



An
Bord
Pleanála

Inspector's Report

ABP320966-24

Development	Retain change of use from bar and restaurant to a guesthouse on ground floor of McEvoy's Bar and Restaurant, a protected structure (RPS No 069 and NIAH No 12900714)
Location	Main Street, Abbeyleix, Co Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	2460238
Applicant(s)	Icolater Limited Simon Stokes.
Type of Application	Retention.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant	Liam O'Faolain.
Observer(s)	None.
Date of Site Inspection	5 th February 2025.
Inspector	Ann Bogan

1.0 Site Location and Description

- 1.1. The site is located on Main Street Abbeyleix, County Laois, a National Secondary Road (N77). It consists of a two-storey end of a terrace building (a Protected Structure), with single storey extensions to the rear. The site has access to the rear to the south-west and a fire escape exit to the north-east. The ground floor of the building has most recently been used as a bar/ restaurant and has residential use overhead.
- 1.2. There is a roofed courtyard to the rear of the main building and open yards to the rear and sides of a single storey extension. A retaining wall supports an elevated grassed area to the rear of the site.
- 1.3. The street has a mixture of commercial and residential uses, with on-street parking available.

2.0 Proposed Development

- 2.1. The development to be retained consists of change of use from bar and restaurant to a guesthouse on the ground floor of McEvoy's Bar and Restaurant. There are no external changes proposed to the building. The drawings show that ground floor has been modified internally to provide 7 bedrooms (none ensuite): 3no with 2 beds, 1no with 3 beds and 3no with four beds, to accommodate a total of 21 persons. 3no shower rooms and 5 no toilets are provided. There is also a kitchen, a fridge and cold store. No dining or other communal areas such as lounges are indicated. While the alterations have been completed the use as a guesthouse has not yet commenced (at time of inspection).

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission for the development, subject to 7 conditions.

3.1.2. Conditions

- Conditions Nos 1-3 are standard conditions relating to conformity with plans and particulars received, surface water run-off, and cowl of external lighting, respectively.
- Condition No 4 requires that the development shall be used solely for the purposes detailed in the plans and further information received
- Condition Nos 5-7 are standard conditions dealing with control of noise, vibrations etc, limiting advertising and development contribution.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- First Planner's report dated 20th June 2024, considered the guesthouse use is one which would normally be acceptable in the town centre area. Noted that the internal changes were minor in the form of stud partition walls and are easily reversible and would not have detrimental impact on the Protected Structure. Further information recommended requesting applicant to demonstrate compliance with Failte Ireland standards for guesthouses and also invited the applicant to comment on the two submissions received
- Second Planner's report following receipt of further information (received 7th August): considers the further information response that the intended use of the premises is 'for guests being refugees from Ukraine' and will not be open to the public. Applicant advised that Failte Ireland had confirmed that they did not need to register with Failte Ireland on that basis. The report stated: "On the basis that the proposal is not a standard guesthouse use as previously indicated and advertised but more a development for housing of displaced persons from Ukraine, I consider the response from the applicant to be Significant Further Information and revised notices should be submitted accordingly"
- The final short section of the report (dated 4th September) was completed following receipt of the revised notices and noted that a further observation had been submitted. The report concluded "In accordance with the above

assessment, it is considered appropriate to grant retention permission subject to conditions". Schedule 1 states: "Having regard to its nature, extent and location, the zoning and planning history of the site, it is considered that the proposed development would be compliant with the provisions of the Laois County Development Plan 2021-2027 and with the proper planning and sustainable development of the area".

- Screening for AA by planning officer concluded no likely significant impacts are predicted due to nature of development. Considered that EIA not required as proposed development is not specified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended)

3.2.2. Other Technical Reports

- Waste Management and Environmental Protection: No objection subject to conditions
- Planning Enforcement: Warning letter issued on 17/01/2024 re alleged unauthorised development
- Chief Fire Officer: stated Laois Fire Authority did not assess the application, recommends applicant be informed they are required to comply with Buildings Regs/Building Control Regs.
- Application referred to Area Engineer, Heritage Officer, Water Services – no reports received

3.3. Prescribed Bodies

- TII: no observations to make
- Uisce Eireann: No objections as application not proposing connection to public water or wastewater mains
- Application also referred to HSE, and An Taisce – no reports received

