



An
Coimisiún
Pleanála

Inspector's Report ACP-322934-25

Development	Demolition of existing restaurant and construction of a six-storey hotel
Location	The corner of Pennyfeather Lane and Pudding Lane, Kilkenny, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	246027
Applicant(s)	Penny Pudding Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	First and Third-Party Appeal
Appellant(s)	Penny Pudding Limited First Party V Condition. Vincent Quan Third Party V Decision Elizabeth Kavanagh Third Party V Decision
Observer(s)	None

Date of Site Inspection

16th September 2025.

Inspector

Patricia Byrne

1.0 Site Location and Description

- 1.1. The subject site is situated in Kilkenny city centre at the junction of Pudding Lane and Pennyfeather Lane. Ormonde Street lies further to the south and aligns parallel with Pennyfeather Lane. Pudding Lane forms a short connecting route between Ormonde Street, Pennyfeather Lane and the High Street retail and commercial services area.
- 1.2. A three-storey block of town houses is positioned on the northern side of Pennyfeather Lane and addresses the appeal site. To the west, the site is bounded by a single storey property and yard which are vacant. To the immediate rear lies the Ormonde multi-storey car park complex, with retail/service uses at ground floor, two of which are accessed directly off Pudding Lane in proximity to the site. To the east of the site lie the rear elevations of commercial properties fronting High Street which generally range from two to four storeys. Pudding Lane continues in a northerly direction from Ormonde Street to intersect with High Street, emerging from under a building at its northernmost end beside The Kilkenny Book Centre.
- 1.3. To the west on Pennyfeather Lane are the rear elevations of commercial premises which front Friary St. as well as the Capuchin friary complex and associated facilities. A covered bridge spans Pennyfeather Lane adjacent the Friary.
- 1.4. The site has a stated area of 0.059 Ha. and is occupied by a derelict low-profile property which formerly operated as Mulhall's restaurant. The building is in poor condition and the yard to the west is overgrown

2.0 Proposed Development

- 2.1. Permission is sought for the following:
 - Clearance of a derelict structure (formerly Mulhall's Restaurant) comprising a stated 421 sq.m. of floor space.

- Construction of a new six storey hotel building with setback fourth floor level and plant room at fifth floor level.
- Accommodation to include 67 no. ensuite bedrooms, hotel foyer/reception, bar, restaurant facilities, staff facilities and hotel service facilities.
- Vehicle set down areas off Pudding Lane and Pennyfeather Lane and 12 no. bicycle parking spaces.
- Landscaping, drainage and associated site development works.

2.2. The gross floor space of the proposed development is stated as 2,071sq.m.

2.3. Connections to mains water, public sewer and surface water are proposed.

2.4. The ground floor level provides for 4 no. bedrooms, a reception/foyer and a small area denoted as providing for a bar and restaurant facilities. Associated staff and back of house facilities are also provided, together with a manager's office, bin store and toilets. The remaining floors provide for bedroom accommodation with plant provided on the uppermost floor. A loading bay is shown addressing Pennyfeather Lane with associated in-take area. A single set down space is indicated fronting Pudding Lane, adjacent the hotel entrance. A small plaza is provided to the north-eastern corner where the building is stepped in from Pennyfeather Lane. Cycle parking is also provided adjacent this location.

2.5. The structure as presented in the application drawings provides for a range of external treatments including a pressed metal capping finish with selected standing seam metal roof with similar metal cladding to the flat roof dormer windows. Selected render, metal, and stone external finishes are depicted on the elevational drawings. Windows to the north-west elevation are obliquely angled within a projecting window box to prevent overlooking. Opaque glazing is also used for opes addressing Pennyfeather Lane. Similarly, to the rear (south-east), opes addressing the multi-storey car park are also accommodated in projecting window boxes, angled to avoid overlooking.

(Redesign of the building at Further Information stage resulted in the introduction of additional window opes to the western elevation addressing the adjoining undeveloped site).

2.6. The application is accompanied by a number of supporting documents including the following:

- Plans, particulars and application form
- Preliminary Fire Safety Strategy
- Engineering Services Reports
- Daylight Analysis and Overshadowing Reports
- Road Safety Audit Stage 1/2
- Archaeological Impact Assessment
- Mobility Management Plan
- Traffic Reports
- Photomontage Study
- Public Lighting Proposals
- Archaeological Heritage Impact Assessment

3.0 Planning Authority Decision

3.1. Decision

By Order dated 10th June 2025, Kilkenny County Council Granted Permission for the development subject to 16 no. conditions.

3.2. Conditions

The following are relevant to this appeal:

Condition No. 3 *'Prior to the commencement of development, the applicant shall agree with the Planning Authority a revised design which omits the 4th storey (3rd floor over ground floor).*

Condition No. 5 *'All proposed paving shall be agreed with the planning authority prior to the laying of same.*

Condition No. 7 Control of construction noise levels at noise sensitive locations to prescribed limits and control of construction working hours.

Condition No. 8 Requirement to submit a Noise Impact Assessment to include noise mitigation measures ensuring no negative impacts on sensitive noise receptors and to include measures to counter operational noise, including from plant and machinery.

Condition No. 10 *'No traffic or materials associated with this proposed development shall be permitted to be parked/stopped and/or stored on any public lane adjacent to the site during the development works.*

Condition No. 13 Relates to the requirement to prepare a Construction Environmental Management Plan (CEMP); a Construction and Traffic Management Plan (CTMP) and updated Resource and Waste Management Plan (RWMP).

Condition No. 14 required:

(a) the applicant to maintain and operate a Mobility Management Plan to manage traffic and visitor movements to and from the development.

(b) that a detailed operational traffic management plan for the management of deliveries, services and refuse collection to be agreed, together with the type of vehicles, frequency, routing and timing of access to the delivery/bins area on Pennyfeather Lane. Loading bays on Ormonde Street and Friary Street and environs

are recommended to service the development. Agreement in relation to the operational arrangements and requirements for the set down area to the front of the hotel also sought.

(c) compliance with requirements of the local authority in relation to the paved/plaza area set down, bicycle parking and public realm to the curtilage of the development.

(d) detailed Construction and Environmental Management Plan (CEMP) including Traffic Management Plan.

(e) a Stage 3 Road Safety Audit.

(f) details in relation to public lighting.

Condition 15 Monitoring of all ground disturbance under licence from the National Monuments Service by a qualified archaeologist and implementation of prescribed mitigation measures where archaeological material is shown to be present.

3.3. Planning Authority Reports

3.3.1. Planning Report

Two planning reports were prepared as part of the assessment of the subject development. The initial report examined the schemes compatibility with the applicable land use zoning objective of the Kilkenny City and County Development Plan 2021-2027, and its compliance against relevant policies and objectives contained therein. This included analysis of design, access arrangements, impact on residential amenities, overshadowing, archaeological heritage and architectural impact. The report evaluated third party submissions as well as reports from prescribed bodies and internal divisions of the Planning Authority, concluding with a request for Further Information. Matters raised as Further Information included building design, amenity, public realm enhancement, shadow analysis, traffic impact/access, clarification of land ownership, lighting arrangements, demonstration of consistency with local authority plans and architectural heritage impact assessment.

An extension of time was afforded the applicant in order to furnish a response to the request.

A further planning report was prepared following receipt of the response which considered that all matters of concern had been satisfactorily addressed. The response included a revised building design providing for additional setbacks to the upper floors and a reduction in massing to Pennyfeather Lane. An Architectural Heritage Impact Assessment (AHIA) was also undertaken. Additionally, an updated Traffic Report was provided, together with confirmation of compatibility with future local authority schemes concerning active travel and laneway enhancement. The report acknowledged the importance of the proposal in addressing the derelict city centre site; its potential to improve the public realm and to widen Pennyfeather Lane. The planning report also acknowledged the increased set back of the second, third and fourth floors and recommended by condition, the removal of the 4th storey in order to safeguard diffused light to neighbouring properties.

3.3.2. Other Technical Reports

Conservation Section

Two reports were prepared by the Planning Authority's Architectural Conservation Officer. The initial report indicated that further assessment was required in relation to the scale and height of the building to address the sense of restriction to the laneway when coupled with the adjacent multi-storey car park. An AHIA to be prepared by a Grade 1 Conservation Architect was also requested.

The report sought that archaeological testing as recommended within the Archaeological Impact Assessment to be conducted. (This item was not ultimately included in the Further Information request which issued.)

A subsequent report accepted the findings of the AHIA that the development would not have a significant impact on the historic context of the site. The report also noted the potential for archaeological remains and recommended monitoring under licence

by a qualified archaeologist in the event of planning permission. Details of proposed paving and signage were also sought by way of planning condition.

Roads Design

Two reports were prepared by the Division, with the initial report requesting Further Information and particulars regarding traffic impact, having regard to the intended use by the hotel of the adjacent multi-storey carpark. This was to include an updated parking accumulation assessment. Further analysis of access arrangements from the laneway network was also requested, with particular regard to turning manoeuvres and autoturn assessment for delivery vehicles. Consultation with the Municipal District Office and the Active Travel Office was sought in relation to cycle route enhancement measures and in relation to the compatibility of the paved/plaza area with future local authority plans/schemes.

