River Suir SAC and the River Barrow & River Nore SAC, in view of the sites' conservation objectives. I have had

regard to the applicant's NIS and all other relevant documentation and submissions on the planning file.

I consider that there remains a reasonable scientific doubt as to the absence of adverse effects on the integrity of on the Lower River Suir SAC (site code:002137) and River Barrow & River Nore SAC (Site code: 002162) with regards to the uncertainty of the mitigation measures proposed and the potential for run off from the development during construction and when operational and as such the Board is precluded from granting permission for the proposed development.

Appropriate Assessment Summary matrix, Lower River Suir SAC (Site code: 002137)

<p>Lower River Suir SAC [002137]</p> <p>Key issues that could give rise to significant effects –</p> <p><u>No direct effects.</u></p> <p>Footprint outside of designated site (development site is c.105m upstream of SAC).</p> <p><u>Indirect effects</u></p> <p>Deterioration of water quality with indirect effects on water quality dependent habitats and species of conservation interest.</p> <p>Ex situ effects by way of disturbance on mobile species of conservation interest. Site specific pressures and threats include fertilisation, urbanised areas, human habitation, discharges, pollution to surface waters, dykes and flooding defence in inland water systems, cultivation, forestry, invasive non-native species, landfill, land reclamation and drying out.</p>					
Summary of Appropriate Assessment					
Qualifying Interest	Conservation Objectives, targets & Attributes	Potential Adverse effects	Mitigation Measures	In combination effects	Can adverse effect on Integrity be excluded
Atlantic salt Meadows (1330)	Saltmarsh Monitoring Project 2017/2018 at Little Island downstream from site, had an overall conservation assessment as inadequate.	Map 3 indicates habitat at Little Island in the River Suir c.4km from the subject site. Surface water and storm water may have an indirect effect during construction & operation phase.	Refer to Section 4.5 of NIS	None	No
Mediterranean Salt Meadows	Area stable or increasing, subject to natural processes, including erosion and sedimentation.	Habitat was not recorded in Lower River Suir SAC during the Saltmarsh Monitoring Project (SMP) (McCorry and Ryle, 2009) Mediterranean salt meadow habitat is found high up in the saltmarsh but requires occasional tidal inundation.	See above	None	Yes

Water courses of plain to montane levels [3260]	Article 17 Report (NPWS 2019) identifies overall conservation status for the species is 'inadequate' and conservation trend 'deteriorating'.	Located up river a significant distance from subject site.	See above	None	Yes
Hydrophilous tall herb fringe communities [6430]	Habitat area stable Major threats invasive species, arterial drainage & agricultural improvement.	Not mapped but often associated with wet grassland/open marsh/river islands	See above	None	No
Old sessile oak woods with Ilex [91A0]	To maintain stable or increasing habitat. Threats are alien invasive species and overgrazing	Located up river a significant distance from subject site.	See above	None	Yes
Alluvial forests [91E0]	To maintain stable or increasing habitat. Main pressures are identified as alien invasive species, undergrazing and overgrazing.	Close to site near Little Island, potential pathway	See above	None	Yes
Yew woodlands [91J0]	To maintain stable or increasing habitat- invasive species a threat.	Located up river a significant distance from subject site.	See above	None	Yes
Freshwater Pearl Mussel [1029]	Principal threat is water quality.	Located up river within Clodaigh catchment	See above	None	Yes
White-clawed Crayfish) [1092]	Maintain favourable condition-major threat invasive species.	Located up river significant separation.	See above	None	Yes
Sea Lamprey [1095]	Overall conservation status is poor. Threats -pollution & drainage works.	Located in area Potential pathway as suitable habitat for species. Adult life in marine & estuarine waters, migrate up river to spawn.	See above	None	No
Brook Lamprey [1096]	Restore favourable status	Only found in freshwater.	See above	None	Yes

River Lamprey[1099]	Restore favourable status. Threats -pollution & drainage works.	Potential pathway as freshwater suitable habitat for species.	See above	None	No
Twaite Shad [1103]	Restore favourable status. Threats -artificial barriers block twaite shads' upstream migration, limiting species to lower stretches and restricting access to spawning areas.	Potential pathway as suitable habitat for species. Adult life in marine & estuarine waters, migrate up river to spawn.	See above	None	No
Salmon [1106]	Restore favourable status-threats include pollution of water.	Potential pathway as suitable habitat for species. Discharge of urban waste water pollution to surface water.	See above	None	No
Otter [1355]	Maintain favourable condition. Major threats, water pollution, clearance of riparian vegetation, fishing & road kill.	Indirect impact on water quality on food source.	See above	None	No
Overall Conclusion Integrity Test Following the appropriate assessment and the consideration of mitigation measures, I am unable to ascertain with confidence that the project would not adversely affect the integrity of the Lower River Suir SAC (site code: 002137) in view of the Conservation Objectives of this site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.					