3.4. Third Party Observations

Three observations were received, in summary:

- Ensure that development complies with Laois County Development Plan in relation to requirement that accommodation must be to Failte Ireland standards
- Ensure that conditions imposed by an Bord Pleanála under ABP-316302 are fully complied with, in particular Condition No 2, relating to impact of development on adjoining wall; ensure use of right of way does not impact on privacy, that external noise is minimised, external lighting installation protects amenity and no access provided to facilitate use of raised area to rear, to protect privacy of their garden
- Observation received on further information: notice posted on site later than in newspaper; revised notice refers to change of use to guest house, it should have stated it is to accommodate Ukrainians; no private parking is provided, which will add to congestion in town.

4.0 Planning History

ABP 316302-23 Permission with conditions granted for retention of alterations to McEvoy's Bar and Restaurant including relocating LPG tank, altered building to side of kitchen, building to rear of kitchen for cold room/freezer, extended dining room including bar area, retaining wall 7.5m from rear of cold room and associated site works.

18/517 Permission with conditions granted to carry out internal alterations and construct a single storey extension to south of McEvoy's Bar and Restaurant. Also, demolition of outbuildings to rear of adjacent property, refurbishment of the property and construction of a two- storey extension to rear to provide café/deli on ground floor and 3 bed apartment overhead and the provision of car parking to the rear.

11/250 Permission granted to demolish a single storey structure off the kitchen and demolish stone wall; and construct 85sqm single storey extension at McEvoy's Public House, Main Street, Abbeyleix,

09/311 Planning permission granted at McEvoy's Public house for 2 no 1 bedroom apartment units to first floor level; retention permission for 83sq m ground floor area to the rear consisting of kitchen, storage areas toilets and corridors; retention

permission for existing stonework wall to rear to form courtyard area to rear of lounge area.

5.0 Policy Context

Laois County Development Plan 2021-2027 (adopted on 25th January 2022 and came into effect on 8th March 2022)

Zoning: Site is zoned Town Centre with an objective “to protect and enhance the special physical and social character of the existing town centre and to provide for and improve retailing and commercial activities”.

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

Zoning matrix indicates a guesthouse is a use which will normally be acceptable in the town centre zoning

Protected Structure: The building is on the Record of Protected Structures (RPS 069) and is located within Abbeyleix Architectural Conservation Area. It is also listed on the NIAH and is of regional importance, described as “Five bay two-storey house, c 1885, with integral carriageway and timber pub front to part ground floor”.

Policy Objective for Protected Structures, PS 3 states:

“Any development, modification, alteration, or extension affecting a Protected Structure must be prepared by suitably qualified persons and accompanied by appropriate documentation as outlined in the Architectural Heritage Protection Guidelines for Planning Authorities [DAHG, 2011] to enable a proper assessment of the proposed works and their impact on the structure or area and be carried out to best practice conservation standards. Its setting will be considered against the following criteria, and whether it is

- a) Sensitively sited and designed;
- b) Compatible with the special character;

- c) Views of principal elevations of the protected structures are not obscured or negatively impacted;
- d) Of a premium quality of design and appropriate in terms of the proposed scale, mass, height, density, layout, and material so that the integrity of the structure and its curtilage is preserved and enhanced. Where appropriate, the Protected Structure status is used as a stimulus to the imaginative and considered design of new elements”.

Tourist infrastructure: Accommodation

Section 8.5.2 states: “The Council recognises that the provision of accommodation such as hotels, guesthouses, hostels, caravan and camping sites are essential... The Council will support the development and upgrade of accommodation to meet Fáilte Ireland Quality Standards, subject to development management criteria and will require that such relevant standards are met in development proposals where appropriate”.

Tourist Traffic Acts 1939-2003

Under above Acts, any tourism business calling itself a guest house must be registered with Failte Ireland and conform to certain standards, such as having a minimum of 7 bedrooms with ensuite bathrooms, minimum room sizes and facilities such as dining and lounges etc. The standards that must be complied with are set out in the Registration and Renewal Regulations for Guest Houses, 2003

<https://www.failteireland.ie/Supports/registration-and-grading/national-quality-assurance-framework/Guest-Houses.aspx>

5.1. Natural Heritage Designations

- The River Barrow and Nore SAC is 2.35km south-west of the site.

