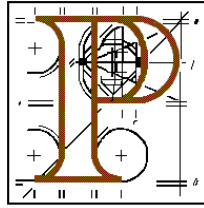


An Bord Pleanála



Inspector's Report

Environmental Impact Statement – Direction case

Board Reference: PL10.JD0025

Project: Proposed Redevelopment of the Brewhouse Building on the former Smethwick's Brewery (St Francis Abbey) site in the Townland of Gardens, Kilkenny.

Project Proponent: Kilkenny County Council

Planning Authority: Kilkenny County Council

Referred By: S.A. O' Brien
Katharine Larkin

Date of Site Inspection: 30th March, 2016

Inspector: Stephen Kay

1.0 Introduction

- 1.1 I have read the contents of file PL.10.JD0025 and inspected the site on 30th March, 2016. The purpose of this report is to advise the Board on whether it should issue a direction to Kilkenny County Council that the proposed redevelopment of the Brewhouse Building on the site of the former Smethwick's Brewery (St Francis Abbey Brewery) should be subject to Environmental Impact Assessment (EIA). The request for a direction has been made by Mr S.A. O'Brien under Art. 120(3) of the Planning and Development Regulations 2001 (as amended).
- 1.2 This request has been supplemented by the submission received by the Board from Ms Katherine Larkin on 12th May, 2016 which requests that a number of projects and plans would be the subject of EIA and AA determination. On foot of the consideration of the status of the submission received from Ms Larkin as set out in the memo on file dated 14th June, 2016 the contents of the submission as it relates to the Brewhouse development and the requirement for EIA are considered in this report.

2.0 Site Location and Description

The site which is the subject of this direction is located in the central part of what was the Smethwick's brewery site and adjacent to the main entrance to the site from Watergate Street. The site is located to the west and south west of St Francis Abbey which is a national monument and comprises what was the former Brewhouse building on the site, an area to the immediate south east of and partially enclosed by the Brewhouse building, Horse Barrack Lane to the west of the site and the area around the entrance to the brewery lands at Watergate Street.

The Brewhouse building is proposed to be substantially retained on the site with a number of existing elements and extensions of the building located on the eastern and south eastern side having being demolished or proposed for demolition. It is noted that the elements to be or proposed for demolition have been the subject of a separate grant of planning permission, (Kilkenny County Council Ref. 13/990045).

The site comprises a total site area of 0.56 ha. inclusive of the footprint of the Brewhouse building which is stated to be 2,200 sq metres and the areas of open space located to the immediate south east and to the east on Horse Barrack lane which are stated to have a combined area of 3,400 sq. metres.

To the east of the site are currently located contiguous structures to the Brewhouse which are to be demolished and beyond that the former bottling plant which is also to be demolished. To the north east and north of the site the former Diageo lands have been substantially cleared with the keggings store that was located to the north east of St. Francis Abbey now demolished and the keggings yard located on the northern side of the Breagagh River now also cleared of structures. The area to the north of the Breagagh River is now also characterised by the almost completed section of the Kilkenny Central Access Scheme with a new bridge over the River Nore located close to the north east corner of the site. This bridge and the alignment of the central access scheme between the bridge and the connection with Vicar Street serves to separate the very far northern end of the former brewery lands from the balance of the site to the south.

The site forms part of an overall masterplan site for the redevelopment of the area, details of which are given in 5.2 below. The bulk of this masterplan site comprises the former brewery lands. It is notable that the bulk of the brewery lands is characterised by a concrete slab beneath which the existing services serving the former brewery are located.

3.0 Description of Proposed Development

The proposed development comprises the redevelopment of the Brewhouse building to provide for what is described in the Part VIII notices as a range of uses to include potentially educational, research and development and office. No use mix is stated and a final end user of the building is not identified.

The existing floor area of the Brewhouse building in the form which it is proposed to be retained on the site is stated to be 4,530 sq. metres. This area is proposed to be increased by the additional floors at the existing first and second floor levels which will provide an additional 1,295 sq. metres of floor area. In addition, it is proposed that there would be an extension at roof level that would provide a further 220 sq. metres of accommodation. The total floor area of the building would be 6,045 sq. metres with the additional elements completed.

Works proposed to the building comprise the replacement of the existing windows with new double glazed aluminium and steel windows. It is also proposed that the existing flat roof to the building which is in poor condition would be replaced with a new flat roof. Photovoltaic panels are proposed to be installed on the new roof.

Insulation to the building is proposed to be improved by the use of internal insulation where there is existing brick elevations which are to be kept. In other areas, including where abutting buildings have been removed, the development proposes the use of external rendered insulation. The new external elevations created by the demolition of contiguous structures are located on the east and south facing elevations. New signage to the west facing elevation is proposed.

Beyond the footprint of the building it is proposed that the existing low wall to the west of the site would be removed and that the existing boundary fencing on this side of the site separating the former brewery site from Horse Barrack Lane would also be removed.

Landscaping of the area which currently comprises Horse Barrack Lane is proposed as part of the development. The creation of a new landscaped open space area is also proposed to the south east of the retained Brewhouse building. This landscaped area is enclosed to the north and west by the Brewhouse building. The landscaped area to the south east of the building and the areas around Horse barrack Lane are proposed to be the subject of infilling to raise the existing ground levels. The level of infilling proposed is not completely apparent from the drawings submitted however it would appear to be in excess of 1 metre in some areas.

4.0 Request for Direction and Submitted Documents

4.1 By letter dated 2nd February, 2016 S.A O'Brien has submitted a request for a determination by the Board as to whether an EIA should be required for the proposed development. The following is a summary of the main points raised in the submission received:

- That the inspectors report in the case of JN0011 which relates to the Mayfair Ballroom states that given the size of the balance of the site (masterplan site minus the Mayfair Ballroom site) that an EIA would be required and that cumulative impacts with any permitted development at the Mayfair Ballroom site would have to form part of such an assessment. On foot of this an EIA screening should have been required.
- That the EIA directive requires that EIA should take account of the impact of the whole project. Reasons should be given where it is determined by the competent authority that there is not a requirement for EIA. Submitted that it is not acceptable for the planning authority to determine that the project is sub threshold without informing the public as required under Annex III of the directive.

- That notwithstanding the current request, that it is incumbent on the Board as the competent authority to raise any other relevant matters to the determination. It is therefore submitted that the Board should take into account the fact that the current proposal has been split from a larger development which has been the subject of a masterplan for the area.
- That the proposed development is a sub threshold urban area and that cumulative impacts should be taken into account in the assessment.
- That the development is not clear in terms of land use and that there is a requirement for car parking to serve the proposed development. That available documents including the council's budget report and news articles indicates that the primary use of the development is envisaged as office.
- That the development plan would require car parking which would equate to 333 no. spaces for an office development of 5,000 sq. metres. The impact of this parking needs to be taken into consideration. Existing short stay parking in the city should not be used to serve long stay commuters based on the site. Cumulative parking and access impacts in conjunction with the development of the rest of the masterplan area needs to be taken into account.
- That the development would lead to continuous demand for parking that would not be reversible.
- That the site is located on reclaimed lands and the flood risk is proposed to be addressed by the raising of ground levels. There are potential environmental implications from the raising of ground levels and displacement of waters in the event of a flood. In addition, recorded OPW water levels for late 2015 / early January 2016 indicate river levels that are above those cited in the Flood Risk Assessment Report.
- That the River Nore water quality is classified as poor status and the WWTP is a risk to achieving good status.
- That there is no clarity regarding the potential research and development use of the building and the potential impacts on water pollution / discharges from the site.
- That there are occasions when the air in the city smells of sewage and the proposed additional development would potentially make this situation worse.

