



An
Bord
Pleanála

Inspector's Report PL27.248201

Development	Extension to ground floor shop and alteration to layout, provision of office space, 4 apartments and associated site works.
Location	8 Main Street/Mortons Lane, Wicklow Town, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	16/1058
Applicant(s)	John Kavanagh
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-v-Grant
Appellant(s).	Claire & Noel Fitzgerald
Date of Site Inspection	08 th June 2017
Inspector	Colin McBride

1.0 Site Location and Description

1.1 The appeal site, which has a stated area of 0.119 hectares, is located in Wicklow Town Centre and on the southern side of the Main Street. The site is occupied by a part two-storey and part three storey structure consisting of retail uses at ground floor level and residential units on the upper floors. The site has an external yard area to the rear used as parking and access off Mortons Lane at the south western corner of the site. Levels on site increase moving north to south with the parking area to the rear being at a higher ground level than the ground level of Main Street to the north. The adjoining properties consist of a single-storey retail unit and rear yard area to the east of the site as well as the rear yard area serving a premises further to the east. To the west is a three-storey structure with a retail unit at ground floor level and residential use on the two floors above. To the south are three dwellings that back onto the southern boundary of the site and front onto High Street (the finished floor level of the dwellings) are higher than levels on the appeal site. Boundary treatment consist of existing block walls around the rear yard and the existing vehicular access has a metal gate.

2.0 Proposed Development

2.1. Permission is sought for an extension of circa 45sqm to the rear of an existing ground floor shop unit at no. 8 Main Street and alterations to the existing layout, the provision of circa 185sqm of office space off Mortons Lane, the provision of 4 no. apartments of which 3 apartments (2 no. two bed units, 84 and 83sqm and a one bed unit, 58sqm) are located at second floor and a fourth apartment located in the loft area (a three bed unit, 112sqm). The proposal includes connections to all existing services on site and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 13 conditions. Of note are the following conditions.

Condition no. 5: Requires redesign of the roof to omit balconies on the front elevation roof profile with provision of such to the rear.

Condition no. 8: A minimum of 17 car parking spaces to be provided.

3.2. Local Authority and External reports

3.2.1. Irish Water (12/10/16): No objection.

3.2.2. Roads (20/10/16): A traffic survey to be carried out and submitted.

3.2.3. Planning Report (10/11/16): Further information required including proposal to deal with concerns regarding overlooking windows, proposals to deal with concerns regarding the impact of balconies on the front elevation, the submission of elevations of the proposed bin store and clarification of the use of the proposed office space.

3.2.4. Planning Report (16/02/17): Clarification of further information recommended (regarding proposed balconies on front elevation). This recommendation was overruled and permission was recommended to be granted subject to the conditions outlined above.

4.0 Planning History

4.1 07/3199: Permission granted for a mixed use development including extension of a shop unit, provision of office space and provision of 5 no. apartments.

4.2 00/2549: Permission granted for second floor apartment extension.

4.3 00/2541: Permission granted for change of use from domestic to shop and apartments.

4.4: PL86.106183: Permission granted for a commercial car park.

4.5 97/2172: Permission granted for 8 townhouses.

4.6 97/2169: Permission granted for a two-storey house.

4.7 84/1275: Permission granted for a snooker hall.

5.0 Policy Context

5.1. Development Plan

5.1.1 The relevant development plan is the Wicklow Town-Rathnew Development Plan 2013-2019. The site is zoned Town Centre with a stated objective 'to preserve, improve and provide for town centre uses'.

6.0 The Appeal

6.1 Grounds of appeal

6.1.1 A third party appeal has been lodged by Claire Fitzgerald & family and Noel Fitzgerald, Cara, High Street, Wicklow Town. The grounds of appeal are as follows...

- The development provides for a bin storage shed directly behind the appellants' dwelling with concerns regarding the impact of odours, the attraction of vermin and the resultant health hazard.
- It is noted that under a previous permission for a car park on the appeal site the permission granted included conditions that the gate access be locked at night between 8pm and 8am, this condition was never complied with. The appellants note such in the context of concerns regarding anti-social behaviour and security risk to their home due to accessibility of the site.
- It is noted that An Bord Pleanála in the previous decision required a condition with planting of mature shrubs and plants to provide a screen between the appellants' house and development on site and that such has never been adhered to.
- The appellant wishes that a condition limiting signage is applied in the event of grant of permission.
- The appellants' raise concerns that the proposal would result in depreciation of value of property and reduced residential amenity.

- The appellants' wishes that a number of considerations be applied in the event of a grant of permission such as limited opening hours, litter management measures, control of odour and emissions, traffic control and signage.

