



## Inspector's Report

**PL-500658-KK-26**

<b>Development</b>	Retention permission for garage and bedroom used for overflow accommodation to the main house and all associated site works
<b>Location</b>	25 Michael Street, Kilkenny City, Kilkenny
<b>Planning Authority</b>	Kilkenny County Council
<b>Planning Authority Reg. Ref.</b>	2560692
<b>Applicant(s)</b>	Rita Hynes
<b>Type of Application</b>	Retention
<b>Planning Authority Decision</b>	Refuse Retention
<b>Type of Appeal</b>	First Party Appeal
<b>Appellant(s)</b>	Rita Hynes
<b>Observer(s)</b>	Saturio Alonso & Máire E. Ní Mhóráin
<b>Date of Site Inspection</b>	23 <sup>rd</sup> of March 2026
<b>Inspector</b>	Caryn Coogan

## Table of Contents

1.0	Site Location and Description .....	3
2.0	Proposed Development.....	3
3.0	Planning Authority Decision .....	3
4.0	Planning History.....	5
5.0	Policy Context.....	5
6.0	EIA Screening.....	6
7.0	The Appeal .....	7
8.0	Assessment .....	11
9.0	AA Screening.....	13
10.0	Water Framework Directive.....	14
11.0	Recommendation.....	14
12.0	Reasons and Considerations .....	15
	<b>Appendix 1: Form 1 EIA Pre-Screening .....</b>	<b>17</b>
	<b>Appendix 2: Form 2 - EIA Preliminary Examination .....</b>	<b>20</b>

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the heart of Kilkenny City. 25 Michael Street is a two-storey terraced townhouse (100sq.m.) with a detached building and garden area to the rear of the dwelling. The total site area is 0.043Ha, with a very long narrow garden area to the rear of the terraced house.
- 1.2. To the rear of St. Michael Street terrace there is a laneway bisecting the subject site. The laneway is accessed centrally from a wide vehicular entrance along the terrace. The laneway is a narrow road (photo plates 3 and 4). A number and not all of the dwellings on St. Michael's Street, have outhouses, sheds, stores and structures to the rear on the opposite side of the access laneway.
- 1.3. The subject structure appears to be the largest structure to the rear of the terrace. It consists of a single storey structure (45sq.m.) accessed at the rear on the north-east elevation. Also fronting the access door is a hard surface patio area (Photo plate 9). The residual garden area is to the north-west, which is a long narrow grassed area (photo plate 8).
- 1.4. There is a timber post and rail fence bounding the structure along the south-eastern site boundary. The fence is 1.8m and has a grey finish, see photo plate 6. The fence is provided on both sides of the hard surface patio area, see photo plates 7 and 9.

## 2.0 Proposed Development

- 2.1. Retention of garage and bedroom in the detached unit to the rear of the terraced house for overflow accommodation to the main house and all associated works.
- 2.2. The structure is single storey, 45sq.m. internally.

## 3.0 Planning Authority Decision

### 3.1. Decision

Kilkenny Co. Co. refused the retention permission for one reason:

*As per the application documents submitted the development to be retained is a habitable house 'detached family unit' in which the applicant resides on occasion.*

*Having regard to the detached nature of the structure, the subject development does not comply with the policy for family flats as set out in Section 13.15 of the Kilkenny City and County Development Plan 2021-2027. The proposed development is contrary to the proper planning and sustainable development of the area.*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- The garage is acceptable in principle, but the rear of the development is laid out for habitable purposes and is in fact a “family flat” with access to the rear. This part of the development does not comply with the family flat policy as per the current development plan as it is not connected to the house and cannot be integrated as a single unit.
- Water – connection to mains supply. Waste water – connection to public sewer Surface water – disposal to public sewer/ drain.
- Development Contributions class 2 would apply to the detached unit if deemed as private residential.
- The current Kilkenny City and County Development Plan 2021-2027 does not support a detached family flat. Both the garage and family flat is constructed as a single unit and is contrary to the current development plan policy.
- Refusal is recommended.

### **3.2.2. Other Technical Reports**

- No reports on file.