6.0 EIA Screening

- 6.1. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be

excluded at preliminary examination and a screening determination is not required. (See attached EIA Form 1 Pre-screening and Form 2 Preliminary Examination).

7.0 The Appeal

7.1. Grounds of Appeal

- Laois County Council (LCC) failed to require developer to provide correct information, denying public right to scrutinise the development and failed to check veracity of application which has many errors/omissions.
- LCC failed to have developer comply with conditions 1,2,4, and 8 of ABP order of 23/2/2024
- LCC failed to take proper enforcement action when informed that demolition of protected structure was ongoing without planning permission, including structural impact visible in large crack in gable wall, and failed to take photographic baseline of the property in advance of demolition and construction over winter 2023
- LCC failed to follow Fire Officers recommendations
- LCC failed to observe National Guidelines in their handling of the destruction/demolition of protected structure
- LCC failed to detail its considerations of the legislative guidelines and development plan provisions, denying the public opportunity to review LCC actions against stated criteria
- LCC failed to have developer document the exact use of the property, hindering the public right to know
- LCC in granting permission for a guesthouse ignores requirements of the Tourist Traffic Acts 1939-2016
- LCC failed to properly consider economic repercussions of removing existing commercial property, or impact of reduction in employment on social and cultural resources of the community, impacting economic viability of the town

- LCC granted permission for change of use of protected structure to guesthouse in the knowledge it was not a guesthouse. Real use cited in FI response, was usage for Ukrainian refugees. Conflicts with Government statements of 20th Jan 2023 which paused offers for BOTP [Beneficiaries of Temporary Protection]
- Document outlining grant of permission is contradictory, ambiguous and not compliant with Laois County Development Plan nor Government Regulations governing accommodation for BOTP
- Requirement that development be used solely for purposes detailed in plans received with planning application and further information is unlawful and discriminatory
- No condition included requiring works to be supervised by conservation architect; no referral was made to make up for lack of conservation officer
- LCC failed to allow sufficient time for internal referrals to respond and failed to refer application to all external bodies it is mandated to consult
- Delegated officer does not have power to negate statutes, legislation and government guidelines. Contends order granting permission was null and void
- Grant of permission contravenes Section 34 of Planning and Development Act 2000 as amended and is flawed in its non-compliance with the regulations.
- Planner was not given opportunity to update report after FI round. With no supplemental report following FI, its presumed initial report and referral stands
- Even if tenuous validity can be found for use of premises for Ukrainian BOTB, the development contravenes Government Guidelines for Temporary Accommodation in Existing Buildings for those fleeing war in Ukraine, May 2022 (as amended)
- LCC failed to assess proposed changes to protected structure in advance and allow development to go ahead without required Section 57 declaration

7.2. Applicant Response

Agent, Leslie Colten Engineering and Architectural Services, responded on behalf of applicant:

- Response is accompanied by photographs of McEvoy's, refuting points in appeal submission; Fire Safety Certificate for McEvoy's; Architectural Heritage Impact Report (dated October 2024) prepared by Karen Feeney (Conservation Architect) and correspondence with Laois Co Council Enforcement section
- Compliance with conditions of appeal ABP 316302-23 – written confirmation of compliance due shortly from enforcement section Laois Co Council
- Delay in granting of previous planning permission/appeal and legal proceedings taken by neighbours, contributed to McElroy's business going into receivership and closing down
- LCC inspected property in March 2024, and took photographs. The only items removed after inspection were bar and kitchen which are not of heritage value.
- Application for retention was submitted on 3/5/2024, accompanied by photographic survey showing works in progress, demonstrating new works in accordance with best heritage practice
- Works did not remove historic features: stud partitions constructed on outside of any permanent heritage features, such as 2 fireplaces with shelving and mantels above; wooden panelling in bar and exposed collars in annex. Bar and kitchen were removed, but only installed in 2008 (commercial kitchen removed by receiver)
- Crack in gable is historic and not attributed to works carried out internally (photo enclosed from 2022 showing crack)
- Fire Safety Cert enclosed dated 27/06/2024. Application for Fire Safety cert lodged on 12/01/24.
- The answer to FI response clarifies the correct technical use of the building. Fáilte Ireland was contacted re registering it, but they clarified that as the

accommodation proposed is for refugees from Ukraine it would not have to register with Failte Ireland