6.2 Responses

6.2.1 No responses.

7.0 Assessment

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development

Design, scale, layout, visual/adjoining amenity

Traffic impact

Other Issues

7.2 Principle of the proposed development:

7.2.1 The proposal is for extension and alteration of an existing mixed use development within the town centre. The existing premises consist of two shop units at ground floor level, three apartment units at first floor and two apartments at second floor level. It is proposed to extend one of the shop units at ground floor level to the rear. At first floor level it is proposed to extend the existing structure with new office space to the rear. At second floor level the extension includes three additional apartment units. At third floor level one new apartment unit is to be provided, partly in existing roof space and partly in the roof space of the extended portion of the building. In

regards to proposed uses the appeal site is located within the town centre and is an existing mixed use development consisting of retail and apartment units. The proposal entails extension of the retail use and additional apartments, with a new office use on site. The proposed uses would be compatible with the zoning objective (all identified as 'typically permitted' under the Development Plan within this zoning) of the site and in keeping with established uses on site and adjoining sites within the town centre.

7.2.2 I would consider that the principle of the proposed development is acceptable on the basis of the nature of uses proposed and the zoning context of the site.

Notwithstanding such the acceptability the proposal is contingent on the physical impact of the proposal, its impact on the visual and adjoining amenities of the area, its traffic impact and the quality and layout of the development. These factors are to be assessed in the following sections of this report.

7.3 Design, scale, layout, visual/adjoining amenity:

7.3.1 The existing structure on site is a part two-storey and part three-storey building fronting onto the Main Street. The proposal seeks to extend the structure both to the rear and upwards with the entire frontage appearing three-storeys in height with a third floor level within the roof space. The increased ridge height of the structure above the existing two-storey portion is still not above the maximum ridge height of the existing structure. When viewed from the Main Street the structure is in keeping with the scale of existing structures along Main Street (in particular those to the west). I would consider the overall visual impact of the proposed when viewed from the Main Street to be acceptable. The Planning Authority did raise some concerns regarding the visual impact of the four recessed balconies at third floor level on the Main Street elevation and included a condition requiring their omission and relocation to the rear roof plane. In this regard I would consider that the level of recessed balconies is excessive and would recommend omission of the two middle balconies and retention of the other two. This would be an acceptable balance of development and satisfactory in the context of visual amenities of the area.

7.3.2 The proposal entails significant extension to the rear of the existing structure with such being three-storeys in height. Due to the change in levels moving north to south the extension to the rear appears two-storeys when viewed from the car park to the rear. This portion of the development is not highly visible within the surrounding area due to the fact that its ridge height would not exceed that of the part of the structure fronting onto Main Street as well as being lower in ridge height than existing development to the south due to the change in levels from north to south. I would consider that overall scale and design of the structure would be acceptable in the context of visual amenities of the area.

7.3.3 The existing mixed use development on site has 5 no. apartments. The layout of these apartments is to remain unchanged. The proposal entails the provision of 4 no. apartments. The three at second floor level consist of a 2 no. two bed units (83 and 84sqm) and a one bed unit with a floor area of 58sqm. At third floor level is a three bed unit with a floor area of 112sqm. The relevant national guidance standards for new apartments is the document 'Sustainable Urban Housing: Design Standards for New Apartments (Guidelines for Planning Authorities)'. It is notable that the floor area of each of the new apartments exceeds the minimum requirements of the national guidelines. I would also consider that the new apartments meet the standards in regards to internal dimensions and storage. All units are provided with external open space in the form of balconies and terraces. The dimensions of such are in keeping with the minimum requirements of the guidelines in terms of both area and depth. The proposal does not include any public/communal open space. I would consider that such would be acceptable given the context of the site in the town centre and the fact that the provision of private open space is in keeping with the relevant guidelines. In regards to orientation, light levels, I am satisfied that all apartments including the existing ones on site would have sufficient levels of light due their aspect and orientation. I am satisfied that new residential development on site meets the standards set down under the relevant national guidance and provides for a development of acceptable standard in terms of the residential amenities of future residents.

7.3.4 In regards to adjoining amenities, the overall scale of development has adequate regard to the amenities of adjoining properties with no concerns regarding

overshadowing, loss of privacy or any overbearing impact with the proposal fitting in well with existing pattern of development. I would consider that nature of the uses is consistent with existing uses on site and adjoining sites and are not out of character in a town centre location such as this. The appellants' property is a detached dwelling that backs onto the southern boundary of the site and is one of three dwellings that back onto the southern boundary. These dwellings are located at higher finished floor level than the site. The appellants' dwelling is located close to the southern boundary with the rear elevation nearly tight to the southern boundary whereas the other two dwellings have a greater degree of separation from the southern boundary. There is an existing block wall along the southern boundary of the site/northern boundary of the adjoining dwellings, however such is low relative to the existing dwellings due to the change in levels moving north south away from the Main Street. The concerns of the appellants are based on the accessibility of the rear yard and the potential for anti-social behaviour in the area immediately to the rear of their dwelling as well as security risk posed as result of the accessibility of the yard. In addition, the appellants raise concern about the location of the bin storage directly to the rear of the appellants' dwelling and the potential for odour, vermin and general health hazard. As noted earlier, I am satisfied that proposal would have no adverse impact on adjoining properties including the existing dwellings the south, in regards to being physically overbearing, overshadowing or overlooking. In terms of the activity on site and location of parking adjacent the southern boundary, I would note that the site is town centre location and the rear yard is currently in use as car parking. I would consider that the uses proposed and the layout of development would not be unacceptable at this location.