A subsequent report prepared following the response to the Further Information request indicated no objection to the scheme, subject to conditions, including in relation to mobility management; operational traffic management plan for deliveries, services, refuse collection, set down areas; compliance with Planning Authority requirements with respect to the plaza area, bicycle parking and public realm; development of a Construction and Environmental Management Plan (CEMP) including traffic management plan; Stage 3 Road Safety Audit; lighting specifications; and road opening licence.

Kilkenny Fire Authority

The report of the Senior Assistant Chief Fire Officer indicated no objection in principle to the development from a fire safety aspect, subject to conditions.

3.4. Prescribed Bodies

3.4.1. Department of Housing, Local Government and Heritage

Nature Conservation / NPWS

The Department recommended that Appropriate Assessment Screening be carried out due to the development's proximity to the River Barrow and River Nore SAC (Site Code 002162) and to the River Nore SPA (Site Code 004233) and advised the Planning Authority to ensure whilst screening, that the development would have no adverse effects on designated sites.

Note: This request was not included in the Further Information request which issued from the Planning Authority. The Planning Authority determined that the development, having regard to its nature and city centre location, did not give rise to a requirement for Stage 2 AA/NIS and would not impact Natura 2000 sites, either on its own or in combination.

Archaeology

A second report from the Department noted the location of the site within the zone of notification for RMP KK019-026 (Kilkenny City) and the location of recorded monument RMP KK019-026212 (relating to a previous excavation under licence on the subject site). The Department referred to the Archaeological Impact Assessment undertaken by Maeve McCormick of Archer Heritage Planning and to the finding of high potential for additional subsurface archaeological features to survive. Whilst the Department did not disagree with the recommendations of the report, it was of the opinion that additional archaeological testing should be completed in advance of any mitigation actions, including preservation by record. An Archaeological Impact Assessment report to include pre-development archaeological testing was recommended in advance of construction and as a condition of planning. The report containing the results of this assessment is required to be submitted to the Department and to the Planning Authority prior to any planning decision so as to facilitate the formulation of an appropriate and informed archaeological recommendation. The report goes on to recommend conditions.

3.4.2. An Taisce

Submission welcomes the development of this derelict site as it complies with the local authority's desire to rejuvenate laneways to the west of the city centre.

An Taisce would welcome the inclusion of a design brief within the recently commissioned Council survey on city laneways to assist in evaluating the scheme.

Reference is made to overshadowing of both lanes and a call made for a more restrained building footprint, stepped back to create a brighter and more welcoming exterior environment.

The loss of trees (residue of a former garden centre in the area) should be compensated for by a smaller building footprint to allow vertical greening of the perimeter wall.

Careful consideration should be afforded the effect of increased vehicular traffic on the laneways given the widths and shared nature of the carriageway.

Further archaeological investigations are required with all reports made public.

The submission notes that consideration should be given to the best use of brownfield sites in the city centre with an emphasis on housing rather than hotels to yield a more vibrant city centre.

3.5. Third Party Observations

3.5.1. Four submissions were received by the Planning Authority. The main issues raised are summarised as follows:

- Concerns in relation to the height and siting of the development relative to neighbouring properties. Development would injure residential amenity and depreciate property values.
- Scheme represents overdevelopment of the site and is out of character with the existing pattern of development in the area. A sympathetic transition in terms of scale, height and bulk is required.

Lane ways are substandard, narrow and lack turning facilities. Development would increase traffic levels and cannot accommodate current traffic demands.

- Redevelopment should respect the pattern of development on the laneways with heights on Pennyfeather Lane no higher than existing residential properties.

- Surface treatment of the laneway is lifting and is hazardous for pedestrians. The proposed scheme would exacerbate these concerns.
- The proposal does not address concerns raised by An Bord Pleanála under a previous planning decision and instead intensifies development.
- Loss of light and reduction in quality of life.
- Disruption to residential properties and businesses during the construction phase and when operational, including from parking.
- Pennyfeather Lane is a predominantly residential area.
- Concerns in relation to amplification of noise on Pennyfeather Lane given the enclosed nature of structures. Increased noise disturbance due to activity and use of the laneways, particularly at nighttime.
- Refuse area would generate disturbance to residents.
- Significant early hours traffic and noise disturbance from bars and hotels surrounding Pennyfeather Lane would be exacerbated by the addition of a further bar/hotel.
- Concerns regarding the confined nature of the site leading to noise pollution and anti-social behaviour was raised by An Bord Pleanála in its assessment of development on a neighbouring site.

3.5.2. Matters raised following submission of Significant Further Information

- Lack of communication from the local authority or others regarding disruption to businesses in proximity to the scheme.
- Concerns in relation to business disruption/duration and compensation for loss of income.
- Concerns raised in relation to the manner in which access from surrounding roads is to be protected, construction machinery access, impacts of dust/debris, traffic diversions, impact on existing services and on foot traffic, as well as intended parking management.
- Additional traffic using the laneway.
- Insufficient space to accommodate set down areas.
- Access for emergency services.

- Modifications to the scheme arising from the Further Information response do not address the issues raised.
- Concerns remain in relation to injury to residential amenity and depreciation in value of property by reason of height and siting of the proposal; The scheme remains out of character with the existing pattern of development; Access laneways are substandard; Increase in vehicular traffic will endanger public safety by reason of traffic hazard and obstruction of pedestrians; and reduction in light available to single aspect properties on Pennyfeather Lane will injure residential amenities.
- Development should be sympathetic to the surroundings and historic city core.
- Development will not address the previous reasons for refusal.
- Concerns in relation to concentration of people in a confined space would be compounded by further development proposed under a current planning application for the development of a neighbouring site.

4.0 Planning History

4.1. Appeal Site

ABP PL62.222439 Reg. Ref: 06990143

Permission Granted by the Planning Authority and An Bord Pleanála on appeal for the refurbishment of a restaurant building on site.

ABP Ref PL 62.230647 Reg. Ref: 08/3

Permission Granted by Kilkenny Co. Co. and Refused Permission by An Bord Pleanála for a six-storey building and associated siteworks providing for the demolition of an existing structure at Pudding Lane and development of a guest hotel with 15 no. suites, a hotel reception and services area, retail unit and restaurant and 3 no. penthouse apartments. Parking for the penthouses at ground floor and a rear access yard to the development off Pennyfeather Lane to be provided.

The reasons for refusal stated as follows:

- 1. It is considered that, by reason of its height and siting in relation to properties on the north side of Pennyfeather Lane, the proposed development would seriously injure the residential amenities and depreciate the value of those neighbouring properties. Furthermore, the height and bulk of the proposed building would be out of character with the existing pattern of development and would represent an overdevelopment of this site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. The site is located on laneways which are seriously substandard in terms of width and lack turning facilities. Having regard to the scale and intensity of development proposed, it is considered that the proposed development would significantly increase the traffic using these lanes and would, therefore, endanger public safety by reason of traffic hazard and obstruction of pedestrians*

To west of site

Reg. Ref. 2560258

Undetermined application for clearance works on a 0.034ha site including the demolition of an existing single storey building at Pennyfeather Lane and for the construction of a four storey hostel with setback 4th floor level and plantroom at roof level, comprising a reception area, toilet facilities, 13 no. bedrooms with a mix of en-suites and off-suite facilities, communal kitchen/dining/living areas and staff facilities.

Further Information was requested by the Planning Authority on the 8th of July 2025.

No response received to date.

Derelict Sites Register and Vacant Sites Register

The appeal site appears on the Kilkenny Co. Co. Derelict Sites Register -Ref DS 23-36 and on the Vacant Sites Register (as part of a larger landbank) Ref VSR20-3.

5.0 Policy Context

5.1. National Policy

Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011).

The subject site lies within the Patrick Street Architectural Conservation Area (ACA) and is immediately adjacent the Kilkenny City Centre ACA. No protected structures are present on site, however, a number are located in the immediate vicinity to the east on High Street and on Pennyfeather Lane (Capuchin friary). As such, the Architectural Heritage Protection, Guidelines for Planning Authorities are considered relevant. Guidance is provided in respect of the criteria and other considerations to be taken into account in assessing proposals affecting protected structures and Architectural Conservation Areas.

Urban Development and Building Heights – Guidelines for Planning Authorities

The Guidelines encourage a more proactive and flexible approach in securing compact urban growth through a combination of facilitating increased densities and heights, while being mindful of the quality of development and of balancing amenity and environmental considerations. Building height is identified as an important mechanism to delivering compact urban growth and the Guidelines contain Specific Planning Policy Requirements (SPPR's). Section 3.0 refers to Building Height and the Development Management Process with Section 3.2 relating to assessment at the scale of the relevant city/town; at district/neighbourhood/street and at site/building.

5.2. Development Plan Policy

Kilkenny City and County Development Plan 2021-2027 (Volumes 1 and 2)

The Kilkenny City and County Development Plan 2021-2027 is the operative Development Plan for the area. The subject site is located on lands zoned '*General*

Business’ where the objective seeks *‘to provide for general development’*. Permitted uses include hotels, restaurants and public houses.

Architectural Conservation Areas

Patrick Street ACA

The site is located to the north-eastern corner of Patrick Street ACA. Development Management requirements based on assessment of special character as set out in the Development Plan include PSACA 6: *‘To avoid backland development which would negatively impact on the character of this area’*.