- That vertical windows should be used in the Brewhouse to keep with the existing vertical emphasis, including St Francis Abbey and buildings on parliament Street.
- That the coloured render on the elevations would contrast unsympathetically with the curtilage and setting of the Abbey. The rooftop solar panels also are visually inappropriate. No building height study has been undertaken.
- That there may be toxic residues in the buildings to be demolished.
- That the Board should undertake its assessment on the basis of the criteria set out at Annex III of the Directive.
- That the proposed development forms part of an overall plan to develop the brewery site which comprises an area of greater than 2ha. The overall development site therefore exceeds the EIA threshold and it would appear that the development is being sub divided to avoid the requirement for EIA.
- Urge that an EIA for the entire development or alternatively than an EIA is required for the redevelopment of the brewhouse building.

4.2 By submission dated 8th April, 2016, Ms Katherine Larkin requested a determination by the Board as to whether an EIA should be required for the proposed development. The following is a summary of the main points raised in the submission received:

- That there is precedent for similar types of development to be the accompanied by EIS including the mixed use redevelopment of the North Lotts area, the redevelopment of the Crumlin Shopping Centre and brownfield commercial development of less than 3 acres in Drogheda.
- That the directives and Irish legislation confirm the right of the public to be consulted on proposed developments such that the effects on the environment can be assessed and that projects are not split into smaller projects. In the context of the Diageo site this means an assessment of the traffic and parking implications of the development on the wider town centre area.
- That the project falls within Class 15 of Part 2 of the fifth schedule, which relates to any project listed in this part not exceeding the threshold but which would be likely to have significant effects on the environment. The class of project referred to and which potentially relate to the Brewhouse development are Class 10(iv) urban

development of greater than 2 ha. In the case of a CBD and Class 14, works of demolition.

- That there are works which cut across all aspects of the proposed works identified in the masterplan and which would have potential cumulative impacts. In particular the raising of the ground level across the site is noted. This is stated to be significant and at up to 1.2 metres would equate to 40,000 cubic metres of material across the site (the whole masterplan site). There are implications for flood risk arising from this raising of ground levels.
- That the buildings proposed for retention are to be in office use and to be increased in scale / floor area. The Brewhouse building is stated in the public notice to be 'education, research and development and office' however it would appear to be office use and no end user is identified.
- That the changes proposed to the form of the Brewhouse building would not echo the staggered silhouette of the Abbey as is currently the case.
- That the area of the Brewhouse would be 5,080 sq. metres. Stated that a total of 1,338 car parking spaces required for the masterplan development. (338 spaces for the brewhouse on the basis of 1 space per 15 sq. metres GFA). Very unusual that there are no concrete proposals for car parking. A traffic management plan and assessment is required.
- That the Council has initiated a tender for the provision of services across the site which has implications for archaeology and pollution from ground disturbance.
- That there are cumulative impacts with other proposed developments which mean that the submission of an EIS should be required. Noted that the DoEHLG Guidance on sub threshold EIA makes specific reference to situations of brownfield redevelopment and to the impacts of additional traffic movements and impact on local road networks.
- That the inspectors report in respect of the Mayfair Ballroom states that in advance of the Masterplan for the ACQM it is not feasible that cumulative impacts of the development with the masterplan site could be assessed. Also stated that future proposals for the former brewery site would require EIA. Given that the masterplan has been approved by the Council as have the river walk project and the access road to the CAS from the site it is expected that the Board would confirm the need for EIS to be prepared for masterplan projects.

- That the potential for cumulative impacts between the CAS and the development of the brewery lands was recognised in a report prepared by Dr Sean Brady to the council.
- That the site is very visually prominent and low lying.
- That there are concerns regarding the ability to supply water for the masterplan. There are also waste management issues arising.
- That the site has an industrial past and there is a risk of contamination from development on the site. In particular there is a history of PCBs in the R. Breagagh and R Nore. Responsibility for the decommissioning and decontamination of the site now rests with the local authority.
- That there should have been a site specific flood risk assessment undertaken for all sub projects proposed as part of the masterplan including the Brewhouse redevelopment. The flood risk guidelines promote a precautionary approach and there are alternative sites for development with lower flood risk such as in the vicinity of the ring road where parking can be provided for. .
- That the proposed raising of ground levels have visual, architectural and historic / archaeological implications.
- That the sub projects within the overall development would have many shared infrastructure that have a cumulative impact such as shared services, flood defences and access.
- That the site context and the nature of the proposed development is clearly such that the complexity of potential impacts would be high. The duration of the impacts would also be significant.
- That there is no reference in the Planners report for the Brewhouse development Part VIII to the undertaking of a formal screening for EIA. The Planning authority appear to think that because individual projects are sub threshold then there is no requirement for EIA.
- That reference to SEA being undertaken does not mean that there is not a requirement for EIA.

4.3 By letter dated 5th February, 2016 the Planning Authority, Kilkenny County Council were invited to submit details of the process which it is intended that the development would be assessed. It was also requested that the Planning Authority would submit copies of all reports prepared by or on

behalf of the Planning Authority. Finally, it was requested that the Planning Authority would submit any observations it has on the issue of whether the proposed development would be likely to have significant effects on the environment.

4.4 Documents submitted by project proposer in response to the request for comments are as follows:

4.4.1 **Letter from the Director of Services, Kilkenny County Council** containing the following:

- The history of the site including how the site of the brewery has been acquired by the county council.
- Statement that the Brewery site has been the subject of a Masterplan for its redevelopment in line with Objective 3C of the *Kilkenny City and Environs Development plan, 2014-2020*. Stated that this Masterplan (Abbey Creative Quarter Masterplan) is non statutory but that it has been the subject of public consultation and agreement by the elected members. The Plan has also been the subject of a variation of the Kilkenny City and Environs development plan (Variation No.1).
- Stated that the Masterplan has been the subject of Strategic Environmental Assessment and Appropriate Assessment.
- Stated that the retention of the Brewhouse building as proposed in the subject development is consistent with the provisions of the Masterplan adopted as variation No.1 of the Development Plan.
- That the Council has recently completed the process set out at Part XI of the Act and Part VIII of the Planning and Development Regulations, 2001 (as amended). Stated that while the Chief Executives Report has been agreed by the members it has also been agreed that no works would be undertaken until such time as a determination has been made by An Bord Pleanála.
- Stated that the Council does not consider that the proposed development comes within the scope of Part 1 or 2 of the Fifth schedule of the Planning and Development Regulations.
- Given the fact that the proposed development is very substantially sub threshold then the Council are of the opinion that the likelihood of significant effects can be excluded. This opinion has been supported by a screening assessment which has been undertaken by the Planning Authority and is enclosed with the submission.