- LCC is observing importance of not leaving a premises vacant. Owner tried to find new restaurateur to take over business but received no interest, appears not economically viable to run restaurant
- Previous restaurant closing was mainly due to people in Abbeylax not interested in working in restaurant. Ukrainian refugees might help alleviate this scarcity of restaurant workers
- Applicant contacted Heritage Architect who prepared Architectural Heritage Impact Report in 2022 for previous application (ABP- 316302) and she attended site on 19/02/2024
- File shows all statutory bodies were contacted by LCC for response as normal
- LCC were very active in investigating previous application and aware of the condition of the premises following inspection at that time
- LCC should be complimented for ensuring a building should not be left idle on Main Street of Abbeylax, but put to good use while ensuring fabric of building is maintained.

7.3. Planning Authority Response

- None

7.4. Observations

- None

7.5. Further Responses

A further response from the appellant largely elaborates on the issues raised in the initial appeal submission and raises a number of queries. It is accompanied by 16 additional documents, (exhibits A to O), including copies of Planning and other Government Regulations relating to accommodation for Ukrainian persons, as well

as copies of documents from the planning application file and from Failte Ireland publications and reports.

- Notes the planning application is fifth application for the site referred to in planning reports, and 80% of these were for retention of unauthorised development, and there are two current enforcement actions on this property
- Queries why LCC accepted planning application in circumstances of historic non-compliance with planning law and conditions
- Why did LCC fail to either invalidate or seek correction of application and public notices and inaccuracies in planning validation checklist, including with reference to the proposed use and the protected structure
- Why were internal staff given only 1 week to reply to requests for reports on the application, and why were renewed requests not sent on receipt of further information?
- Why were certain Article 28 bodies not notified of application, including: The Minister, the Heritage Council, DOECLG, An Comhairle 'Eireann' and Failte Ireland, and why was Failte Ireland not notified on significant further information?
- Why did LCC not engage with provisions of Article 35 on receipt of significant further information
- Given that the planning report (24th June 2024) interpreted the development as a tourism development why was it not referred to Failte Ireland?
- Contends that a renewed/differentiated planning report was not sought following significant further information and queries why this was the case
- The LCC planning file is incomplete as it does not contain correspondence relating to enforcement process. Verbal discussions with LCC personnel and letters sent by Agent are not on file, and only appear in Agent's response to appeal.
- Verbal interaction with Failte Ireland by Applicant and Agent were influential to grant of permission but details and written assurances not on file and unavailable for scrutiny

- The subject property has been part of commercial and tourism product of Abbeyleix and is a protected structure. Removal of this asset is contrary to Laois County Development Plan in terms of Abbeyleix role as a self-sustaining town in settlement hierarchy, economic development and employment objectives and is also contrary to objectives to protect heritage.
- Development Plan has a policy to restrict development that would be likely to reduce capacity of tourism resource
- LCC failed to consider the consequences of the application on overall tourism effort
- Submission outlines a number of Judicial Review Issues relating to the application

8.0 **Assessment**

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

- Zoning
- Layout, Design and Nature of the Use
- Impact on Protected Structure
- Other issues

8.2. **Zoning**

8.2.1. The site is zoned 'town centre' with an objective "to protect and enhance the special physical and social character of the existing town centre and to provide for and improve retailing and commercial activities." The purpose of the zoning is to enhance the vitality and viability of the town centre. In this case the change of use to a guesthouse would result in the loss of a long standing established bar and restaurant use, an 'active' ground floor use which has made a positive contribution to the

physical, social and commercial character of the town, (although vacant for a period prior to the conversion, due to business entering receivership). Permitting the retention of change of use could be considered as having a negative impact on achieving the stated zoning objective. However, the zoning also seeks to encourage a mix of uses and the zoning matrix indicates that a 'guesthouse' is a use normally permitted within the town centre zone. On that basis a guesthouse use can be considered, subject to other considerations addressed below.