Kilkenny City Centre ACA

The site lies immediately adjoining the Kilkenny City Centre ACA which comprises the medieval core of Kilkenny defined by the central spine of the city running along High Street and Parliament Street with the medieval slips running east between High Street and Kieran Street and the surviving burgage plots to the rear of properties on High Street and Parliament Street. The ACA contains many of the city’s most architecturally and historically significant structures. The following in particular relates:

CCACA 3: *‘To protect the remaining surviving medieval street pattern and tight urban grain, particularly the burgage plots to the rear of High St. and Parliament St. limiting large scale developments which may necessitate assimilation of smaller historic building plots and retention of the existing scale of three and four storey buildings’*.

Archaeology

Ref. KK019-026212-Excavation

Ref. KK019-026212 is located within the appeal site and refers to an ‘Excavation’ as per the National Monuments Service’s Historic Viewer. The entry reads ‘several

possible post-holes and shallow linear features, sealed by a deposit of garden soil of uncertain date, were recorded by Leigh Barker during archaeological test excavations (08E0031) to the rear of a modern building at the corner of Pudding Lane and Pennyfeather Lane, Kilkenny (Barker 2011). The features are located in a former NE-SW aligned burgage plot that is depicted on the 1758 John Rocque map of Kilkenny.

Further sites in the immediate vicinity (west of the site) include:

Ref: KK019-026039 Alms House

Ref KK019-026195 House 17th/18th century

The site is also located within the Zone of Notification for Kilkenny City Ref. KK019-026.

Record of Protected Structures (RPS)

The following Protected Structures lie in proximity to the site:

B34 The Capuchin Friary Buildings

B44 01 High Street

B45 Carrigan's Bar 02 High Street

B46 AIB Bank 03 High Street

B47 04-9 High Street (Including Spur stones).

B48 The Tholsel Bar 08 High Street

B49 World Choice-Manning Travel 09 High Street

The Development Plan also refers to the following:

Infill Development

The Plan states at Section 13.5 that *‘Availing of development opportunities for infill sites will need to be sensitive to the potential of them imposing on existing neighbouring structures in terms of encroachment, overlooking and overshadowing. The potential for the development of such sites, which includes backland locations, should be considered on a site by site basis and will only be acceptable where the developer can show that the development is able to comply with certain minimum requirements.*

Building Heights

Under Section 13.6, the Development Plan states that the Council will support increased building height and density in central locations with good public transport accessibility for both regeneration and infill purposes. The Council will also ensure that proposals for urban densification make a positive contribution to the streetscape and do not detract from the historical environment/character of the surrounding area in general and/or neighbouring buildings in particular.

Development Management principles for increased height require that development proposals subscribe to the Development Management principles and satisfy Development management criteria as contained in the Ministerial Guidance document “Urban Development and Building Heights” (December 2018) when assessing applications for development.

Plot Ratio

The Development Plan recommends a maximum plot ratio of 2.0 is set for urban areas and 1.0 for all other areas. The Planning Authority will permit higher plot ratios only in cases where exceptional standards of design are achieved.

Site Coverage

The maximum normal site coverage for uses in all areas is 65%. In urban areas, site coverage may be allowed to increase up to 85% or up to the existing site coverage. In some cases, a higher percentage may be allowed, subject to the proper planning and sustainable development of the site.

Transitional Areas

Section 2.9.16 (Vol 2) indicates that while the zoning objectives indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and use at the boundary of adjoining land use zones. In these areas, it is necessary that developments are designed in a manner which would not be detrimental to the amenities of the more environmentally sensitive zone.

Laneways

Section 5.6.5 of the Development Plan states that Kilkenny City contains a network of back lanes connecting residential areas to the city centre. The Council proposes to avail of opportunities to undertake improvements of these lanes through surface treatments, lighting and reducing the use by vehicular traffic. Such works will facilitate greater use of these lanes by pedestrians and cyclists enlivening these lanes and encouraging economic activity opportunities.

Non-Statutory Plan

‘Feasibility of Enlivening Laneway Network to the West of the City’

A non-statutory plan was commissioned by Kilkenny Co. Co. entitled ‘*Feasibility of Enlivening the Laneway Network to the West of the City*’. The report evaluated both Pudding Lane and Pennyfeather Lane and identified the subject site as a key future development site. The report also presented constraints and opportunities with regard to particular areas of the city. Those Constraints/Opportunities as listed for Pennyfeather and Pudding Lanes are set out below:

Pennyfeather Lane:

Constraints: Oppressive views of Ormonde Street car-park; Under-used and vacant plots on the east; Visual clutter of cars and services; Potential of future inappropriate development on vacant sites.

Opportunities: Possibility to enhance the laneway for pedestrians and cyclists as a link to Friary Street; Soft landscaping; Improvement of public realm to encourage more active use of vacant plots and Improve frontages.

Pudding Lane:

Constraints: Inactive shopfronts; Visual dominance of Ormonde Street car-park; Poor quality asphalt driveway to the private house; Visual clutter of keg storage; Car access to Pennyfeather Lane.

Opportunities: Provide more attractive public realm lighting and furniture around shopfronts; Improve shopfront appearance; Reduce the bulk and massing of the car park gable through planting, murals; Eliminate/provide a more appropriate keg storage solution.

5.3. **Natural Heritage Designations**

The site lies approximately 0.18km from the River Barrow and River Nore Special Area of Conservation (SAC) (Site Code 002162) and is 0.18km from the River Nore Special Protection Area (SPA) (Site Code 004233).

6.0 **EIA Screening**

The proposed development has been subject to preliminary examination for environmental impact assessment (Refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

7.0 The Appeal

7.1. The decision of the Planning Authority is the subject of a First Party appeal and two Third Party appeals. The matters raised can be summarised as follows:

7.2. First Party Appeal

Penny Pudding Ltd.

A First Party Appeal has been lodged by the applicant Penny Pudding Ltd. The grounds are as follows:

- Sole item for consideration concerns Condition no. 3 requiring the omission of the 4th storey of the development.
- The party states that in preparing the application, great consideration was given to ensuring that the design would integrate with the established pattern of development in this location. In this regard:
- The proposed development adjoins the existing Ormonde multi-storey car park which at 6-7 storeys in height is higher than the proposal.
- Any diminution of light on Pennyfeather Lane beyond that established by the car park structure is minimal. Reference is made to the shadow studies submitted with the application.
- Development is in keeping with established roof heights as evidenced by the pattern of development locally defined by the 19th century terrace of 5-storey buildings which front High Street and back onto Pudding Lane.
- The design is appropriate and contributes to the layering of the urban fabric. The contemporary roofscape reflects surrounding 19th century and earlier buildings.
- Residential amenity of 1990's era housing on Pennyfeather Lane is not significantly impacted and should not prejudice the development of this centrally located site in its city context.

- Buildings of significance and scale were historically located on the axis route between Kilkenny Castle and St. Canice's Cathedral. Curtailing acceptable building heights at this central location would be retrograde and contrary to progressing urban densification and the city's natural development progression.
- The building line has been set back to facilitate an urban square/pocket park at the corner of Pudding Lane and Pennyfeather Lane to enhance the residential amenity and urban character of the area.
- It is policy of the local authority to support a framework for the regeneration and improvement of urban lanes and slips in Kilkenny City. The subject proposal supports this process. The Pennyfeather Lane area offers urban regeneration opportunities including carparks and underutilised buildings associated with the Franciscan Friary.
- Potential for development given the proximity to the underutilised multi-storey car park.
- The loss of 14 no. bedrooms creates commercial viability concerns. A minimum of 60 no. bedrooms is required to ensure operational efficiencies. The removal of the floor reduces bedroom capacity to 53 no. rooms.

7.3. Third Party Appeals

Elizabeth Kavanagh

A Third-Party appeal was lodged by Elizabeth Kavanagh. The issues raised are summarised below:

- The appeal from Elizabeth Kavanagh is on behalf of Halo Walk in Salon and surrounding businesses in the area (unnamed).
- The party refers to a lack of communication, failure to respond to concerns and brevity of response times.
- Potential impacts on business operations including ability to operate given reliance on footfall traffic and accessibility for customers.

- Further detail is sought in relation to vehicular and business access, impacts of demolition and construction (including access, obstruction of routes by machinery and supplies; removal of debris; protection from dirt, dust, debris; machinery access; compensation for business disruption).
- Specific concerns regarding access from Pudding Lane and visibility of storefront.
- Information sought in relation to work schedules, mitigation measures for business and proposals to minimise disruption.
- Oversight of compliance with conditions imposed by the Planning Authority is queried.

Vincent Quan

A Third-Party appeal was lodged by Vincent Quan. The issues raised in the appeal are summarised below:

- Recognition of the importance of sympathetic re-development to expand the range of commercial offering and to protect and enhance the character of the historic core and distinctive lanes. The development does not achieve these aims and would have a significant adverse impact on the receiving environment.
- Reasons for refusal cited by An Bord Pleanála in relation to Ref. 230647 have not been addressed:
 - Notwithstanding reduction in height by omission of the fourth floor, the building will seriously injure the amenities and depreciate the value of properties located on the northern side of Pennyfeather Lane.
 - The development is out of character with the pattern of development in the area.
 - The scheme represents over-development of the site.
 - There has been no change to the physical condition of the laneways since the previous refusal, with the carriageways remaining substandard and lacking in turning facilities.