- That the proposed development has been the subject of an Appropriate Assessment screening report prepared by the Moore Group and that this report has determined that the proposed development would not have a significant impact on a natura 2000 site.

4.4.2 Screening Assessment for EIA undertaken by the Planning Authority. (Appendix A of Kilkenny County Council Submission)

The following is a summary of the main points made in the screening assessment submitted.

- That the proposed Brewhouse development is not dependant on new infrastructure and is can be developed as a stand alone project. The development is consistent with the Masterplan for the area which has been incorporated into the city and Environs development plan and which has been the subject of SEA. It is not considered that there would therefore likely be any cumulative effects on the environment arising.
- Waste generation and use of natural resources will not have a significant effect on the environment.
- That the Brewhouse is an existing structure and has been in industrial use until recently. The location of the development does not therefore raise significant issues.
- That the development will have positive impacts in terms of public realm creation and visual impact. Impacts on human beings would be largely limited to construction phase impacts. There would not likely be any adverse impacts on flora and fauna and the AA screening undertaken indicates that there would not be an adverse impact on any Natura 2000 site.
- Construction and operation traffic will be managed and there is significant off-site parking (on and off street) available in the city centre to serve the development.
- There is not a significant flood risk arising due to the proposed raising of the ground and floor levels on the site.
- Concluded that the development is sub threshold, that it would not have significant effects on the environment and that the submission of an EIS is not required.

4.4.3 Report Prepared by CAAS on EIA Considerations for Part 8 Process on Proposed Redevelopment of the Brewhouse Building. (Appendix B of Kilkenny County Council Submission).

The following is a summary of the main issues raised in this report:

- Identifies the following project types as potentially relevant; Part II, (10)(iv) infrastructure projects, (14) demolition works and (15) projects likely to have a significant effect on the environment having regard to the criteria set out in Schedule 7 (Annex III of the EIA Directive).
- That having regard to the EC Guidance on project categories and the nature of the development comprising redevelopment of an existing building and creation of new landscaped spaces, it could be considered that the proposal does not conform to the definition of Part II (10)(iv) – infrastructure projects.
- Regarding demolition (project type 14) submitted that given the scale of demolition and the fact that the project does not come within the scope of any project type listed in Part I or Part 2 then it can be concluded that it does not come within Type 14. Similarly, Type 15 is not applicable as the project does not conform to the project types in Part II of the Fifth Schedule.
- Concluded therefore that it can be considered that the proposal does not correspond with any of the project types listed in parts I or 2 of the Fifth Schedule. Notwithstanding this, noted that relative to the thresholds set for project Type 10 (urban development) that the subject site is only 25% of the lower threshold (2 ha.) and c. 5% of the higher threshold (10 ha.). Also noted that DoEHLG guidance on subthreshold development notes the relatively low thresholds for Annex II projects and concludes that the need for sub threshold EIA should therefore be relatively limited in Ireland.
- With regard to the Schedule 7 criteria for the assessment of sub threshold developments, the following is noted:
 - That the development is not strictly speaking sub threshold as there is no applicable threshold (as set out above). Notwithstanding this interpretation, the scale of development is clearly sub threshold.

- That other development that could reasonably be seen to lead to cumulative impacts are contained in the Masterplan for the area. This masterplan has been the subject of SEA. It is further noted that the 2014/52 EIA Directive contains provisions relating to the avoidance of duplication of assessments already undertaken.
- That the comments in the Inspectors Report relating to the Mayfair Ballroom site regarding the need for EIA in the case of the redevelopment of the balance of the Masterplan site and as noted by the third party, refers to a situation of the redevelopment of the entirety of the balance of the site and not just a part of the site (Brewhouse building) as currently proposed.
- That there will be no significant wastes produced and the reuse of the building minimises the use of resources.
- That the site is located in an existing urban area that until recently was used for industrial purposes. The building is not a protected structure and an archaeological assessment has been undertaken which indicates that there will not be any impact on known archaeology.
- There would not be any trans frontier nature to the impacts, and any impacts arising during construction are likely to be of short duration.
- The CAAS report includes an assessment of the consistency of the proposed development with the SEA undertaken on the Masterplan for the area. This concludes that the relevant aspects of the proposed development are consistent with the relevant parameters as stipulated in the SEA.

4.4.4 Responses to Specific Issues raised by the Third Party – Appendix C of Kilkenny County Council Submission

- That the existing land use of the site is industrial and all of the indicated potential uses (educational, open space and office and light industry) are in accordance with the zoning objective for the site.

- That as part of the preparation of the Masterplan a significant number of public submissions were received requesting that the site not be used for car parking. The masterplan provides that *'options for the provision of additional off site car parking within a short walking distance of the masterplan area shall be considered.'*
- Regarding flood risk, the figures cited by the third party relate to OD Poolbeg whereas those contained in the Flood Risk Assessment undertaken as part of the preparation of the Masterplan relate to OD Malin. The difference between the two datum's is 2.64 metres and when account is made for this variation then there is no flood risk for the Brewhouse building. It is also noted that some of the flow data cited in the third party submission is not verifiable by the OPW. The Flood Risk Assessment undertaken used the most recent OPW data as used in the CFRAM project.
- That the current water quality status in the River Nore is Q4 – good status. The closure of the brewery resulted in very significant spare wwtp capacity and there are no capacity issues at present. There have only been 4 no. odour complaints recorded from January, 2008 to present.
- It is submitted that the design approach pursued is consistent with the Valletta ICOMOS charter and the principles set out in the Architectural Heritage Protection Guidelines. The proposed fenestration pattern is guided by the form of the existing building.
- Regarding demolition and [potential contamination, the demolition, decommissioning of the site and removal of brewing equipment was permitted under Ref. 13/990045. Class 13(c) of Part 2 of the Fifth schedule (demolition not previously permitted that would be likely to have significant effects on the environment) is not therefore applicable.

4.4.5 Architectural Design Statement – Reddy Architecture and Urbanism

This document details the history of the site the location, the existing building and sets out the proposed design solution. The document contains appendices as follows:

Conservation Statement (Roisin Hanley Architects)

The report identifies the main provisions of the City and Environs Development Plan as it relates to the proposed development. Aspects of the design are assessed and in general are considered to be compatible with the provisions of the plan and the historic setting. A number of specific areas are identified for particular measures including the design of foundations of the new extensions.

Archaeological Statement (Colm Flynn)

The report outlines the main archaeological and historical sites located within and in the immediate environs of the site. It is concluded that the proposed development will the Brewhouse building will have no direct impact on any known archaeology within the development area. The proposed resurfacing works to Horse barrack Lane and the Watergate entrance junction area will have an uncertain impact. Mitigation measures to include test trenching and monitoring are recommended.

Appropriate Assessment Screening Report (Moore Group Environmental Services)

This report concludes that significant effects on the integrity of any Natura 2000 site can be ruled out.

Landscape Plan

Landscape Plan prepared by Mitchell and Associates landscape Architects and Urban designers. Designs for the Watergate Plaza, Horse barrack lane and for the Brewhouse square are proposed as well as general information on planting, lighting and materials.