7.3.5 The appellants' whose dwelling is located to the south of the site raises a number of issues. These issue relate to access to the rear of their dwelling and potential activity to the rear of their property. The appellants' noted a previous permission granted on site included a requirement that the gate at the vehicular entrance be kept closed after 8pm and that additional planting be provided to the rear of their property (PL86.106183). The appellants' note that these requirements were not complied with and they have concerns regarding the security of their home and potential for anti-social behaviour due to the level of access to their property from the appeal site. In response to these concerns I would note the proposal provides for a more

comprehensive development of the site and includes the provision of office use and residential development (particularly the office use), that provides a more active frontage facing onto the rear yard area. This more active frontage would in itself improve the situation in terms of security and surveillance of the rear yard area. In regards to access to the site, the proposal does include a gate, which is to be recessed further back than existing gate. I can see no reason why a condition cannot be imposed requiring access to site to be limited through the provision of an automatic gate to be kept closed after the working hours of the proposed office use. In regards to the existing boundary, there is a block wall along the southern boundary, which is low relative to the ground level on the appellants site due to the change in levels. I would be of the view that existing boundary treatment is satisfactory given the nature of activity proposed on site and its town centre location. I would however agree that the location of the bin storage structure is too close to the rear of the appellants' property and despite its enclosed nature there is still a likelihood of odour causing a nuisance relative to the existing dwelling. In this regard I would recommend applying condition requiring relocation of the bin storage on site away from the southern boundary and to the rear of the existing dwellings. I would consider a position along the wall north of car parking space no. 17 would be a more appropriate location. I would also consider it appropriate to apply a condition in regards to any external lighting in the car parking area, lighting scheme to be agreed and lighting to be adequately cowled to prevent excessive light overspill. I am satisfied that subject to a few minor alterations that the proposal would be acceptable in regards to the amenities of adjoining properties.

7.4 Traffic Impact:

7.4.1 The proposal entails reconfiguration of the rear yard to provide for 17 car parking spaces with access through an existing vehicular access of Mortons Lane. Based on Development Plan requirements the office use has requirement of 10 no. spaces (Table 11.2 of the County Development Plan) with it noted that 7 spaces are left for the residential use (4 new apartments and 5 existing). I would consider that given the town centre context of the site that the level of car parking proposed is satisfactory. The proposal is an intensification of use on site and the rear yard is currently in use as a car park. I would consider that the proposal is a more comprehensive

redevelopment of the site with the parking area to be used in relation to existing and proposed uses on site. I would consider that the level of traffic likely to be generated would be acceptable and that the access arrangements are satisfactory in the context of traffic safety.

7.5 Other Issues:

7.5.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1 I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

9.1 Having regard to the town centre zoning objective for the area, to the pattern of development in the area and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable having regard to design and would not seriously injure the visual amenities of the area or the amenity of adjoining properties. The proposed development would also be satisfactory in regards to traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the plans submitted on the 01th day of February 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such

details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

- (a) The bin storage structure shall be relocated from its position along the southern boundary and located along the northern boundary wall in the vicinity of car parking space no. 17.
- (b) Two of the recessed balconies on the northern facing roof plane are to be omitted. These shall be the two located in the middle (serving the living area and bedroom of apartment no. 4).
- (c) A lighting scheme is to be submitted for the car parking area with lighting to be positioned having regard to adjoining properties and adequately cowled to prevent excessive overspill of light.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interests of the visual amenities of the area and the amenity of adjoining properties.

3. Details of the materials, colours and textures of all external finishes, shall be submitted to, and agreed in writing with the planning authority, prior to the commencement of development.

Reason: In the interests of the visual amenities of the area.

4. Details of all external shopfronts and signage, shall be submitted to, and agreed in writing with the planning authority, prior to the commencement of development.

Reason: In the interests of the visual amenities of the area.

5. The gate access to the site shall be an automatic gate and shall be kept closed outside the operational hours of the commercial development on site (8pm to 8am).

Reason: In the interests of the amenities of property in the vicinity.

6. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste and a construction stage traffic management plan.

Reason: In the interest of public safety and residential amenity.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

10. The developer shall pay to the planning authority a financial contribution in respect of the Construction of the Wicklow Port Access and Town Relief Road in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall

be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Colin McBride
Planning Inspector

13th June 2017