- Significant increase in intensity, use/occupation of the site over the previously refused scheme. Precedent for permissible development has been established with which the proposed scheme does not comply.
- Notwithstanding a reduction in height, concerns remain that the development will significantly impact properties on Pennyfeather Lane within the third party's ownership. No evidence has been proffered to substantiate the view that a reduction in height will remedy the concerns, including the residential amenity of the units, quality of light and overshadowing.
- Pennyfeather and Pudding Lanes are substandard, narrow and predominantly used by pedestrians with limited carrying capacity for vehicular traffic. The response to the Planning Authority's Further Information request does not demonstrate the adequacy of the lanes to serve the development and the previous concerns of An Bord Pleanála remain pertinent.
- No regard is taken in the swept path analysis of vehicles parked on the laneway which reduces the operational width and ability of large vehicles to traverse the path demonstrated. Vehicles are required to travel in close proximity to the appellants properties. Reference to a fire on Pennyfeather Lane [photographs included] and to difficulties experienced by emergency services in achieving access. Additional vehicles would exacerbate this concern.
- The proposal contravenes the Kilkenny City and County Development Plan standards in relation to maximum plot ratio and maximum site coverage for new developments resulting in overdevelopment, overshadowing and loss off light to adjoining properties. Thresholds for exceedance in cases of exceptional design are not achieved.
- The overall scale, height, massing, and design would be injurious to the character of the Architectural Conservation Areas and would not comply with related Development Plan policies and objectives.
- Development Plan Management Guidelines relating to development of height are not complied with. Reference is made to the adjoining car park as evidence of the impact of inappropriate height on the character and legibility of an area.

- The scheme does not secure a comprehensive design solution to achieve wider planning objectives including urban regeneration, design and streetscape solutions.
- Development Plan requirements in relation to securing Sustainable Communities and the achievement of standards with regard to urban infill development are not achieved.
- Deliveries and collections will give rise to loss of residential amenity. Use of the loading bay and collection of empty kegs would contribute to disruption.
- Concerns in relation to flooding of cellars on Pudding Lane.
- Given the site constraints, construction impacts give rise to the potential to render the appellants properties unliveable and impinge significantly on residential amenities.
- No demonstration of need for an additional hotel. Appeal references a number of sites with the benefit of planning permission which have yet to be developed. A further hotel is unwarranted, particularly given the adverse impacts arising.

7.4. Applicant Response

No response

7.5. Planning Authority Response

No response

7.6. Observations

None

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 and inspected the site and having

regard to the relevant local, regional and national policies and guidance, I consider that the main issues in this appeal relate to:

- Principle of Development and Precedent under ABP PL 62.23064
- Building Design and Public Realm Enhancement
- Impact on Residential Amenities
- Impacts on Architectural Heritage and ACA
- Lane Access
- Construction and Operational Impacts
- Other Matters

8.2. Principle of Development and Precedent under ABP PL62.23064

8.2.1 The proposed development, providing for site clearance and the construction of a 6-storey hotel incorporating 67 no. ensuite bedrooms, foyer/reception, bar, restaurant, staff and hotel service facilities is in accordance with the General Business zoning objective applicable to the site, wherein hotel, restaurant and public houses are listed as permissible uses. Such use would accord with wider Development Plan policies for development within the city centre. The existing structure 'Mulhall's' restaurant is not a protected structure and is not of architectural merit.

8.2.2 I conclude that the principle of hotel development on this site is acceptable.

8.2.3 A third-party appellant refers to the decision of An Bord Pleanála under PL 62.230647 which determined *inter alia* that a proposal for a mixed-use development by reason of its height and siting would have seriously injured the amenities and depreciated the value of properties on Pennyfeather Lane and would have represented the overdevelopment of the site. Furthermore, the Bord concluded the laneways by virtue of their substandard width and lack of turning facilities, together with the scale and intensity of development proposed, gave rise to the endangerment of public safety by reason of traffic hazard.

- 8.2.4 The appellant considers these reasons for refusal remain pertinent to the subject appeal and that the current development does not address the shortcomings previously identified.
- 8.2.5 While I am cognisant of the parallels between the two cases, including proximity of the site to extant residential properties to the northern side of Pennyfeather Lane, as well as access arrangements onto the historic laneway network, I am also cognisant of the change in composition of the scheme currently proposed providing for a hotel rather than a mixed-use development. I note also the limited extent of associated uses such as restaurant and bar areas as shown on the floor plans and am cognisant of the decision of the Planning Authority in imposing Condition No. 3 which removes a floor of the development and to design revisions sought to mitigate loss of light.
- 8.2.6 While these matters are addressed in further detail below, notwithstanding the earlier determination, I am of the view that the Commission should not be held to the decision reached with regard to the previous mixed use scheme, and the current proposal must be evaluated against the policies and objectives of the operable Development Plan in force being the Kilkenny City and County Development Plan 2021-2027, together with applicable planning standards and guidance.

8.3. Building Design and Public Realm Enhancement

- 8.3.1. The appeal site, extending to a stated area of 590sq.m. is constrained and limited in its extent. Carriageway widths along Pennyfeather are restricted, vary in diameter and are reflective of the underlying historical context. The northern boundary of the site for instance, is between circa. 3.0m-4.0m from existing properties on the opposite side of Pennyfeather Lane, while the former restaurant building is just over circa. 4.0m from the rear elevations of properties on High Street. While the Ormonde Street multi-storey car park is a prominent and somewhat dominant modern intervention in the cityscape, the historic laneway network of Pudding Lane and Pennyfeather Lane remain very much historically legible. I note that limited contemporary development has occurred to the northern side of Pennyfeather Lane, but that the southern side remains largely undeveloped with vacant lots and surface car parking areas prevalent. While

properties on High Street with street frontage to Pudding Lane provide a certain level of activity and animation, scope exists to significantly enhance and improve the amenity of the area, both by public realm enhancement and by the introduction of active street frontages on former burgage plots. The importance of this site is recognised in the *'Feasibility of Enlivening the Laneway Network to the West of the City'* commissioned by Kilkenny County Council and completed in 2023 which identified the plot as a key future development site.

8.3.2. A third-party appellant raises concerns that the development will seriously injure the amenities and depreciate the value of properties on the northern side of Pennyfeather Lane. Particularly, concerns are raised in relation to overall scale, height, massing and design of the structure being injurious to the character of the ACA and failing to comply with Development Plan Management Guidelines. Parallels are drawn with the neighbouring car park as evidence of the impact which development of inappropriate height can have on the character and legibility of an area. The appellant also considers that the scheme does not secure a sufficiently comprehensive design solution to achieve wider planning objectives, including urban regeneration, design and streetscape solutions. While matters in relation to lighting and overshadowing will be examined in greater detail later in this report, the remainder of this section will examine building design.

8.3.3. The initial planning report noted that, notwithstanding the site's city centre location, and the marginal addition to the width of Pennyfeather Lane; the height of the development, in combination with its proximity to the narrow lane and to existing residential development, gave rise to concerns. Design mitigation was sought so as to arrive at a development that not only enhanced the area but also protected existing amenity. A particular focus was placed on the opportunity to provide additional public realm for Pennyfeather Lane and to step upper floors back, ensuring additional light to the lane/properties and reduction in shadowing. In response, the scheme was revised with the setting back of the upper floors (2nd-3rd) addressing Pennyfeather Lane. The 4th floor is served with dormer style/box opes. A small plaza area on the corner of the two laneways was marginally increased in extent with additional landscaping, lighting and paving. The area is in effect a narrow (1.5m deep) set back of the proposed building line on Pennyfeather Lane and provides little in additional

amenity value/public realm enhancement. The area for instance would not easily support outdoor seating and would in part be traversed by a service vehicle accessing the junction as shown by the swept path analysis conducted - Drawing 24011-C-DR-112 Rev PL1. I note proposals to re-pave both laneways adjoining the hotel and the intention to provide planting and street furniture in collaboration with the local authority. The degree to which this area can successfully accommodate street furniture is unclear given it forms part of the surface carriageway of the lanes and is currently required for access.

- 8.3.4. In terms of interaction with the streetscape, while areas of glazing are provided at ground level (reception and foyer), the elevational treatment to Pennyfeather Lane lacks animation with high level windows, a loading bay and solid walls featuring.
- 8.3.5. The physical constraints of this site impose design limitations resulting in features such as box windows to the northwestern and southeastern elevations to alleviate overlooking (over three floors to Pennyfeather Lane and over five floors addressing the multistorey car park). I note also the introduction of windows to the southwest elevation addressing an adjoining site where a live application for a four-storey hostel with setback 4th floor level relates. The applicant indicates that the openings are provided to reduce visual massing, to enhance architectural quality and are designed in a manner that should future adjoining development proceed, can either be removed or treated to become permanently opaque. This approach is not entirely satisfactory, and it is unfortunate that collaboration to advance a more comprehensive and unified design solution for both sites is not available.
- 8.3.6. I am of the opinion that the ultimate design of the structure, resulting from its response to site constraints and amendments at Further Information stage, together with further adjustments required on foot of Condition No. 3 of the Planning Authority's decision, would not deliver a bespoke, context-sensitive design solution for this site. Furthermore, I do not believe that the scheme would result in significant enhancement of the streetscape to Pennyfeather or Pudding Lanes and opportunities to provide a defining, high quality building at this important junction have not been realised. There is no sense that the structure would create an active, attractive environment to enhance the experience of the pedestrian. In particular, the overall elevational

treatment, street frontage and lack of articulation carry no reference to the historical urban grain of the historic setting. In this regard I am also cognisant of the precedent which the development would set to the southern side of Pennyfeather Lane in the context of rejuvenating the wider historic laneway network west of High Street. While cognisant of adjoining uses, opportunity exists to provide for a high quality of public realm at this location, and I consider that there is scope to contribute in a more meaningful way to improving the interface with the historic laneways. I note in this regard the findings of the Council commissioned study on the City's Laneways and to proposals to promote rehabilitation and sensitive regeneration as well as provisions within the Development Plan stating that proposals which incorporate improvements to the laneways will be supported, particularly where involving creative solutions designed to activate redundant spaces. I am of the view that the development as proposed would not fully achieve these aims.