8.3. Layout, Design and Nature of the Use

- 8.3.1. The development to be retained consists of seven bedrooms, three with 2 beds, one with 3 beds and three with 4 beds, to accommodate up to 21 persons. There are also showers, and a kitchen with two cookers which I understand is for self-catering, toilets and a freezer room and cold store. A partially enclosed roofed courtyard and other outdoor yard areas are also present. There is no dining room/area, lounge or reception area indicated.
- 8.3.2. While the conversion works have been completed, the use of the structure as a guesthouse had not commenced at the time of the inspection.
- 8.3.3. There is no drawing accompanying the application showing the floor plan prior to conversion works but I have examined a ground floor layout accompanying the previous application for retention of earlier alterations (ABP 316302-23) and it appears the lounges and bar towards the front of the building have been altered to form four large bedrooms each accommodating 3-4 people, the linear lounge/corridor towards the rear has been subdivided to form three small 2 person rooms (stated as 9.1sqm in area, one of which has very limited access to daylight) and a narrow corridor, the existing toilets remain in place, showers have been provided in part of the former kitchen area and a smaller kitchen retained to the rear of the structure.
- 8.3.4. The documentation with the appeal says the alterations which are largely made up of stud partitions can easily be removed, and that elements such as shelving and fireplaces, and connections to kitchen services are retained behind the studwork, and the building could revert to back to bar/ restaurant use in the future.

- 8.3.5. The use to be retained is described in the application documentation as a guesthouse. Section 8.5.2 of the Laois County Development Plan recognises the importance of guesthouses and other forms of guest accommodation and states: “The Council will support the development and upgrade of accommodation to meet Fáilte Ireland Quality Standards, subject to development management criteria and will require that such relevant standards are met in development proposals where appropriate”. The Development Plan thus seeks to ensure that guest accommodation is to a high standard.
- 8.3.6. Under the Tourist Traffic Acts 1939-2016 any tourism business calling itself a guesthouse must be registered with Failte Ireland and comply with the Registration and Renewal Regulations for Guest Houses, 2003. The registration of guesthouses is a matter for Failte Ireland rather than a planning matter, however requirements in the Guest House Regulations, which set out minimum bedroom sizes, ensuite bathrooms, and require provision of dining facilities, lounge areas at least 20sqm, reception areas etc provide a reasonable guide as to what would constitute an acceptable standard of accommodation for occupants. On that basis I believe the layout and design of this development as presented, with for example no dining or other communal space and limited floor area of bedrooms, is not in line with acceptable minimum standards for what would be understood to be a guesthouse. In my view the application has failed to establish that the retention of the alterations for use as a guest house would not result in a sub-standard development which would be detrimental to the amenities of occupants, and would not be in accordance with Section 8.5.2 of the County Development Plan which aims for a high standard of guest accommodation.
- 8.3.7. In response to a further information request for confirmation that the development was in conformity with Failte Ireland Quality Standards, the applicant stated that on contacting Failte Ireland they were told that the proposed use is not termed a guesthouse as it would have to be open to the general public to use the term guest house. The response stated: “The accommodation is for guests (being refugees from Ukraine) and as such would not have to register with them”. I note there was no written communication provided from Failte Ireland to supplement the response.
- 8.3.8. The use as accommodation for ‘Ukrainian refugees’ or more properly as accommodation for beneficiaries of temporary protection (BOTP) was not indicated

in the application form or in the public notices. However, following the receipt of the FI, further public notices were required alerting the public that significant further information had been submitted. The publication of revised notices, as provided for in the Planning and Development Regulations, 2001 (as amended), facilitated members of the public, including the appellant, to review the revised information and make an observation if they so wished. Although it is not explicitly stated in the planner's reports, the planning authority appear to have taken the view that the change in description of the proposed use from guesthouse to accommodation for protected persons was a non-material change from the guesthouse use described in the application.