## **3.3. Prescribed Bodies**

No submissions on the planning file.

## **3.4. Third Party Observations**

There were two third party submission. A summary of the concerns expressed is as follows:

- The width of the garden has not been indicated

- There are incorrect dimensions on the drawings
- The maps are incorrect and contour levels.

## 4.0 Planning History

4.1. No relevant planning history.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1 The relevant development plan is the Kilkenny City and County Development Plan 2021 – 2027 whereby the subject site is zoned '**Existing Residential**', 'To protect, provide and improve residential amenities'.

### 5.1.2 Chapter 13 Requirements for Developments

*Strategic Aim: To encourage the creation of living and working environments of the highest quality by ensuring a high quality of design, layout and function for all development under the Planning Acts and Regulations, to conserve and build upon positive elements in the built and natural environment, and to protect amenities.*

#### **13.15 Family Flat**

A 'family' flat refers to a sub-division or extension of a single dwelling unit to accommodate a member of the immediate family and is generally acceptable, provided it is not a separate detached unit and that it is possible to provide direct access to the remainder of the house. There shall be no permanent subdivision of the garden. The 'family' flat shall not be let or sold, other than as part of the overall property and shall revert to being part of the original house when no longer occupied by a family member. The design should ensure that the flat forms an integral part of the main dwelling unit capable of reintegration for single family use.

The principal requirement for any proposed family flat extension is that the family flat shall generally be less than 50% of the floor area of the main dwelling. In the case of a two-storey family flat, an internal connecting door will normally be required at both

levels. External doors will normally only be permitted to the side and rear of the house, with the presumption against an independent front door.

Access shall be either from an internal door or by side door well screened from the front elevation. The design should have regard to the need for light and privacy of adjoining properties. The form and design of the existing building should be followed and the extension should integrate fully with the existing building by using similar detailing and window proportions, materials and finishes.

### 5.1.3 Chapter 9: Heritage, Culture and the Arts:

Section 9.3.3: Architectural Conservation Areas:

Objective 9J::To ensure the preservation of the special character of each ACA listed in this Plan (See Table 9.2 and Volume 2 Heritage Strategy) with particular regard to building scale, proportions, historical plot sizes, building lines, height, general land use, fenestration, signage, and other appendages such as electrical wiring, building materials, historic street furniture, paving and shopfronts.

## 5.2. Natural Heritage Designations

The following natural heritage designations are located in the general vicinity of the proposed development site: - -

The River Barrow and River Nore Special Area of Conservation (Site Code: 002162), approximately 40m to the west of the site.

The River Nore Special Protection Area (Site Code: 004233), approximately 40m to the west of the site.

## 6.0 EIA Screening

- 6.1. Having regard to the nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the

proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

## 7.0 The Appeal

### 7.1. Grounds of First Party Appeal

- 25 Michael Street is a terraced dwelling, 100sq.m. This is the principle private residence of the applicant. The family flat the subject of this appeal, was only used when the applicant's son or daughter visited. Both her children reside in America.
- The applicant has purchased a bigger house on the same street, No. 9 Michael Street.
- There is no planning history associated with the property.
- The applicant purchased it in 2022, and there was an old, dilapidated lean-to to the rear of the dwellinghouse. The new garage/ store has a roller door on the front elevation. The family flat includes small kitchen, small bathroom and a bedspace, and associated windows.
- The appeal suggests the planning authority did not gain access to the rear of the property to assess it.
- There was a detached family flat at 43 Michael Street, refused planning Kilkeny County Council, and grant permission on appeal (ABP 321016-24).
- The 'family flat' satisfies most of the family flat criteria. It is an extension of a single dwelling unit to accommodate an immediate family member. There has been no permanent subdivision of the property, which remains a single family unit, which will remain part of the property. The structure can also revert to a non-habitable structure. The access door to the family flat is to the rear and leading to the rear garden and cannot be seen from the front door of the main dwelling house.
- The scale and design of the garage and family flat has regard for the need for light and privacy of the properties on either side.