Report on Public Consultation – Part VIII – Brewhouse Building development

Report describing public notification, description of project and summary of the 23 no. submissions received as well as responses.

Report of Senior Planner

Concludes that the proposed development is consistent with the proper planning and sustainable development of the area and recommends that attachment of 4 no. conditions relating to archaeology, signage and landscaping plan to form part of future Part VIII proposal.

5.0 Planning Policy

5.1 General Context

The site is located within the area covered by the *Kilkenny City and Environs Development Plan, 2014-2020*. The site and adjacent lands on the former St Francis Abbey Brewery site are zoned General Business under the provisions of the *Kilkenny City and Environs Development Plan, 2014-2020*. The proposed uses on the site, educational and office are permitted under the General Business land use zoning objective.

The existing building on the site (the Brewhouse Building) is not included on the Record of Protected Structures.

The site and the adjoining lands are located within the City Centre Architectural Conservation Area. The extent of the ACA takes in all of the masterplan lands located to the south of the River Breagagh.

The site is located in the general vicinity of a recorded monument – the city walls. It was noted at the time of inspection that archaeological investigations in the area of Evans Turret were ongoing and the immediate vicinity of this site screened off from the rest of the site.

The Plan has been the subject of variation No. 1 (July, 2015) which had the stated purpose ‘to ensure a statutory basis for high level principles which are required to underpin the future development of the Bateman Quay / Market Yard and surrounding area which will consolidate the city centre and contribute towards its vitality and viability’. This variation was the subject of SEA and AA and it is on foot of this Variation that the Abbey Creative Quarter masterplan was prepared. Nine new development objectives were inserted into the CDP on foot of Variation No.1 including:

- To provide for a riverside linear park (Objective 3H)
- To provide for an urban park in the vicinity of St Francis Abbey (Objective 3L)
- To provide for park and walk facilities for car and bus / coach parking at a site or sites in close proximity to the ACQM area.
- To finalise and adopt the Abbey Creative Quarter Masterplan and to incorporate it into the Kilkenny City and Environs Development Plan, 2014-2020 as a separate future variation (Objective 3L).

5.2 Urban Design Framework Masterplan for the Abbey Creative Quarter

The comments of the Council regarding the preparation of a masterplan for the brewery lands and the proposed variation of the City and Environs Development Plan to incorporate the provisions of this plan are noted.

The Plan, which has a total stated area of 8.25 ha., provides for a number of individual projects of which the current proposed redevelopment of the Brewhouse building is one element and the redevelopment of the Mayfair Ballroom another. The Plan also identifies a riverside walkway / landscaped area along the eastern boundary of the site adjoining the River Nore and connecting with existing riverside access to the south of the Masterplan lands. To the south and east of the Brewhouse building which is the subject of the current determination the Masterplan indicates a number of blocks stated to be primarily 3 and 4 storey in height. Residential development is envisaged to the north of the site, north of the Central Access scheme (between CAS and Green Bridge). Access to the masterplan lands is indicated as being available via a connection from the CAS which would run north south through the site.

Overall development of the masterplan lands is indicated in the Plan as being developed over 9 phases of which Phase 1 is site clearance which is nearing completion on site and Stage 2 incorporates the works to the Brewhouse Building and associated landscaped spaces, the Mayfair Building and the Riverside Linear park. Phase 2 is also stated to include drainage, water, district heating and other services across the site. Information presented by the third parties indicates that the Council has advertised for a tender for the infrastructural works across the site and it would appear that what is envisaged is the retention of the existing concrete slab across the site and the provision of new services in a raised ground level across the bulk of the site.

The masterplan (the Abbey Cultural Quarter Masterplan) is stated by the council to have been the subject of public consultation and to have been presented to the elected members who voted to accept its contents. The Plan is not however a statutory document. It is stated that it is proposed that the content of the Master Plan would be incorporated into the Kilkenny City and Environs Development Plan by way of variation. At the date of this report the masterplan has not been adopted by way of variation into the development plan. .

The Abbey Cultural Quarter Masterplan has been the subject of SEA and screening for Appropriate Assessment.

6.0 Planning History

There is an extensive planning history relating to the site and environs primarily connected with the use of the site and adjoining lands as a brewery. There are no recent planning applications for the development of adjoining lands to the site.

Kilkenny County Council Ref. 13/990045 – Permission granted to Diageo Ireland for demolition of structures on the current site and adjoining lands which include the removal of equipment and structures that were contiguous to the Brewhouse Building. It also provided for the demolition of the bottling plant located to the east of the current site.

An Bord Pleanála Ref. 10.JD0024 – referral by Peter Sweetman and Associates regarding the necessity to prepare an EIS in respect of the proposed redevelopment of the Mayfair Ballroom located on former Diageo Ireland lands at Irishtown Kilkenny. The Board determined that the preparation of an EIS was not required.

An Bord Pleanála Ref. 10.JN0011 – referral by Peter Sweetman and Associates regarding the necessity to prepare an Appropriate Assessment in respect of the proposed redevelopment of the Mayfair Ballroom located on former Diageo Ireland lands at Irishtown Kilkenny. The Board determined that appropriate assessment was not required.

Part VIII procedure for the redevelopment of the Brewhouse building was approved by the Council in February 2016. The Council have given a commitment in their response submission regarding the subject case that no works on foot of this permission pending a decision of An Bord Pleanála regarding the necessity for EIA.

Part VIII procedure for the redevelopment of the former Mayfair Ballroom building granted by the council.

Part VIII procedure for the development of the River Garden project which comprises the removal of the existing concrete slab, the raising of the existing ground levels and the construction of a 3 metre wide shared pedestrian / cycle way along a landscaped strip of c. 15 metres in width and 600 metres in length. The approved project also provides for a skate park and the section of walkway in the vicinity of St Francis Abbey and Evans Tower would be temporary pending the outcome of future archaeological investigations of this area. This project was approved by the Council in February 2016 and to date no works for its implementation have been commenced.

The Council have advertised for contractors to undertake infrastructural works across the entire Masterplan site. No infrastructure works have been undertaken to date.

7.0 Assessment

7.1 The following issues are considered relevant in the assessment of the requirement for the submission of an EIS in this case:

- Assessment of Project Types under Schedule 5 of the Regulations Relevant to the Proposed Development
- Relevant Threshold under Class 10(iv) of Part II of the Fifth Schedule of the Planning and Development Regulations, 2001 (as amended).
- Issue of Potential Project Splitting and Relationship with Abbey Cultural Quarter Masterplan and Associated SEA
- Assessment under Criteria as set out in Seventh Schedule of Regulations / Annex III of the EIA Directive.

7.2 Relevant Project Types / Class

7.2.1 The Planning Authority has made the case that the proposed development does not come within the scope of any of the project types covered in the Fifth Schedule of the regulations. Specifically, it is contended that the form of development comprising the refurbishment of an existing building rather than new build and the creation of landscaped area is such that it would not comprise Infrastructure Projects - Urban Development, (Class 10(b) of Part 2 of the Fifth Schedule). Against this, the third party referrers contends that the proposed development would come within the scope of Class 10(b) of Part 2 of the Fifth Schedule (Urban Development) and Class 13(c) of Part 2 (any change or extension being of a class listed in Part 1 or 2 which would result in demolition not previously authorised).