- 8.3.9. In that context, I note the Planning and Development Regulations 2001 (as amended) include exemptions for temporary material change of use from various places/structures (hotel, guesthouse, hostel etc) to accommodation for protected persons (Schedule 2, Part 1, Class 14(h)) or to temporary accommodation for displaced persons or persons seeking international protection (Schedule 2, Part 1, Class 20F). Change of use of bar/restaurants to accommodation for protected persons are not included under these exemptions.
- 8.3.10. There is no information provided in the application or appeal to indicate whether the layout and design would be suitable for the intended BOTP use or comply with Government Guidelines for such accommodation (such as 'Guidelines for Temporary Accommodation in existing buildings' May 2022, as amended). In this context I note again, that apart from a kitchen and bedrooms, there are no dining areas, other communal or recreational areas indicated to provide for the needs of the 21 guests/residents, and some of the bedrooms are very small in area and at least one has limited access to daylight.
- 8.3.11. Based on the available information, I am concerned that the layout and design of the development to be retained, described in the application as a guesthouse, and as accommodation for BOTP in the further information submission, would constitute a sub-standard form of development which would impact negatively on the amenities of occupants. Furthermore, while guesthouse and residential accommodation of various forms are compatible with a town centre location and compatible in principle with the zoning, sub-standard accommodation as proposed, involving replacement of

an established bar and restaurant use, would not represent a positive contribution to the viability and vitality of the town centre economy.

- 8.3.12. In conclusion, I consider that the proposed retention of use would not be in keeping with Laois County Development Plan policies which seek to ensure a high standard of guest accommodation (Section 8.5.2), and would not provide an acceptable level of amenity for occupants and would not, therefore, be in accordance with proper planning and sustainable development. I therefore recommend that permission for retention of the development be refused. If the Board is minded to grant permission to retain the change of use, I recommend a condition limiting the duration of the permission be imposed.

8.4. Impact on protected structure

- 8.4.1. The building is a protected structure, listed in the NIAH survey and is located within the Abbeyleix Conservation Area. It is part of an attractive terrace of similar but not identical buildings dating to c1885 and has an integrated carriageway and timber pub-front at ground floor level. Externally the building retains much of its original character and it makes an important contribution to the historic streetscape of the Architectural Conservation Area. The application form states that the development consists of works to a protected structure, but no works to the exterior of the structure.
- 8.4.2. Policy PS3 of the Laois County Development Plan states that proposals for modifications or alteration of a Protected Structure must be prepared by suitably qualified persons and accompanied by appropriate documentation to enable a proper assessment of the works. In this case, the works were carried out in advance of the submission of the planning application, which was not accompanied by a conservation report. However, an Architectural Heritage Impact Report was subsequently submitted as part of the applicant's response to the appeal, which is of assistance in assessing impact of the development on the Protected Structure.
- 8.4.3. The Planning Officer noted there were no works to the exterior of the structure and considered the works to the interior, in the form of stud partition walls, to be minor and easily reversible and therefore would not have a detrimental impact on the Protected Structure.

- 8.4.4. An Bord Pleanála notified certain prescribed bodies in relation to the application, in the context of the possible effects of the development on the protected structure and ACA; namely the Heritage Council, Development Applications Unit, Failte Ireland and An Comhairle Ealaíon. I note that there are no responses on file from these bodies.
- 8.4.5. The Architectural Heritage Reports submitted with this appeal and accompanying the earlier application on this site (ABP316302-23) were prepared by a qualified conservation architect, Karen Feeney. In her report of December 2022, she states that no original internal decorative features remain. Similarly in her report dated October 2024, she states that since the 2008 renovation there are no internal decorative features of historical significance as no original plasterwork, fireplaces or finishes remain.
- 8.4.6. Photographs are included in the report labelled as dating from November 2022. and corresponding photos are included from January 2024 when the conversion work was in progress. They indicate that some features, not of particular heritage value, such as wooden panelling behind the bar, storage shelving and fireplaces, have been retained behind the studwork erected as part of conversion to guesthouse use. There are no obvious internal decorative features of heritage value visible in the 2022 photos and I accept on the balance of probabilities, that most such features were unfortunately removed in earlier renovations of the pub/restaurant.
- 8.4.7. The appellant draws attention to a crack in the gable wall of the Protected Structure and contends it resulted from recent works to the structure. However, I see no evidence that any significant internal or external changes were made to the structure in the recent alterations and must assume based on available information, that the crack preceded recent alterations.
- 8.4.8. On the basis of the information available on the file and the site inspection, I therefore conclude that while the retention of the proposed alterations would result in some changes to room layout and dimensions which are reversible, as well as a change of use, it would not have a significant negative impact on the character of the protected structure.