- 8.3.7. Section 13.6 of the Development Plan indicates that blanket numerical limitations on building height are not provided and states that the Council will ensure that proposals for urban densification make a positive contribution to the streetscape and do not detract from the historical environment/character of the surrounding area in general and/or neighbouring buildings in particular. I note in this regard, the context of the site, with the imposing façade of the multi-storey car park forming the backdrop to it and to the wider Pennyfeather and Pudding Lanes area. I note also the height of extant historic properties to the rear of High Street and the modern residential scheme comprising three storey town houses opposite. In this sense, I conclude that solely in terms of building height, the scheme achieves an appropriate transition in scale between the multi-storey car park and surrounding extant development.

8.4. Impact on Residential Amenities

- 8.4.1. The appellants have raised concerns that the proposed development would be injurious to the residential amenity of dwellings located opposite the site on Pennyfeather Lane. It is contended that the height of the proposed structure, notwithstanding omission of a floor, would give rise to serious negative impacts. The third party also contends that no evidence has been provided to substantiate the view

that a reduction in height would remedy such concerns. It is further contended that the development would constitute over development by reason of exceedance of plot ratio and site coverage standards and would be out of character with the pattern of development locally.

8.4.2. The issue of overshadowing and loss of light was raised in the initial planning report which noted that *'the proposed 5 storey building will have a significant impact on the amenity of residential units across from Pennyfeather Lane during the summer months in particular, although there will be little discernible difference around the winter solstice.'* To address this issue, Item no. 1 of the Further Information request sought revisions to address potential impacts and to arrive at a development which enhanced the area and protected amenity.

8.4.3. I note the response provided for a marginal increase in scale of a plaza area at the intersection of the lanes and the setting back of the upper floors, thereby reducing somewhat, the mass of the building presenting to Pennyfeather Lane. I note also that a report entitled *'Daylight Analysis and Overshadowing'* prepared by H3D was submitted with the application and an updated report provided in support of the design revisions at Further Information stage. While both reports interrogate the level of daylight to the proposed hotel development, the reports offer limited commentary surrounding the shadowing or impacts on day light for existing properties. In this regard I note the 21st day of December, September, March and June are selected with predicted shadowing at various hours depicted. I note for example that on the 21st June at 12:00hrs the model depicts shadow across Pennyfeather Lane extending to the front façade of the residential block. The planning reports concluded that the main shadow impact is predicted to be from autumn to spring and *'having regard to the shadow analysis submitted and the existing shadow cast by surrounding buildings including the carpark, it is considered that in this city centre location and having regard to the height guidelines to local authorities, the proposed setbacks are probably as much as can be achieved in the context'*. I agree with the Planning Authority in its contention that the width of Pennyfeather Lane and the height of the building are such that it is likely the development will result in overshadowing of the laneway and impact residential units through overshadowing and loss of light. It is important to acknowledge however, given the sites physical constraints, its city centre location and

the narrowness of the receiving laneways, that any redevelopment proposals brought forward to rehabilitate this derelict site are likely to give rise to such impacts.

8.4.4. I note that the Urban Development and Building Heights – Guidelines for Planning Authorities state at Section 3.2 that in the event of making a planning application, the applicant shall demonstrate to the satisfaction of the Planning Authority/An Bord Pleanála that the proposed development satisfies particular criteria at (a) the scale of the relevant city/town (b) the scale of district/neighbourhood/street (c) the scale of the site/building. In terms of the latter, the Guidelines require the following:

- *The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light*
- *Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's Site Layout Planning for Daylight and Sunlight (2nd edition) or BS 8206-2:2008- Lighting for Buildings- Part 2 Code of Practice for Daylighting.*
- *Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.*

8.4.5. The Guidelines are clear that in applying a level of discretion, any such shortcomings must be weighed against local factors such as site-specific constraints as might apply, but also against the desirability of achieving wider planning objectives as may be applicable such as the regeneration of an area or achievement of effective urban design. It is also prescribed that where a proposal may not be able to fully meet all the requirements of the daylight provisions, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out.

- 8.4.6. While analysis of the proposed internal amenity/daylighting of the structure has been provided, I am not convinced by the level of detail provided in the plans, particulars and analysis available to me, that the design which is before the Commission for determination has been arrived at following identification of such impacts on adjacent properties in terms of daylighting or overshadowing. Without clear analysis of potential impacts, it is not possible to balance the redevelopment/regeneration aspects of this development against same. Furthermore, given the limited contribution made to the enhancement of the historic laneways and public realm, I am of the view that the development does not sufficiently address the shortcomings identified, and more detailed qualitative analysis is required.
- 8.4.7. An appellant raises concerns regarding the correct application of Site Coverage and Plot Ratio standards. In this regard, Section 13.21.2 of the Development Plan (Vol 1) states that the purpose of site coverage is to prevent over-development, to avoid overshadowing and to protect the rights to light of adjoining properties. The Plan also stipulates that the maximum normal site coverage for uses in all areas is 65%. In urban areas, site coverage may increase up to 85% or up to the existing site coverage. In some cases, a higher percentage may be allowed, subject to the proper planning and sustainable development of the site. The proposed site coverage of the development extends to 68.3% taking the area of the site (590sq.m.) and the stated area of the proposed ground floor (403sq.m.- as per FI Floor Plans). While the site coverage exceeds the 65% maximum normal site coverage standard, the exceedance is marginal, notwithstanding that in urban areas, the Development Plan is clear that site coverage may extend to 85% or higher, subject to proper planning and sustainable development. In this instance, I am satisfied that the site coverage is acceptable and in accordance with Development Plan policy.
- 8.4.8. Section 13.21.1 of the Development Plan (Vol 1) states the purpose of plot ratio is to prevent adverse effects of both over-development and under development on the amenity and the layout of buildings, to achieve desirable massing and height of buildings and to balance the capacity of the site and street frontages. It is recommended that a maximum plot ratio of 2.0 is set for urban areas and 1.0 for all other areas. I note also an element of discretion in the Development Plan with regard to this calculation and that the Planning Authority will permit higher plot ratios only in

cases where exceptional standards of design are achieved. In this instance, taking the stated total area of 1,986sq.m.(as per FI Drawings submitted and inclusive of all floors) and the stated area of the site at 590sq.m., the resultant plot ratio is 3.3. While noting the exceedance of Development Plan standards in this regard, I am cognisant of the discretion to exceed maximum plot ratio requirements of 2.0 in certain instances. Also, in acknowledging the merits in applying plot ratio standards as a broad tool, I am of the view that the overall quality of a scheme must be weighed against the achievement of prescribed density standards which often do not allow for subtlety in application. Having regard to the shortcomings identified, I cannot conclude that the, albeit subjective standard of 'exceptional' quality, is met in this instance. I note that the Planning Authority in its decision did not raise concerns in relation to either site coverage or plot ratio. On balance, I am of the view that a building of suitable scale and of high-quality finish would be appropriate on this site. However, I refer to the concerns raised in this report in relation to the buildings design and would agree with the third party that in this instance, the requisite threshold to exceed plot ratio standards has not been reached.

8.4.9. I note the first party appeal in relation to the removal of the 4th storey of the hotel and concerns raised in relation to operational efficiencies where hotel bedroom numbers fall below optimum level. The condition was imposed by the Planning Authority in the interests of neighbouring residential amenity to ensure adequate light to the residential units on the opposite side of Pennyfeather Lane. In this regard, I note the arguments put forward in the appeal documentation and contention that any diminution of light on Pennyfeather Lane beyond what is already established by the multi-storey car park, is entirely minimal. I again note the limited commentary as contained in the shadow analysis conducted as to impacts on lighting and overshadowing to neighbouring buildings. Furthermore, the first party have not supported their argument by any additional analysis, drawings or particulars to demonstrate that the development would not give rise to an acceptable loss of daylight to neighbouring properties. Irrespective of the matters raised in the first party appeal and the contention that Condition No. 3 is unwarranted, I refer the Commission to preceding sections of this report which raise wider issues of concern in relation to the overall design of the scheme.