7.2.2 From a review of the classes of development as set out in Parts I and II of the Fifth Schedule of the regulations there is one additional class of development that may, in my opinion, be applicable to the current proposal. That is Class 14 - Works of Demolition carried out to facilitate a development. While the bulk of demolitions required to facilitate the development have previously been approved, the demolition of an existing steel framed warehouse structure of c. 966 sq. metres is proposed to

facilitate the proposed development. An assessment of the effects of this proposed demolition on the environment in the context of the criteria set out in the Seventh Schedule will be undertaken as part of the assessment at section 7.5 below. I do not consider that apart from Class 10(b), Class 13(c) and Class 14 of Part 2 of the Fifth Schedule there are any other classes of development under which the proposed development could reasonably be seen to fit.

7.2.3 I note the reference by the third party to Class 13(c) of Part 2 and the contention that as the development involves demolition not previously authorised and comes within the scope of an Infrastructure Project, (urban development), then the preparation of an EIS is required. However I also note that in the case of the current proposal the works of demolition on the overall brewery site, including those on the structures contiguous to the Brewhouse building and within the red line boundary of the current application, were previously permitted under Kilkenny County Council Ref. 13/990045. For this reason I do not consider that Class 13(c) is applicable in this instance.

7.2.4 With regard to the case made by the planning authority that development comprising the refurbishment of an existing building rather than new build and the creation of landscaped area would not comprise Infrastructure Projects - Urban Development, (Class 10(b) of Part 2 of the Fifth Schedule) I would note a number of facts. Firstly, the proposed development, while largely within the existing building envelope of the Brewhouse building, involves some new development at roof level (220 sq. metres) and also additional internal floorspace of 1,295 sq. metres arising from the addition of new floors at first and second floor level. The proposed development is not therefore a simple renovation and change of use of an existing structure. The planning authority make reference to the provisions on EC published guidance on the implementation of the Directive (*‘Interpretation of definitions of certain project categories of Annex I and II of the EIA Directive’*, 2015). Specifically, it is noted that the form of the proposed development does not correspond with the examples cited in the three paragraphs contained on page 51 of the Guidance. I accept that this is the case, however the relevant section for the proposed Brewhouse development is Class 10(b)(iv) - Urban Development, in respect of which the guidance document indicates that projects to which the terms ‘urban’ and ‘infrastructure’ can relate can also reasonably be considered to be included within the Class 10(b) development type.

7.2.5 On balance, it is my opinion that a development along the lines of that proposed for the Brewhouse building and environs is urban in location and is of a form that, while not specifically referenced in the EC Guidance document, is also infrastructural in nature. In reaching this conclusion I note the proposed additional floorspace and very significant internal and

external works proposed to be undertaken to the Brewhouse building and the nature of the proposed uses comprising office, educational and research and development. I also note the proposed public plaza areas and am of the opinion that such spaces could also be considered to be consistent with urban infrastructure as provided for in the Fifth Schedule. Given that there are no other relevant classes of development in Parts I and II of the Fifth Schedule within which the proposed development could be deemed to fit, in the event that the Board do not agree with the above interpretation then it would have to be determined that the submission of an EIS is not required.

7.3 Relevant Threshold under Class 10(b)(iv) of Part II of the Fifth Schedule of the Planning and Development Regulations, 2001 (as amended).

7.3.1 Following from the above, in the event that it is determined that the proposed development is of a form consistent with Class 10(b)(iv) Urban development – Infrastructure, then consideration of the appropriate threshold is relevant. In the case of a built up area the relevant threshold is 10 ha. with a 2ha. threshold in a business district. A ‘business district’ is defined in the Directive and the Regulations as ‘*a district within a city or town in which the predominant land use is retail or commercial use*’. In the case of the proposed development the site has a historically industrial use going back a significant period of time. Surrounding uses essentially comprise other former industrial lands, now unoccupied located to the east, south and north. To the west, the site adjoins Horse Barrack Lane and beyond that Watergate Street and Parliament Street which have a predominantly commercial character. While the surrounding lands to the west of the subject site are commercial in character, I do not consider that the subject site can be considered to comply with the definition of a business district as set out in the Fifth Schedule.

7.3.2 Given the currently vacant nature of the bulk of the masterplan lands and the fact that the previous use was industrial, together with the fact that the bulk of the masterplan site including the Brewhouse is physically separate from the surrounding land uses, I do not consider that the masterplan area, with the exception of the public car park to the south of the site, can reasonably be considered to comprise a business district. In addition, while the surrounding lands to the west of the masterplan lands between the carpark at the southern end of the site and the River Breagagh is commercial / retail in character the surrounding context of the lands at the northern end of the site is residential. The southern part of the Masterplan area which is currently in use as car parking is commercial in character and the relevant threshold for the requirement for EIA on this part of the site is in my opinion therefore 2 ha.

7.3.3 Arising from the above discussion I conclude the following:

- That the subject site is located on former industrial lands that are currently vacant. The bulk of the former brewery lands, including that on which the site the subject of this determination is located, are physically separate from surrounding commercial and retail areas and would not in my opinion comprise as 'business district' as set out in Class10(b)(iv) of the Fifth Schedule. The relevant threshold for EIA for this part of the site is therefore 10 ha.
- It is therefore my opinion that the threshold for the balance of the masterplan site excluding the lands which are in use for car parking at the southern end of the site is 10 ha. on the basis that they do not have the characteristic of a 'business district'.
- The lands at the southern end of the Masterplan area which are currently in use as commercial car parking and which are directly connected to the main commercial centre of the city does, in my opinion, comprise a 'business district' with the result that the threshold for mandatory EIA in the case of development on these lands would be 2 ha.
- That the area of the Brewhouse development which is the subject of this request for a determination of the need for an EIS is 0.56 ha. and so is very significantly below the threshold for mandatory EIA whether the area of the site on which the Brewhouse is located is deemed to be a business district or not.

7.4 Issue of Potential Project Splitting and Relationship with Abbey Cultural Quarter Masterplan and Associated SEA

7.4.1 The submission of the planning authority makes the case at a number of points that the masterplan for the development of the former brewery lands has been the subject of Strategic Environmental Assessment and also that it has been adopted into the Kilkenny City and Environs Development Plan. It is therefore submitted that as the overall masterplan has been the subject of SEA which has concluded that there would not be significant effects on the environment arising, that there is not a necessity for development on the site to be the subject of EIA. In support of this argument it is noted that the most recent EIA Directive (2014/52/EC) which has not to date been transposed into Irish legislation, makes reference to the desirability of avoiding duplication of environmental assessment (recital 32 at start of Directive and Article 3(5) of the Directive).