8.5. Other Issues

- 8.5.1. The appellant raises a range of issues in relation to how the planning authority had regard to local and national policies and guidance. An Bord Pleanála's role in assessing the application afresh and considering the appeal documentation, includes having regard to local and national policies and guidelines in reaching a conclusion.
- 8.5.2. The appellant also raises questions as regards the planning authorities processing of the planning application and related issues. Some of these are addressed in earlier parts of this assessment and others are addressed briefly below.
- 8.5.3. Issues relating to the enforcement of conditions attached to previous permissions and to alleged unauthorised development are not within the remit of An Bord Pleanála and are a matter for the planning authority. The process of referrals of the planning application to internal and external bodies at planning application stage also lies with the planning authority. The Board has made the relevant referrals to prescribed bodies as part of the appeal process.
- 8.5.4. The appellant contends that part of the planning application form and planning authority validation checklist were inaccurate or incorrect. These relate mainly to the nature of the proposed use, and lack of photographs of the intended changes to the Protected Structure. The issue of the use is addressed in section 8.3 above, whereby additional information in relation to the use was provided and revised public notices were published. In relation to photographs of 'intended changes', I note the application was for retention of the changes which had already occurred. Photos prior to the changes and photos of alteration works in progress, provided to An Bord Pleanála in the applicant's response to the appeal, assisted in assessing the changes to the Protected Structure.
- 8.5.5. The appellant referred to the absence of a second report by the planning authority planning officer, however I note two planner's reports are contained in the documentation supplied by the planning authority, dated 20th June and 4th September respectively.
- 8.5.6. Although not an issue within the Board's remit, the appellant raised an issue in relation to the Fire Officer, in that context I note a copy of the Fire Cert was submitted as part of the applicant's response to the appeal.

8.5.7. Issues raised relating to judicial review are outside the scope of this appeal process.

9.0 AA Screening

I have considered the proposed retention of the change of use from bar/restaurant to guesthouse at ground floor level in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located 2.35km south-west of the River Barrow and River Nore SAC.

The development to be retained comprises of internal alterations to the ground floor of McEvoy's Bar, a protected structure and change of use from bar/restaurant to guesthouse.

No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it could have been eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- Nature of works: small scale and nature of the development
- Location: distance from nearest European site and lack of connections

I conclude that on the basis of objective information, that the development to be retained would not have had a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) would not have been required.

10.0 Recommendation

10.1. I recommend refusal of permission to retain the change of use for the reason below.

11.0 Reasons and Considerations

The layout and design of the guesthouse to be retained would represent a sub-standard form of development which would impact negatively on the amenities of the occupants and its retention, involving the replacement of the established bar/restaurant use, and would not be in accordance with the policies of Laois County Development Plan 2021-2027, which seek to ensure a high standard of guest accommodation. It would, therefore, not be in accordance with 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.

Ann Bogan
Planning Inspector

13th March 2025

Appendix 1 – EIA Form 1 and Form 2

Form 1 EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	320966-24		
Proposed Development Summary	Retain change of use from restaurant and bar to guesthouse on ground floor of McEvoy's Bar and Restaurant, a Protected Structure		
Development Address			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	Yes	X	
	No		
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	X	Class 10(b)(iv) Urban Development	Proceed to Q3.
No			Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Threshold: 2ha. Development site: 0.12ha.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Ann Bogan _____ Date: _____ 13/03/2025 _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP- 320966-24
Proposed Development Summary	Retain change of use from restaurant and bar to guesthouse on ground floor of McEvoy's Bar and Restaurant, a Protected Structure
Development Address	
<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.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
Characteristics of proposed development (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).	The development has a modest footprint, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
Location of development (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).	The development is situated in a town centre and involved internal alterations and change of use of an existing building. The development is removed from sensitive natural habitats, and designated sites and landscapes of identified significance in the County Development Plan.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.

Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	No
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	
There is a real likelihood of significant effects on the environment.	EIAR required.	

Inspector: Ann Bogan

Date: _13/03/2025_____

DP/ADP: _____
(only where Schedule 7A information or EIAR required)

Date: _____