8.5. Impacts on Architectural Heritage and ACA

- 8.5.1. A third-party appellant refers to the location of the site within and bounding two Architectural Conservation Areas (ACA's) and to objectives pertaining to such designations as contained within the Development Plan. Concerns are expressed that the proposed scheme by reason of its scale, height, massing, and design would be injurious to the character of both ACA's and would not comply with related Development Plan policies and objectives.
- 8.5.2. Noting the location of the site to the northern perimeter of Patrick Street ACA and in immediate proximity to Kilkenny City Centre ACA and given the number of protected structures in the vicinity, the Planning Authority's Architectural Conservation Officer in their initial report raised concerns in relation to scale and height and noted the absence of an Architectural Heritage Impact Assessment (AHIA).
- 8.5.3. I have reviewed the AHIA conducted by Tara Cooke Grade 1 Accredited Conservation Architect in response to the Further Information request. The AHIA finds that the development does not involve works to protected structures or to buildings listed in the National Inventory of Architectural Heritage (NIAH) and as such, where impacts arise, they are restricted to the setting of such structures. In noting the potential effects on Architectural Heritage, it is stated that *'building heights to the north, south and east of the site combined with narrow lane and street widths of the area limit visibility of the proposed development beyond Pennyfeather Lane and Pudding Lane, considerably reducing potential visual impact of the proposed development beyond the subject lanes'*. This is further borne out by the photomontages which accompany the application.
- 8.5.4. The AHIA also finds that the height of the development, although set back from the street will provide a feeling of enclosure/density to the lane. To the east, the upper floor, (fifth) of the building is set back which given the narrow width of Pudding Lane, is likely to give it the "feel" of a four-story building which is not inconsistent with the building heights along the lane which range in height from two to four storey over lane level. In terms of impact on heritage, the Assessment concludes that the proposal is unlikely to have direct physical impacts on surrounding heritage structures.

- 8.5.5. The AHIA finds no historic evidence of a square or widening at this location but states that the measure would offer *'practical advantages given the narrowness of the lanes.... and opportunity to stand back to admire and enjoy the historic buildings lining the east side of Pudding Lane and the lane as it extends north/north-east to meet High Street'*.
- 8.5.6. I note also the concluding report of the Conservation Officer which accepted the findings of the AHIA and the conclusion that the scheme would not have a significant impact on the site's historic context. Elevational amendments provided in relation to the Further Information request were also noted. The report raised no further concerns and listed conditions (paving, signage details and archaeological monitoring) should permission be granted. Should permission be under consideration by the Commission, it is considered appropriate that these conditions are included.
- 8.5.7. An Taisce in its submission welcomed the development of the derelict site in compliance with the local authority's expressed desire to rejuvenate lanes in the city centre. No objection on grounds of impact on the ACA were raised. While the submission did highlight design concerns, these are in the context of overshadowing of the receiving environment, effects of increased traffic on other lane users, and an emphasis on residential rather than hotel use as an aid to city centre renewal and archaeological investigations.
- 8.5.8. No issues with respect to the ACA are raised in the report of the Department of Housing, Local Government and Heritage.
- 8.5.9. I note the concerns raised in relation to the scale, height, massing, and design of the development which are considered to result in injury to the character of both ACA's and consequently related Development Plan policies and objectives. Having inspected the site from a number of vantage points, and having regard to the reports, drawings, particulars and photomontages provided, I concur with the findings of the AHIA and agree that the visual impact of the scheme would be restricted to the immediate surroundings of Pennyfeather Lane and Pudding Lane and that visibility of the development beyond its immediate site context would be limited. I note also in this regard, the context of the site, the dominant backdrop of the Ormonde Street multi-

storey car park and the height of buildings along Pudding Lane/High Street. Furthermore, I note the report of the Planning Authority's Conservation Officer which agrees with the findings of the AHIA that the development would not have a significant impact on the historic context of the area. While I refer in earlier sections of this report to concerns in relation to the design of the building and its contribution to public realm, I am satisfied that such concerns are specific to the immediate environs of the site. I am otherwise satisfied having regard to the plans and particulars before me, the reports of prescribed bodies, the technical reports undertaken by the applicant and by the Planning Authority, that the development as proposed would not be contrary to stated Development Management requirements of the ACA's based on assessment of special character and would not detract from the heritage of the area.

8.5.10. Archaeology

I note the report of the Department of Housing, Local Government and Heritage having regard to the location of the proposed development within the zone of notification for KK019-026- City and given the location of KK019-026212 within the site. The report of the Department contains a condition specifying the engagement of a suitably qualified archaeologist to carry out pre-development testing in advance of site preparation or ground works with a report to contain an archaeological impact statement and mitigation strategy to be furnished. Any further archaeological mitigation requirements specified by the Planning Authority following consultation with the National Monuments Service are to be complied with. If the Commission is minded to grant permission for this development, it would be appropriate that the condition as set out in the report of the Department of Housing, Local Government and Heritage is included.

8.6. Lane Access

- 8.6.1. Concerns have been raised by third parties in relation to the physical condition of the laneways which remain largely unchanged since the previous determination by An Bord Pleanála. It is contended that the carriageways remain substandard and lacking in turning facilities and that the scheme represents a significant increase in intensity, and use/occupation over the earlier refused scheme. I note the previous concerns

regarding public safety through an increase in traffic, and a third-party appeal also refers to a fire on Pennyfeather Lane [photographs included] and to difficulties experienced by emergency services in achieving access. It is contended that additional vehicles would exacerbate this concern. It is also contended that the response to the Further Information request, with supporting reports (including swept path analysis) do not demonstrate the adequacy of the lanes to serve the development and no regard is taken in the swept path analysis of vehicles parked on the laneway which reduces its operational width and the ability of large vehicles to traverse the path demonstrated.

8.6.2. In assessing the development, I note the reports prepared by the Planning Authority's Road Design Division. In this regard, it has been demonstrated that there is availability within the neighbouring multi-storey car park to cater for the proposal which is acceptable to the Planning Authority. I note therefore that traffic generated along the laneways would be limited to servicing and restricted set downs. In this regard, an auto turn assessment for delivery vehicles was undertaken. The Planning Authority noted shortcomings in the assessment including its basis on ordnance survey mapping which may not be reflective of actual dimensions; that extant parking provision on the lanes was not included; and that the proposed loading bay on Pennyfeather Lane is shorter than the vehicle selected for the assessment. Also, the assessment did not refer to head height constraints imposed by the covered bridge close to the Capuchin Friary. The report refers to the Council commissioned report on '*Feasibility of Enlivening the Laneway Network to the West of the City*' which envisages the laneways being improved to cater for pedestrianisation and cycling (with service access only) and the removal of formal on-street parking. The Planning Authority's Road Design Division notes in its report that '*the delivery of the proposals would impact on service deliveries to the proposed development and that there are no immediate detailed plans in respect of these proposals*'. This appears to remain the position, and I am not aware from the documentation before me of the intended timeline for the implementation of measures outlined in the study, particularly the removal of on-street parking.

8.6.3. The Roads Design Division report concludes that the development would be appropriate subject to restrictions in the timing, frequency and type of vehicles

servicing the development from the adjoining lanes. While I note the shortcomings in the autoturn analysis as identified by the Planning Authority, I agree with the conclusion that appropriate access and servicing arrangements can be developed, including e.g. by the use of appropriate sized vehicles or other such arrangements. The Planning Authority has in this regard included Condition No. 14 requiring *inter alia*, agreement in relation to a detailed operational traffic management plan for the management of deliveries, services and refuse collection with agreement in relation to the type of vehicle, frequency, routing and timing of access to the delivery/bins area on Pennyfeather Lane in order to minimise or eliminate development traffic on the lanes. The use of existing loading bays on Ormonde Street and Friary Street and environs is recommended to serve the development. Agreement is also sought in relation to the operational arrangements and requirements for the set down area to the front of the hotel. I note also that the set-down facility '*may be removed on foot of consultation with the Municipal District Office*'. Notwithstanding any future proposals for pedestrianisation/improved cycling provision in the area, I am cognisant that vehicular access currently exists and limited parking provision is available. Regarding the requirements of Condition No. 14, I would agree with the Planning Authority that the laneways would be capable of supporting appropriate service and access arrangements to serve the hotel. Should the Commission be minded to grant permission for this development, it would be appropriate to include a similar planning condition requiring that such arrangements are agreed with the Planning Authority prior to coming into operation of the development.

- 8.6.4. In terms of access by emergency vehicles, I note the report of Kilkenny County Council Fire and Rescue Service which states that the Fire Authority has no objection in principle from a fire safety point of view to the granting of planning permission in respect of the application, subject to conditions.
- 8.6.5. I conclude therefore that the development as proposed would not give rise to concerns regarding public safety and that emergency responses would not be impacted. Matters in relation to set down and servicing of the hotel may be addressed by way of condition.

8.7. Construction and Operational Impacts

- 8.7.1. Third Parties raise concerns in relation to the impact of the development (particularly at construction stage) on existing businesses and on the residential amenity of dwellings in the immediate area, highlighting in particular concerns in relation to disruption, environmental impacts, mitigation measures and compensation for disruption.
- 8.7.2. I note in this regard conditions imposed by the Planning Authority in the grant of permission, including *inter alia* Condition No. 10 which places restrictions on traffic/materials obstructing the public lanes, Condition No. 11 in relation to the control of noise, air emissions and/or odours, Condition No. 13 relating to requirement for a Construction Environment Management Plan; Construction and Traffic Management Plan; and Resource and Waste Management Plan. Condition No. 14 relating to a Construction and Environmental Management Plan including Traffic Management Plan, Operational Traffic Management Plan and Mobility Management Plan.
- 8.7.3. Construction impacts by their nature are temporary and would arise in the event of any redevelopment proposals for this underutilised site. I consider that the management measures sought as set out in the conditions referenced above provide an appropriate basis upon which to control and mitigate impacts arising during the construction phase of development. Should the Commission be minded to award permission, similar conditions should be imposed.
- 8.7.4. In terms of operational impacts, I note concerns expressed that deliveries and collections associated with the hotel, including use of loading bays and collection of kegs would give rise to loss of residential amenity. I note in this regard the city centre location of the site in question and the prevalence of similar uses in the immediate surrounding area, including public houses, where no doubt similar operational requirements arise. I am of the view that such operational impacts may be adequately controlled within the site without impacting movement along the laneways and that the Planning Authority's Condition No. 14 is an appropriate and proportionate means to ensure this is achieved.