- 7.4.2 While I acknowledge the existence of a SEA of the Abbey Cultural Quarter Masterplan and note the conclusions of this assessment I would not agree with the Planning Authority that the undertaking of SEA means that development within the Plan area should not be the subject of EIA at the project level in the event that it is required under the Fifth Schedule or meets the criteria set out in the Seventh Schedule for sub threshold development. In my opinion the assessment of the impacts of a development at project level involves a different level of analysis with more detail on project type and hence potential environmental impacts being available. While the wording of the 2014/52/EU EIA Directive makes reference to the avoidance of duplication in environmental assessments, I note firstly that legislation giving effect to this directive has not, to date, been provided for in Ireland and secondly that the wording of Article 5(3) states that the '*competent authority shall make its determination (on the need for EIA) on the basis of the information provided to the developer in accordance with paragraph 4 taking into account, where relevant, the results of preliminary verifications or assessments of the effects on the environment carried out pursuant to union legislation other than this directive*'. It would be my interpretation of this Article that while other assessments such as SEA can and should be taken into account by the competent authority, such assessments do not negate the need for case by case assessment of the need for EIA.
- 7.4.3 The third parties makes reference to the fact that the proposed development forms part of an overall plan to develop the brewery site which comprises an area of greater than 2ha. It is submitted that the overall development site therefore exceeds the EIA threshold and it would appear that the development is being sub divided to avoid the requirement for EIA. It is noted that this issue is not directly addressed in the response submitted by and on behalf of the Planning Authority. As set out at 7.3 above I do not consider that the bulk of the Abbey Cultural Quarter Masterplan lands are located such that they constitute a 'business district' and that the threshold for mandatory EIA on the majority of the Masterplan site is 10 ha. Regarding the issue of sub division of the site and potential project splitting, I note the fact that the current proposal is for the re development of an existing structure on the site and that the overall area of the site at 0.56 ha. (inclusive of the public realm improvements which may or may not be considered to be infrastructural in character) is very significantly below the threshold of 10 ha. Even taken together with the previously permitted development to the Mayfair Ballroom (site area 0.2 ha.) and the permitted Riverside walk (site area 0.9 ha. and which also may not be considered to comprise infrastructure) the cumulative site area would be c. 1.66 ha.

- 7.4.4 Furthermore, it is my opinion that while a masterplan for the development of the balance of the site has been prepared, the level of detail in respect of the development of these areas (height, mix of uses) is limited. The timing of the development of additional areas covered by the Masterplan is also uncertain and it is not a situation whereby the development of these additional lands are proposed to be developed at the same time as the Brehouse redevelopment, indeed the submitted documentation makes reference to the development of the balance of the site over a 10-15 year period. The Brehouse and Mayfair Ballroom redevelopments and the Riverside walkway are clearly individual projects which would potentially come within the scope. In contrast, the balance of the development indicated in the Masterplan for the area is clearly in my opinion of a form and level of detail that it is a plan rather than a project or series of clearly defined projects. Until such time as clear development proposals for the balance of the masterplan site are put forward it is my opinion that SEA rather than EIA is the appropriate method for evaluating the likely environmental effects arising. In view of these points it is my opinion that the situation with the future development of the balance of the Masterplan lands over and above that permitted for the Mayfair Ballroom and Brehouse sites and riverside walk are not comparable to the splitting of a development project into its constituent parts.
- 7.4.5 Regarding the issue of whether the appropriate threshold for mandatory EIA in this instance is 2 ha. (if the site is deemed to be a business district) or 10 ha. in the case of an urban area I would note the fact that whichever is deemed to be the case the cumulative scale of the proposed Part VIII developments (Brehouse and Mayfair Ballroom redevelopments and the Riverside Garden) would be sub threshold. For the reasons outlined above, I am also of the view that the cumulative assessment of the three Part VIII developments with the future development of adjacent Masterplan lands is not appropriate as there are no clearly defined projects identified at this stage for these lands. The title of the document as an 'Urban Design Framework Masterplan' indicates the level of detail available which is not in my opinion appropriate to be the subject of EIA.
- 7.4.6 Based on the above, I do not consider that the requirement for mandatory EIA should be assessed on the basis of the development of the overall Masterplan lands and consider that the correct approach is that the development would be assessed against the criteria set out in Schedule Seven of the Regulations for determining whether development would or would not be likely to have significant effects on the environment. Such an assessment would take account of potential cumulation with other proposed plans and projects and would therefore have regard to the cumulative impacts arising from the development of the balance of the Masterplan lands as well as other approved Part VIII developments and other relevant plans and projects including the Central Access Scheme.

7.4.7 I note the fact that the third party references the wording of the previous inspectors report on the proposed redevelopment of the Mayfair Ballroom, (ABP ref. 10.JD0024) to the north of the current site and, specifically, the reference to the '*... the size of the balance of the site (masterplan site minus the Mayfair Ballroom site) that an EIA would be required and that cumulative impacts with any permitted development at the Mayfair Ballroom site would have to form part of such an assessment*'. My interpretation of the comments in the report on Ref. 10.JD0024 are that in the event of a future application for a project or projects comprising the development of the balance of the former brewery lands that such a development would potentially be above the threshold for mandatory EIA and / or would likely be deemed to have a potentially significant effect on the environment. Such a scale of development is not what is envisaged in the current proposal. I would also note the fact that at the time of the assessment of Ref. 10.JD0024 the Masterplan for the brewery lands had not been put on public display and had not been adopted by as a non statutory document by the elected members or by way of variation into the City and Environs Development Plan.

7.4.8 On the basis of the above assessment, and given the 0.56 ha. scale of the Brewhouse site, the proposed development when taken individually or cumulatively with other permitted part VIII development projects would be clearly sub threshold in terms of the requirement for mandatory EIA. The third party has requested that the Board should undertake its assessment on the basis of the criteria set out at Annex III of the Directive and in light of the conclusions regarding relevant project types, thresholds for EIA and project splitting and relationship with the masterplan for the area as set out in the sections above, it is proposed that such as assessment would be undertaken. It is also noted that the third party has raised concerns regarding the potential environmental impacts of a number of aspects of the proposed development including design and visual impact, pollution, flood impacts and accessibility and parking. These issues will be addressed in more detail as part of the assessment of the need for EIA under the Seventh Schedule criteria. This assessment is set out at 7.5 below.

7.5 Assessment under Criteria as set out in Seventh Schedule of Regulations / Annex III of the EIA Directive.

It is noted that a number of the headings as set out in the submission from the third party relate to those in the new EIA Directive 2014/52/EU. No legislation to bring effect to this directive has to date been enacted in Ireland and it is therefore proposed in this assessment to proceed on the basis of the headings as set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended).

- Characteristics of proposed development
- Location of proposed development, and
- Characteristics of potential impact.

7.5.1 Characteristics of Proposed Development

Size of Proposed Development

7.5.1.1 The proposed development comprises the redevelopment of an existing building including the addition of c.1,495 sq. metres of new floorspace to give a total floorspace of c. 6,045 sq. metres. The stated area of the site is c. 5,620 sq. metres (0.56 ha.) of which the building footprint on site occupies 2,220 sq. metres or 0.22 ha. Both the site size and the building footprint areas are therefore very significantly below the threshold of 10 ha. where mandatory EIA is required under Class 10 of Part II of the Fifth Schedule for development in an urban area. As set out at section 7.3 above, I do not consider that the site which is the subject of this assessment is located such as it can be considered to constitute a 'business district'. In the event that the Board do not agree with this interpretation the relevant threshold under Class 10 would be 2 ha. and it is noted that the subject site is still very significantly below this threshold. In addition, it is noted that in the case of the Brewhouse building, the site is already developed and what is proposed is a relatively modest additional floor area of c.1,495 sq. metres and that the bulk of this additional floorspace (1,295 sq. metres) would be accommodated within the existing building envelope. The overall size of the proposed development could therefore in my opinion be described as modest in an urban context and as a result the likely environmental impacts likely not to be significant. .