- The criteria that cannot be met due to the presence of a rear of the rear access lane to the rear, and the family flat cannot be physically integrated into the main dwelling as it is detached. Nonetheless it forms a single-family unit for single family use.
- It is submitted that while the family flat element of the development to be retained does not strictly satisfy all the criteria for a family flat because there is no direct access to it from the main dwelling on the site due to the access road at the rear, and it cannot be physically integrated into the main dwellings. Nonetheless it forms part of a single dwelling unit for a single-family use.
- The appeal is not typical of the type of property the family flat scenario referenced under section 13.5 of the development plan. The houses along Michael St. all have a rear access arrangement whereby the scope to extend to the rear of each dwelling is severely constrained. In the case of No. 25 Michael Street the only practical and financially viable way to achieve additional accommodation was by developing detached accommodation within the grounds of the dwelling unit.
- There are three precedents along Michael Street to support granting planning permission for the family. As stated the Board granted planning permission for retention of a family flat under reference ABP – 321016-24. The Inspector's Report acknowledged Section 3.15 of the development plan could not be complied with and suggested some leniency could be afforded. The report also referred to two other similar instances of detached family/ granny flats had been permitted elsewhere to the rear of Michael Street terraces, although these were approved under the previous plan. It was concluded the development to be retained did not fit comfortably with the parameters of a family flat in the development, but he was amenable to an exception in that instance, and that it would not set an undesirable precedent. This was accepted by the Board and granted planning permission at the time.
- The two previous precedent cases he was referring to are:  
  
Planning Ref; 01/99089 Permission to retain existing granny flat at rear of No. 32 Michael Street.

Planning Ref: 02/990033 Permission granted to construct granny flat to the rear of 35 Michael Street.

- The improvements undertaken by the appellant to both the main house and by removing and replacing the dilapidated garage and lean-to, have significantly contributed to the enhancement of the amenity of the area, and the ACA.

## 7.2. Planning Authority Response

- Having considered the contents of the appeal the planning authority is still of the view the development comprises a family flat which does not comply with the development management requirements set out under Section 3.15 of the Kilkenny City and County Development Plan 2021-2027.
- The planning authority is familiar with the terrace along Michael Street and is unique planning challenges. The requirements of the development plan area clear. A contravention of same will set an undesirable precedent for further such developments in the city. The property has sale agreed which would set a precedent that could potentially lead to unintended consequences at this and other properties of uses such as short-term letting.

## 7.3. Observations

Saturio Alosnso and Marie E. Ni Mhorain of 7 Michael Street has made an observation on appeal. A summary of the key and relevant issues raised is outlined below.

- The applicant was advised by the planning authority in a pre-planning enquiry that a detached garage / residential unit would not be acceptable.
- The stone built rear portion of No. 25 was replaced and extended by the applicant in 2022-23, including the development of a roof terrace overlooking neighbouring gardens to the rear. There is no planning application lodged for these works.
- The shed and garage at the location was demolished and the applicant carried out the appealed development in the garden of the house.

- The house is currently advertised for sale along with an ‘independent studio apartment’.
- There are approximately 90No. houses along Michael Street with long back gardens, it would be a serious concern to permit such unregulated development. It is requested the issue of ad hoc infrastructure, poor or inconsistent design quality in the ACA, lack of access for Fire Services and car parking.
- The development is a free-standing single storey pitches roof garden/ residential render block structure of utilitarian appearance constructed in the garden of the premises. The studio apartment as per the plans does not meet with current standards set in the Sustainable Urban Housing Design Standards for new apartments. It may not meet with Fire Safety Regulations.
- The development does not comply with ‘family flats’ definition in the Plan, it is a separate, detached infill development. Therefore section 13.5.1 of the development plan is applicable to the proposal, and policies relating to the Archaeological Conservation Area.
- The applicant maintains the unit was for family members, but this is no longer relevant as the applicant has sold the property. The unit is potentially an independent unit. The structure is best described as a small backlands infill development.
- There may be pressures for both parts of the development to merge into a single larger residential development. The access laneway does not comply with current vehicular road standards and is unlit. The structure itself is substandard in several respects. The structure blocks the view of the rear garden area from the house.
- The case cited at No. 43 Michael Street is a smaller overall structure and was for family need. It is indubitable with that of the appeal structure at No. 25 which was on the market for sale, there is no justification in this case.