8.7.5. I also note concerns that the development would exacerbate the flooding of cellars on Pudding Lane. No basement level excavation is proposed in the development, and I have no reason to conclude based on the information before me that such matters are likely to arise. I note that no concerns in relation to this matter were raised by the technical divisions of the Planning Authority and that the development will connect to existing surface water infrastructure. While no specific condition was imposed by the Planning Authority in relation to surface water run-off, a condition requiring that surface water run-off generated be collected and disposed of to the surface water network may be appropriate were the Commission minded to grant permission.

8.8. Other Matters

8.8.1. While the circumstances regarding perceived lack of communication with parties, failure to respond to concerns and restricted timelines within which to provide responses are not elaborated upon, I would note the prescribed parameters set out in planning and development legislation with regard to such matters.

8.8.2. I note also concerns expressed in relation to apparent over supply and lack of demonstrable need for additional hotels within the city. Notwithstanding the nature of the development proposed and any perceived under or over supply in a particular use class, the development must be assessed against the provisions of national, regional and local planning policy and its contribution towards the proper planning and sustainable development of an area. In this regard, the use classes comprising this scheme are permitted under the General Business zoning applicable to the site.

8.8.3. Appellants also raise concerns in relation to compliance with Development Plan requirements to achieve sustainable communities and in meeting standards regarding urban infill. Concerns are also raised that the development does not secure a comprehensive design solution to achieve wider planning objectives, including urban regeneration and streetscape solutions as required by the Development Plan. I refer to earlier sections of this report where such matters have been addressed.

- 8.8.4. I think it is also important to note in response to the foregoing, the inclusion of the subject site on the Local Authority Derelict Sites and Vacant Sites Registers and stated policy within the Kilkenny City and County Development Plan concerning urban infill, rejuvenation of brownfield lands and compact development. I note in this regard the report *'Feasibility of Enlivening the Laneway Network to the West of the City'* referred to in the Planning Report prepared by the Planning Authority. While noting its non-statutory basis, the publication was subject to public consultation. I am cognisant of the intent of the document which seeks to rejuvenate the network of historic laneways within the city core, bringing about public realm enhancements, and increased pedestrian footfall. This is supported by Retail Policy 6 of the Development Plan where *'proposals that incorporate improvements to the City's laneways will be supported by the Council, particularly where involving creative solutions designed to activate redundant spaces'*.
- 8.8.5. I refer to Condition No. 16 of the Planning Authority's decision regarding commissioning of a Refurbishment Demolition Asbestos Survey to be carried out where there is an indication of the presence of asbestos on site. As this matter is the subject of a separate regulatory process and having regard to requirements in relation to hazardous substances, it is recommended that the condition is not necessary in this instance.

9.0 New Issue

- 9.1. I draw the Commission's attention to the initial planning report conducted by the Planning Authority which indicated under the heading 'Impact on Natura 2000 site' that *'the documents submitted show that a direct surface water discharge link is proposed between the subject site and the River Nore designated Nature 2000 site. In order to determine if any significant environmental impact is likely on any Natura 2000 site, the applicant is requested to submit an AA Screening'*.

Under the heading 'Appropriate Assessment' of the same report, it was concluded that *'having regard to the nature of the development and its City Centre location, it is considered that [with the] no Stage 2 AA/NIS would be required. I consider that the*

proposed development would have no impact on any Natura 2000 site, either on its own or in combination’.

- 9.2. A Construction and Environmental Management Plan is not provided as part of the application documentation. I note Condition No.13 of the Grant of Permission in which the same is conditioned for submission.
- 9.3. I refer the Commission to the submission from the Department of Housing, Local Government and Heritage which recommended that Appropriate Assessment (AA) Screening be carried out due to the development’s proximity to the River Barrow and River Nore SAC (Site Code 002162) and to the River Nore SPA (Site Code 004233).
- 9.4. The applicant did not provide a screening report as part of the application, and no information was provided on potential impacts arising on the conservation objectives and targets for qualifying interests of the Natura 2000 sites. Furthermore, the Planning Authority did not request that AA Screening be conducted as part of the Further Information request. Instead, I note the concluding remarks in the final Planning Report undertaken by the Planning Authority which state with regard to Appropriate Assessment, that *‘no Stage 2 AA/NIS would be required’* and there would be *‘no impact on any Natura 2000 site either on its own or in combination’*. On the basis of the information available to me as part of the application documentation and provided as part of the appeal, I cannot conclude that the proposed development would not individually, or in combination with other plans or projects, result in significant effects on European Sites, in view of the Conservation Objectives pertaining.

Having regard to the other substantive reasons for refusal recommended in this case, it is not recommended that an AA Screening Report or NIS be sought from the applicant in this instance.

10.0 Appropriate Assessment

- 10.1. As noted in the preceding section, contradictory statements appear to be included in the initial Planning Report prepared by the Planning Authority which acknowledges a direct surface water discharge link between the subject site and the River Nore designated Natura 2000 site and the need for the applicant to submit AA Screening which was not ultimately requested. I refer again to the submission of the Department

of Housing, Local Government and Heritage which recommended that Appropriate Assessment Screening be carried out due to the development's proximity to the River Barrow and River Nore SAC (Site Code 002162) and to the River Nore SPA (Site Code 004233). No AA Screening accompanies the application, and one was not provided as part of the request for Further Information.

- 10.2. Having regard to the foregoing, I have conducted an AA Screening which is included in Appendix 2 to this report.
- 10.3. Having regard to the nature and scale of development and the existence of a hydrological connection between the site and the River Barrow and River Nore SAC (Site Code 002162) and the River Nore SPA (Site Code 004233), the Commission is not satisfied, on the basis of the information provided with the application and the appeal, that the proposed development individually, or in combination with other plans or projects would not result in significant effects on those European Sites, in view of the Site's Conservation Objectives. In the absence of such information, the Commission is precluded from granting approval/permission under the provisions of Article 6(3) of the Habitats Directive (92/43/EEC).

11.0 Water Framework Directive

- 11.1. The subject site is located in an urban area of Kilkenny City and is approximately 180m from the River Nore to the east and is approximately 535m from the Bregagh River to the north-west.

The development comprises a six-storey hotel development and associated works.

Flood risk (of basements) was raised during the planning appeal.

I have assessed the development seeking permission and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.

- 11.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to

any surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is as follows:

- Nature of works concerning the construction of a hotel on an urban city centre site.
- Location-distance from nearest water bodies and/or lack of hydrological connections.
- I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

12.0 Recommendation

I recommend that permission be refused for the reasons and considerations set out below:

13.0 Reasons and Considerations

The proposed development by reason of its architectural design, and in particular its overall scale, its elevational treatment which lacks engagement with the adjoining streets and lanes, and the schemes relationship with adjoining residential properties, would not reflect the historical urban grain of the receiving environment and would fail to achieve sufficient architectural quality on this prominent and historic city centre site, which would seriously injure the residential amenities of adjoining properties. The proposed development would therefore detract from the amenities of the area and would be contrary to the provisions of Section 13.6 (Building Heights), and Section 13.21.1 (Plot Ratio) of the Kilkenny City and County Development Plan 2021-2027

Volume 1 and would be contrary to the provisions of the Urban Development and Building Heights- Guidelines for Planning Authorities 2018.

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.

Patricia Byrne

Planning Inspector

20th November 2025

APPENDIX 1: EIA Screening

Form 1 - EIA Pre-Screening

Case Reference	322934-25
Proposed Development Summary	Demolition of existing restaurant and construction of a six-storey hotel.
Development Address	Corner of Pennyfeather Lane and Pudding Lane Kilkenny, Co. Kilkenny.
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA? (For the purposes of the Directive, “Project” means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a ‘Project’. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.	State the Class here
EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>Class 10 (b) (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)</p> <p>The site is 0.059Ha in extent.</p>

<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	322934-25
Proposed Development Summary	Demolition of existing restaurant and construction of a six storey hotel.
Development Address	Corner of Pennyfeather Lane and Pudding Lane Kilkenny, Co. Kilkenny.
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</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 proposal concerns the demolition and site clearance of a single storey derelict restaurant extending to 421sq.m. and the construction of a six-storey hotel. The development, given its city centre location will connect to existing services including wastewater, water supply and surface water systems.</p> <p>It is not considered that there will be significant production of waste or use of natural resources. Given the intended use of the structure as a hotel, the proposed development will not give rise to significant pollution or nuisance and would not represent a risk of accidents or disasters and to human health.</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>Briefly comment on the location of the development, having regard to the criteria listed</p> <p>The site is located in a built-up urban area, and within a central city centre location, to the west of High Street and at the junction of Pudding Lane and Pennyfeather Lane. Surrounding development comprises residential, retail, religious/community and commercial uses. The site is within the Patrick Street Architectural Conservation Area and lies immediately adjacent the Kilkenny City Centre Architectural Conservation Area. The site contains known archaeology.</p> <p>The nearest European Sites are located approximately 0.18km from the site being the River Barrow and River Nore Special Area of Conservation SAC (Site Code 002162) and the River Nore Special Protection Area SPA (Site Code 004233).</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters,</p>	<p>It is considered that the effects of the proposed development on the environmental sensitivity of the area, such as known archaeology and Architectural Conservation Areas will not have cumulative effects and will not be of a character magnitude, duration or intensity,</p>

magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	which will alter sensitive aspects of the environment. The effect of the development on the environment will not be significant.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	
There is a real likelihood of significant effects on the environment.	