Cumulation with Other Proposed Development

7.5.1.2 The site of the proposed development forms part of what was the Diagio Ireland site at St Francis Abbey brewery. The balance of the site is currently not in use since the brewery operations ceased in 2014 and works for the clearance of the site prior to the handover of the lands to the county council were ongoing at the time of inspection of the site. As highlighted previously in this report the site is part of a wider area which incorporates the former brewery lands and which has been the subject of a Masterplan to guide future development – The Abbey

Creative Quarter Masterplan. The case has been made by the referrers that the separation of the current proposal from the balance of the site would be a clear case of project splitting and that the cumulative impacts of the overall development of the former brewery site would be significant. In response I would note the following:

- Firstly, the relatively modest scale of the proposed development, the fact that it comprises essentially the redevelopment and small scale extension of an existing building and the fact that the area of the development site is very significantly below the thresholds set in Class 10 of Part II (2 ha. in the case of a business district and 10 ha. in the case of an urban area). In addition, if taken cumulatively with the permitted redevelopment of the Mayfair Ballroom site then the scale of development at 0.77 ha. remains very significantly below the thresholds set out in Class 10. Even in the event that the proposed Riverside Garden Part VIII project is considered to comprise infrastructure for the purposes of Class 10 of Part II then the cumulative scale (1.66 ha.) is still clearly sub threshold.
- Secondly, the redevelopment of the Brewhouse building which forms the current request for a declaration comprise what are essentially stand alone works and are not works which are required to facilitate the redevelopment of any other adjacent lands or sites. The proposed works which are the subject of the current request are not therefore intrinsic to or a necessary part of a larger development. The information presented indicates that the balance of the Masterplan lands are proposed to be developed over a 10-15 year period and would not be undertaken in the same timeframe as the current proposal.
- Thirdly, I note the fact that Abbey Cultural Quarter Masterplan has been the subject of Strategic Environmental Assessment and that the outcome of this assessment has been that it is not considered likely that the implementation of the plan would have significant environmental effects.

7.5.1.3 The level of detail regarding land uses, floor areas and building heights proposed for the balance of the brewery site under the Abbey Creative Quarter Masterplan is relatively limited and the form of the plan is that of a framework document setting out the basic urban design form of development on the site. It is in this

context that an assessment of cumulative effects with the current proposal (Brewhouse redevelopment) has to be undertaken. Notwithstanding this, on the basis of the level of detail provided in the Masterplan I do not consider it likely that taken in conjunction with existing and permitted developments on the brewery lands there would be a likely significant effect on the environment. The site has until recently been used for industrial development and the impacts in the areas of foul drainage and water supply would not likely be significantly greater than the previous uses. Traffic and parking have been cited by the referrers however the current proposal equates to a requirement for c. 338 no. car parking spaces based on development plan standards which could reasonably be accommodated on the site or in the wider area. Cumulative access and parking issues for an overall development of the masterplan area may arise however it is stated by the local authority that options for off-site parking will be pursued and the timeframe for the buildout of the masterplan is such that there is significant time within which such parking areas could be identified.

- 7.5.1.4 Similarly I do not see how the proposed redevelopment of the brewery lands would act in combination with the current proposal to have a significant adverse impact on population or flora and fauna. In my opinion the masterplan layout has regard to the relationship of the site to existing recorded monuments and protected sites including the city walls and St Francis Abbey and is cognisant of the relationship of the site to the adjoining River Nore SAC and SPA sites. It is also my opinion that the Masterplan does not identify a scale or layout of development that could be seen to have a clearly significant adverse impact on the landscape and character of this part of the city. The proposed Brewhouse redevelopment does incorporate the raising of ground levels in the landscaped areas immediately adjoining the building and it is evident from the Masterplan that the plan envisages raising of ground levels across the whole site. Such a raising of ground levels could have potential cumulative impacts in terms of flooding and also the setting of existing structures, notably St Francis Abbey. Given the relatively limited extent of changes to ground levels envisaged and the results of the flood risk assessment undertaken for the masterplan I do not consider that this aspect of the Masterplan could at this stage, and with the level of design detail available, be determined to be such as to be likely to have a significant impact on the environment. Overall therefore, on the basis of the information available, I do not consider that cumulative impacts arising from the development of the balance of the Abbey Cultural Quarter Plan lands, taken in conjunction with the existing proposal and that permitted on the Mayfair Ballroom site would be likely to have a significant adverse impact on the environment.

7.5.1.5 The other project which may give rise to potentially significant cumulative impacts is the Kilkenny Central Access Scheme which runs from St Canice's Place to the north of the subject site and on the north side of the Breagagh River, crossing the River Nore via a new bridge located to the north of the confluence of the Breagagh River and the River Nore and running to the east through the former mart site to connect with the Castlecomer Road. This scheme has been approved by An Bord Pleanála and was the subject of Appropriate Assessment and EIA. Construction works on the scheme are nearing completion. The central Access Scheme Project may have potential in combination effects in terms of the impact on water quality in the River Nore, however as noted above, the development was the subject of Appropriate Assessment and EIA and no significant adverse impacts on water quality or adverse effects on the integrity of any European sites were identified. It is therefore not considered that there are potential cumulative adverse impacts likely to arise regarding water quality that would give rise to a requirement for EIA of the current proposed works at the Brewhouse building site.

7.5.1.6 As the redevelopment itself is considered as one that would not result in any potentially significant direct or indirect environmental effects, it is considered that there could be no significant in combination effects arising with this other permitted or proposed projects. Therefore, there would not be any significant cumulative impacts of concern arising from the proposed development.

Use of Natural Resources / Waste / Pollution / Nuisances and Accidents

7.5.1.7 The scale of the proposed development together with the fact that the site is largely already developed and that a limited footprint of new development is proposed means that the need for importation or removal of materials would not result in a significant impact in terms of natural resources. Similarly, the nature, design and scale of the proposed development is such that there would not be significant wastes or pollution generated during either the construction or operational phases. In this regard I note the comment of one of the third parties regarding odours in the area and the impact of the development on the drainage system. As set out by the planning authority in the response submission, the loading on the waste water treatment plant has reduced very significantly since the cessation of brewing activities and the information available does not support a conclusion of issues relating to drainage or treatment capacity or an odour issue. It is

not considered likely that the proposed development would have any adverse impact in terms of accidents. .

7.5.2 Location of Proposed Development

Existing Land Use

7.5.2.1 The site of the proposed development is a currently vacant site (the St Francis Abbey Brewery site) within an urban area. Part of the subject site comprises the existing Brewhouse structure, part what is now a public street (Horse Barrack Lane) and part an area of the former brewery site that has been created by the demolition of previous structures. The scale of the re development proposed is not significant in the context of the current development on the site and the immediate vicinity of the site is not the subject of any identified views for protection. Uses proposed for the site are stated to comprise office, research and development and educational uses. As highlighted by the third parties, the application is not definitive regarding the final mix of uses and press information would indicate that the predominant use may be office. Notwithstanding this I consider that any of the proposed uses would likely be a positive impact in terms of land use relative to their existing status. Overall, I do not consider that what is proposed would have a significant adverse impact in terms of land use.