## 8.0 Assessment

8.1. I have visited the site and considered the planning application and appeal documentation, I intend to examine the appeal under the following headings:

- Precedence
- Development Plan Policy

### 8.2 Precedence

8.2.1 The development for retention is a detached purpose built structure, 45sq. with a store in one half and a residential unit in the other half. The residential unit includes a kitchenette, and bed space and a small bathroom. The structure was built without the benefit of planning permission and given its size it would not meet with the exemption criteria specified in the *Planning and Development Regulations 2001 (as amended)*.

8.2.2 The public notices describe the residential use of the structure as 'overflow accommodation to the main house'. The appeal states the main house, 25 Michael Street, is a terraced house and restricted to the rear to add an extension due to the access road to the rear of the terrace bisecting the overall residential curtilage.

8.2.3 A number of separate residential units were granted planning permission to the rear of the terrace. Two in 2001 and 2002, under planning references 01/990089 and 02/99033, for granny flats at 32 Michael Street and 35 Michael Street. These were granted planning permission under previous development plans, therefore the 'family flat' policy as specified under Section 3.15 of the Kilkenny City and County Development Plan 2021-2027 did not exist.

8.2.4 The third case cited on appeal is at 43 Michael Street, P.A. Reference 23/136 and ABP 321016. I examined this case whereby the development to be retained was stated as a "detached family flat" in which the applicant resided as they operate a B&B in the main dwelling. The retention of the family flat was refused by the planning authority at the time because it did not comply with section 3.15 of the development plan and another reason that it would impact negatively on residential amenities. The reporting inspector on case ABP 321016, examined the use of the

main dwelling as a B & B, and that the main dwelling could not accommodate the family. The report stated, *'I would concede that the development to be retained does not fit comfortably within the parameters of a 'family flat' as sought by the Development Plan, I am amenable to an exception in this instance and I am of view that the principle of the detached 'family flat' is generally acceptable and would not set a broader undesirable precedent'*. The Board granted planning permission for unit, and the current applicant is citing the case as a precedent for the current appeal.

8.2.5 As stated, the applicants described the development for retention as 'overflow accommodation to the main dwelling house'. According to the applicant's appeal, it was the planning authority that defined the development as a 'family flat'. The Planning Report on file dated 11/12/2025 stated *'the garage is acceptable in principle but the rear of the development is laid out for habitable purposes and is in fact a "family flat" with access to the rear. This part of the development does not comply with the family flat policy as per the current development plan as it is not connected to the house and cannot be integrated as a single unit.'* The appeal states the 'family flat' was used on occasions when her children were visiting from America. The structure was allegedly erected during 2022/23. Since the completion, the overall property was put on the market for sale, as the applicant purchased a larger property at No. 9 Michael Street. According to the third-party observation, No. 25 Michael Street was advertised for sale along with an independent studio apartment. Regardless of the allegation, it is my opinion, the appeal case cited by the applicant at 43 Michael Street was to accommodate the family. In this current instance, the subject development is no longer to be used by the applicant and her family as a family flat. The property is for sale.

8.2.6 The unit as constructed could be described as a separate residential unit. It could be described as an infill development. However, the access road and certain elements of the development do not meet with the relevant criteria set out under the development plan requirements for such independent residential units. Therefore, I consider the planning authority took a lenient approach equating the unit to a 'family flat'. Therefore, I consider the correct approach is to assess it's merits against the relevant section in the development plan as regards a 'family flat'.

### 8.3 Development Plan

8.3.1 The relevant section of Kilkenny City and County Development Plan 2021-2027 is set out under Section 5 of this report. In particular, it is stated *“A ‘family’ flat refers to a sub-division or extension of a single dwelling unit to accommodate a member of the immediate family and is generally acceptable, provided it is not a separate detached unit and that it is possible to provide direct access to the remainder of the house. There shall be no permanent subdivision of the garden. The ‘family’ flat shall not be let or sold, other than as part of the overall property and shall revert to being part of the original house when no longer occupied by a family member. The design should ensure that the flat forms an integral part of the main dwelling unit capable of reintegration for single family use. “*

In this instance, it is generally accepted that there are physical constraints that would restrict an extension onto the main dwelling of No. 25 Michael Street. The subject structure has been constructed independent of the main dwelling at the entrance to a long narrow garden area within the overall curtilage. The dwelling unit is to the rear of the structure and overlooks to the garden area.