Appropriate Assessment Summary matrix River Barrow & Nore SAC (Site code: 002162)

River Barrow & River Nore SAC (site code: 002162) Key issues that could give rise to significant effects – <u>No direct effects.</u> Footprint outside of designated site (development site is c.105m upstream of SAC). <u>Indirect effects</u> Deterioration of water quality with indirect effects on water quality dependent habitats and species of conservation interest. The main threats to the site and current damaging activities include high inputs of nutrients into the river system from agricultural run-off and several sewage plants, over-grazing within the woodland areas, and invasion by non-native species. The water quality of the site remains vulnerable. Good quality is dependent on controlling fertilisation of the grasslands, particularly along the Nore. It also requires that sewage be properly treated before discharge. Drainage activities in the catchment can lead to flash floods which can damage the many Annex II species present.					
Summary of Appropriate Assessment					
Qualifying Interest	Conservation Objectives, targets & Attributes	Potential Adverse effects	Mitigation Measures	In combination effects	Can adverse effect on Integrity be excluded
Estuaries [1130]	Habitat area is stable or increasing. Threats identified as alien invasive species, undergrazing and overgrazing. Pollution from agricultural land.	Down river from the site but River Suir flows into it- hydrological link	Refer to Section 4.5 of NIS	None	No
Mudflats and sandflats [1140]	Habitat area stable or increasing. Threats - water quality, fishing activity.	As above	As above	None	No
Colonising mud and sand [1310]	Habitat area stable or increasing	Not present near the site	As above	None	Yes
Atlantic salt meadows) [1330]	No decline, habitat area stable or increasing	Up river from the site, significant geographical separation.	As above	None	Yes
Mediterranean salt meadows ([1410]	No decline in habitat	Up river from the site, sufficient geographical separation.	As above	None	Yes
Killarney Fern [1421]	No loss of suitable habitat	Up river, sufficient geographical separation.	As above	None	Yes

Water courses of plain to montane levels [3260]	Habitat area stable or increasing. Threats include water quality & sedimentation.	Up river, no potential pathways.	As above	None	Yes
European dry heaths [4030]	Occurs on free-draining nutrient poor soils and is often characterised by gorse and open acid grassland areas.	Up river from site, no potential pathways	As above	None	Yes
Hydrophilous tall herb fringe communities [6430]	Associated with wet grass,land/open marsh & fringe habitats of the river Suir.	Extent of habitat not known - not mapped	As above	None	No
Petrifying springs [7220]	Rely on permanent irrigation, usually from upwelling groundwater sources or seepage sources	Up river from site, no potential pathways	As above	None	Yes
Old sessile oak woods with Ilex [91A0]	To maintain stable or increasing habitat.	Up river from site, no potential pathways.	As above	None	Yes
Alluvial forests[91E0]	To maintain stable or increasing habitat.	Up river from site, no potential pathways	As above	None	Yes
Desmoulin's Whorl Snail [1016]	No decline, greatest threats drainage of wetlands	Up river, not in area	As above	None	Yes
Freshwater Pearl Mussel [1029]	Currently under review, greatest threat nutrient enrichment of rivers	Up river, not in area.	As above	None	Yes
White-clawed Crayfish [1092]	No reduction in baseline	Up river ,not in area	As above	None	Yes
Sea Lamprey[1095]	Artificial barriers can impact migration, restricting access to spawning areas.	Identified in area	As above	None	No
Brook Lamprey [1096]	Artificial barriers can impact migration,	Not in area, spends lifecycle in freshwater	As above	None	Yes

	restricting access to spawning areas.				
River Lamprey [1099]	Artificial barriers may clock upstream migration	Mapped in area, potential pathway for impacts	As above	None	No
Twaite Shad [1103]	Artificial barriers may impact on upstream migration. No decline in distribution of spawning habitats.	Spawning & breeding activity has only been recorded River Suir & Nore, potential pathway for impacts	As above	None	No
Salmon [1106]	No significant decline in number & distribution of spawning. Poor river water quality (resulting from factors such as inadequate sewage treatment, agricultural enrichment, acidification, erosion and siltation), forestry-related pressures and over-fishing.	Mapped in area, potential pathway for impacts	As above	None	No
Otter [1355]	No significant decline, major threats pollution, resulting in fish kills; and accidental deaths (road traffic and fishing gear).	Indirect impact on water quality on food source.	As above	None	Yes
Overall Conclusion Integrity Test Following the appropriate assessment and the consideration of mitigation measures, I am unable to ascertain with confidence that the project would not adversely affect the integrity of the River Barrow & River Suir SAC (site code: 002162) in view of the Conservation Objectives of this site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.					