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required.)

Appendix 2: Appropriate Assessment Screening

Screening for Appropriate Assessment Test for likely significant effects

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics	
Brief description of project	Demolition of existing restaurant and construction of a six-storey hotel with 67no. ensuite bedrooms and associated facilities. [See full description in Section 2 of the Inspectors Report]
Brief description of development site characteristics and potential impact mechanisms	The proposed development is located in Kilkenny City Centre to the west of High Street and north of Ormonde Street, positioned at the corner of Pudding Lane and Pennyfeather Lane. The site currently contains a derelict single storey structure previously in use as a restaurant. The River Barrow and River Nore Special Area of Conservation (SAC) Site Code 002162 and the River Nore Special Protection Area (SPA) Site Code 004233 are approximately 180m from the subject site.
Screening report	No
Natura Impact Statement	No
Relevant submissions	<p>A submission from the Department of Housing, Local Government and Heritage recommended that Appropriate Assessment Screening be carried out due to proximity to the River Barrow and River Nore SAC (Site Code 002162) and the River Nore SPA (Site Code 004233).</p> <p>The initial planning report conducted by the Planning Authority indicated under the heading '<i>Impact on Natura 2000 site</i>' that the documents submitted show a direct surface water discharge link between the site and the River Nore and that an AA Screening should be submitted. Under the heading '<i>Appropriate Assessment</i>' it was concluded that no Stage 2 Appropriate Assessment /Natura Impact Statement would be required, and the proposed development would have no impact on any Natura 2000 site, either on its own or in combination.</p> <p>An AA Screening was not sought through the request for Further Information.</p>
<p>The area is served by existing surface water infrastructure.</p> <p>Documentation provided as part of the application indicates that surface water from the proposed development will discharge to the public surface water network.</p> <p>Under a Pre-Connection Enquiry to Uisce Éireann; the authority indicated that a water connection is feasible subject to upgrades. The authority also indicated in response to a Pre-Connection Enquiry in relation to sewage disposal, that a connection to mains sewer is available without upgrades.</p>	

Wastewater will discharge to an existing wastewater sewer in the public road to the northwest of the site. Water supply will be via existing mains in the public road to the north.

Step 2. Identification of relevant European sites using the Source-pathway-receptor model

European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
River Barrow and River Nore Special Area of Conservation (Site Code 002162)	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Reefs [1170]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</p> <p>European dry heaths [4030]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Austropotamobius pallipes</i> (Whiteclawed Crayfish) [1092]</p>	c. 180m	<p>Yes</p> <p>Planning report undertaken by the Planning Authority records a direct surface water discharge link is proposed between the subject site and the River Nore designed Natura 2000 site.</p>	Yes

	<p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Alosa fallax fallax (Twaite Shad) [1103]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Trichomanes speciosum (Killarney Fern) [1421]</p>			
River Nore Special Protection Area (Site Code 004233)	Kingfisher (Alcedo atthis) [A229]	180m	Planning report undertaken by the Planning Authority records a direct surface water discharge link is proposed between the subject site and the River Nore designed Natura 2000 site.	Yes

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
<p>Site 1 River Barrow and River Nore Special Area of Conservation (Site Code 002162)</p> <p>Qualifying Interests</p> <p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Reefs [1170]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p>	<p>Direct: No direct impact during operation of the facility. No emissions and Uisce Éireann under Pre-Connection Enquiry states in relation to sewage disposal that a connection to mains sewer is available without upgrades.</p> <p>Indirect: Negative impact (temporary) on surface water/water quality due to construction related emissions including construction related pollution.</p>	<p>Negative impact on habitat quality/function undermining conservation objectives relating to water quality especially for fresh water QI's sensitive to siltation.</p> <p>Insufficient information provided to rule out the possibility of significant effects without further analysis and assessment.</p>

<p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</p> <p>European dry heaths [4030]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Austropotamobius pallipes</i> (Whiteclawed Crayfish) [1092]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Alosa fallax fallax</i> (Twaiite Shad) [1103]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Trichomanes speciosum</i> (Killarney Fern) [1421]</p>		
	Likelihood of significant effects from proposed development (alone): Yes	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? N	

	Possibility of significant effects (alone) in view of the conservation objectives of the site. Yes	
	Impacts	Effects
Site 2: River Nore Special Protection Area (Site Code 004233) Qualifying Interest Kingfisher (Alcedo atthis) [A229]	Direct: No direct impact during operation of the facility. No emissions and Uisce Éireann Pre-Connection Enquiry indicates in relation to sewage disposal that a connection to mains sewer is available without upgrades. Indirect: Negative impact (temporary) on surface water/water quality due to construction related emissions including construction related pollution.	Negative impact on habitat quality/function undermining conservation objectives relating to water quality.
	Likelihood of significant effects from proposed development (alone): N	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? N	
* Where a restore objective applies it is necessary to consider whether the project might compromise the objective of restoration or make restoration more difficult.		
Further Commentary/Discussion		
Step 4 Conclude if the proposed development could result in likely significant effects on a European site		
On the basis of the available information, I am unable to conclude that the proposed development, either alone or in combination, would not result in likely significant effects on the: -River Barrow and River Nore Special Area of Conservation (Site Code 002162) or on the -River Nore Special Protection Area (Site Code 004233).		

Screening Determination

Significant effects cannot be excluded:

In accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude on the basis of the available information, that it is not possible to exclude that the proposed development alone, or in combination with other plans and projects, would give rise to significant effects on River Barrow and River Nore Special Area of Conservation and River Nore Special Protection Area in view of the sites conservation objectives.

This determination is based on:

- The location of the site in relation to the River Nore
- The recorded direct surface water discharge link proposed between the site and the River Nore.
- The fresh water Qualifying Interest of the River Barrow and River Nore Special Area of Conservation and River Nore Special Protection Area.

WFD IMPACT ASSESSMENT STAGE 1: SCREENING

Step 1: Nature of the Project, the Site and Locality

An Bord Pleanála ref. no.	ACP 322934-25	Townland, address	Corner of Pudding Lane and Pennyfeather Lane Kilkenny Co. Kilkenny.
Description of project	Demolition of existing single storey restaurant and construction of a six-storey hotel with associated works.		
Brief site description, relevant to WFD Screening,	Site is located within a city centre location accessed via the laneway network.		
Proposed surface water details	The surface water from the development will be discharged to the public surface water network. Surface water run-off from streets will be collected by gullies and will discharge to the surface water sewer network.		
Proposed water supply source & available capacity	Response to Pre-Connection Enquiry from Uisce Eireann indicates that a connection to public mains water is feasible subject to upgrades.		
Proposed wastewater treatment system & available capacity, other issues	Response to Pre-connection Enquiry from Uisce Eireann indicates that a wastewater connection is feasible without infrastructure upgrade.		
Others?	Not applicable		

Step 2: Identification of relevant water bodies and Step 3: S-P-R connection

Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Waterbody	c. 180m	Nore_170 IE_SE_15N011950	Moderate	Not at risk	Urban runoff (but deemed not significant by EPA) Total oxidised nitrogen has been identified as the driver for the drop from Good to Moderate status in latest EPA update. As the proposed development is located in the city centre/ urban area, it will not give rise to an increase in oxidised nitrogen.	Surface water from the site will discharge into the storm drain (surface water sewer) network. This network discharges into the river waterbody. Sewage from the development will discharge into the sewer network

Groundwater Waterbody	Underlying site	Kilkenny Ballynakill Gravels IE_SE-G_163	Good	Not at risk	None	Water arising on site can seep into the groundwater particularly during the construction phase when the bare soil is exposed.

Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.

CONSTRUCTION PHASE

No.	Component	Waterbody receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	River	Nore_170 IE_SE_15N011950	Discharge via the storm drain network into the receiving waterbody	Silt /Hydrocarbons /Cement products	None Standard Construction Practice	No	Screened out

				spillages discharging to storm drains	CEMP		
2.	Ground	Kilkenny-Ballynakill-Gravels IE_SE-G-163	Drainage into groundwater	Hydrocarbons /Cement products spillages discharging into groundwaters	None Standard Construction Practice CEMP	No	Screened out
OPERATIONAL PHASE							
3.	Surface	Nore _170 IE_SE_15N011950	Discharge of sewage into sewer network, WWTP and into receiving waters.	None	Pre- Connection Enquiry response from UE confirming feasibility of connection to public sewer.	No	Screened out
4.	Ground	Killkenny Ballynakill Gravels IE_SE_G_163	No pathway exists	None	None	No	Screened out
DECOMMISSIONING PHASE							
5.	NA						