Natural Resources and the Natural Environment in the Area

7.5.2.2 Natural resources in the area primarily comprise the river Breagagh to the north and the River Nore to the east. The site is located within less than 100 metres of the River Nore SPA and the River Nore and River Blackwater SAC. The proposed re development will not have any direct impact on the SAC or SPA and the primary potential impact on the conservation objectives of the SAC and SPA sites relates to the potential impact on water quality arising from construction activities. Given the nature of the proposed development any such impact on water quality is considered to be limited to the construction phase of the project. Species of conservation importance within the identified Natura 2000 sites and which would be potentially adversely impacted by a deterioration in water quality arising from siltation or pollution comprise the whorl snail, the freshwater pearl mussel, white clawed crayfish, lamprey species, twaite, Atlantic salmon and otter. I note the existing developed nature of part of the site and the proposed landscaping of the balance of the area, the relatively limited

extension to the existing structure proposed, the fact that the site is connected to existing public water and wastewater services and the physical separation between the site and the River Nore. These factors together with the implementation of best construction practice would in my opinion mean that the proposed development is not likely to have significant effects on any European site in light of its conservation objectives. I note the issue raised by the third parties regarding flooding however, as set out by the local authority it would appear that there is some confusion in the figures cited arising from the datum levels referenced. When this is accounted for I do not consider that there is a significant flood risk arising and there is not in my opinion a clear basis on which to dispute the findings of the flood risk assessment of the site undertaken. The reference by one referrer to the requirement for a site or project specific flood risk assessment (solely for the Brewhouse) is noted however I would highlight the fact that the Brewhouse site has been included in a wider flood risk assessment for the masterplan and that the building is an existing structure rather than new build.

7.5.2.3 The site is located in a historic part of the city and in an area that is known for archaeological potential as highlighted by the inclusion of the site within the Zone of Notification of Recorded Monuments in Kilkenny. In assessing the potential impact of the proposed development regard must be had to the fact that the existing building footprint is not proposed to be extended. The balance of the site is not proposed to be subject to works which would have a significant potential impact on archaeology. It is also noted that significant parts of the site beyond the Brewhouse building have previously been the subject of development and therefore ground disturbance. In view of this, the likelihood of significant archaeological remains being discovered is limited. Notwithstanding the above, given the location of the site relative to known monuments and in a historic part of the city the potential for archaeological material to be present is acknowledged and the recommendations of the Archaeologists Report regarding test excavations under licence from the Department and supervision of excavations and recording of all material found are noted. Overall, subject to the mitigation measures set out in the archaeologist's report being implemented it is my opinion that the proposed development would have a low negative potential impact on archaeology.

7.5.2.4 The site is located within c.25 metres of the ruin of St Francis Abbey at the closest point. Both of the third parties have raised concerns regarding the impact of alterations to the form of the building on the Abbey and the proposed elevational treatments and specifically the use of coloured render to some of the new elevations created where demolition is proposed. The use of the rendered panels to parts of the elevation is not in my opinion clearly such that it would have a significant adverse visual impact and overall I consider that the design approach comprising fenestration and the use of materials is appropriate to the structure and the location. Given the existing developed nature of the site, the separation distance to the Abbey and the scale and design of the proposed redevelopment, I do not consider that the proposal would have a significant adverse impact on the setting of the Abbey. The setting and context of the Abbey would be improved on foot of the redevelopment proposed and the improvement works to the public realm.

7.5.2.5 The Brewhouse building is not included on the record of protected structures, however the building is of some cultural and historic significance as a reminder of the industrial past of the site and the significance of brewing to the area. Architecturally, the building is indicated in the Design Report and Report of the Council's Conservation Officer as being an example of industrial architecture consistent with the Bauhaus movement. The retention and reuse of the building is therefore in my opinion justified and would not have a significant effect on the environment.

7.5.3 Characteristics of Potential Impacts

Extent of the Impact

7.5.3.1 From the assessment above, it is my opinion that the extent of the impact in terms of geographical area impacted and the size of the population potentially impacted is very limited. The development would have a localised visual impact however there will be limited potential adverse impacts on the wider environment. The concerns of third parties regarding the potential extent of impacts are noted however these relate to the extent of impacts possible from the development of the masterplan lands rather than the Brewhouse development itself.

Magnitude and Complexity of the Impact

7.5.3.2 The principal aspects of the environment that would potentially be impacted by the proposed development would include, human beings, fauna and flora, the landscape, archaeology and cultural heritage. Based on the assessment above it is my opinion that the overall magnitude of the main impacts as assessed under the above headings would be low.

Probability of the Impact

7.5.3.3 A number of the potential effects identified above are considered to have a high degree of probability however the extent of impacts will not be significant and the overall magnitude is in my opinion at worst likely to be low.

Duration, Frequency and Reversibility of the Impact

7.5.3.4 The proposed development would constitute permanent minor extensions to the existing Brewhouse building whose effects would not be easily reversible. The short term nature of the likely construction phase of the proposed development is noted.

Trans frontier Nature of the Impact

7.5.3.5 There would not be any trans frontier impacts arising on foot of the proposed development.

8.0 RECOMMENDATION

8.1 Having regard to my assessment above, I consider that the proposed refurbishment of the Brewhouse building and other proposed works including landscaping proposals would not be likely to have significant effects on the environment. I, therefore, recommend that the Board does not direct the local authority to prepare an environmental impact statement in respect of the development the subject of this report based on the reasons and considerations set out below.

Reasons and Considerations

Having regard to:

- (a) the size of the site and scale of the proposed development, in particular the fact that the site size is sub threshold in respect of Class 10(b)(iv) (Infrastructure – Urban Development) of the Planning and Development Regulations, 2001 (as amended),
- (b) the urban location of the site, its physical separation from the existing business district and the existing pattern of development in the vicinity,
- (c) the nature and scale of the proposed development, specifically the fact that it comprises the redevelopment of an existing structure, that there is no extension to the proposed building footprint and a limited extent of new floorspace,
- (d) the location of the site within the area covered by the Abbey Cultural Quarter Masterplan, the level of detail available regarding development of the balance of the Masterplan lands and the likely timescale for this development,
- (e) the environmental sensitivity of the area affected and the characteristics of likely potential impacts arising from the proposed development,
- (f) the submissions made including that of Kilkenny County Council, to the Architectural Design Statement Report submitted including appendices, and to the report prepared by CAAS Limited on behalf of the Council,
- (g) the guidance set out in the '*Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development*' issued by the Department of the Environment, Heritage and Local Government and the Guidance document '*Interpretation of definitions of certain project categories of Annex I and II of the EIA Directive*' published by the European Commission (2015),
- (h) to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (i) to the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact statement is not therefore required.

Stephen Kay
Senior Planning Inspector
17th August, 2016