8.3.2 Having regard to the access arrangement off the laneway serving the houses along Michael Street, it would be legally difficult to sell the unit separate from the dwelling house. However, it can be readily sublet as an independent unit. The family is in the process of selling or may have sold No. 25 Michael Street, therefore the unit will no longer be occupied by a family member of the applicant. Therefore, in my opinion, it is clear and non-ambiguous, that the development does not comply with the provisions of Section 3.15 of the Kilkenny development plan. The residential unit is an independent residential unit.

### 9.0 AA Screening

I have considered the proposed development in-light of the requirements S177U of the Planning and Development Act 2000 (as amended).

The subject site is not immediate or within close proximity to a European Site.

The development retention of an as the construction of garage and residential unit for use as overflow accommodation within a mature urban setting, connected to piped services.

No significant nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site given the small-scale nature of the development.

I conclude that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

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

## 10.0 **Water Framework Directive**

The site is proximate to a visible watercourse River Nore, 40m west of 25 Michael Street.

The development comprises of the retention of garage and residential unit to be used as overflow accommodation in a mature urban location connected to piped services. No water deterioration concerns were raised in the planning appeal.

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

I conclude based on objective information, the proposed development will not result in a risk of deterioration of 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.

## **11.0 Recommendation**

I recommend the planning authority's decision to refuse be upheld by the Commission.

## **12.0 Reasons and Considerations**

Having regard to the nature and extent of the development which includes a detached residential unit to be used for overflow accommodation associated with the applicant's family, it is considered the retention of permission for the development as constructed does not comply with Section 3.15 regarding family flats because the unit is physically detached from the main dwelling house on the site and could potentially be let or sublet as an independent residential unit. The development will set a highly undesirable precedent and is contrary to the proper planning and sustainable development of the area.

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

---

Caryn Coogan  
Planning Inspector

14<sup>th</sup> of May 2026

**Appendix 1: Form 1 EIA Pre-Screening**

<b>Case Reference</b>	PL – 500658-KK-26
<b>Proposed Development Summary</b>	Retention Permission for garage and bedroom use for overflow accommodation to main house and all associated site works
<b>Development Address</b>	25 Michael Street, Kilkenny
<b>IN ALL CASES CHECK BOX / OR LEAVE BLANK</b>	
<b>1. Does the proposed development come within the definition of a ‘Project’ for the purposes of EIA?</b>	<input checked="" type="checkbox"/> Yes, it is a ‘Project’. Proceed to Q.2.
	<input type="checkbox"/> No, No further action required.
(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)	
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. <b>EIA is mandatory. No Screening required. EIAR to</b>	<b>State the Class here</b>

<p><b>be requested. Discuss with ADP.</b></p>	
<p><input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3</p>	
<p><b>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?</b></p>	
<p><input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. <b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. <b>EIA is Mandatory. No Screening Required</b></p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b> <b>OR</b> <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	<p>Less than 500 Dwelling units</p>

<b>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)?</b>	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix 2: Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	PL – 500658-KK-26
<b>Proposed Development Summary</b>	Retention Permission for garage and bedroom use for overflow accommodation to main house and all associated site works
<b>Development Address</b>	25 Michael Street, Kilkenny
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector’s Report attached herewith.</b>	
<b>Characteristics of proposed development</b> (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The development has a modest footprint, would retain existing structure, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.
<b>Location of development</b> (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.	The development is for a single infill dwellinghouse within an urban location connected to piped services.

<p>wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	
<p><b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>
<p><b>Likelihood of Significant Effects</b></p>	<p><b>Conclusion in respect of EIA</b></p>
<p><b>There is no real likelihood of significant effects on the environment.</b></p>	<p><b>EIA is not required.</b></p>

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