



An
Bord
Pleanála

Inspector's Report PL27. 248673

Development	Change 2 retail units to an apartment with ancillary works
Location	57 Market Square, Main Street, Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	17/319
Applicant	Ray Wheatley
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant	Ray Wheatley
Observer	None
Date of Site Inspection	7 th September 2017
Inspector	Stephen J. O'Sullivan

1.0 Site Location and Description

- 1.1. The site is in the centre of Wicklow town. It has a stated area of 250m². It is occupied by a two-storey terraced building with a stated floor area of 119m². There are two vacant shops on the ground floor. The first floor is in residential use.

2.0 Proposed Development

- 2.1. It is proposed to change the shops to a two-bedroom apartment with a stated floor area of 94m². The shopfronts would be replaced with a new arrangement of solid wall and windows. The description of development also referred to a new stairwell to the first floor apartment.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for one reason which stated that the change of use of ground floor retail unit in a prominent and highly trafficked part of Main Street on lands zoned by the town development plan for town centre use within the designated retail core of the town, which itself is designated as a level 2 county town retail centre by the county development plan, would be inconsistent with the objectives to promote the vitality and viability of the town centre and would materially contravene the provisions of both plans.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The site is on Main Street at a prominent location. The extent of vacancy in its immediate vicinity is noted. To allow a change of use from retail to residential would be contrary to the objectives of the county development plan promoting the core retail area for shopping and commercial activities. Granting permission for a change of use would likely set a precedent for similar changes on other sites. The size of the proposed apartment meets the applicable design standards, but the provision of outdoor amenity space would require additional information. The development

would result in the loss of traditional shopfronts which are a feature of the ACA. The proposed new glazing is not in symmetry with the first floor windows. Further information would be required to ensure that any redevelopment had timber windows and doors and vertical emphasis fenestration. It was recommended that permission be refused for a single reason relating to the development plan policies in favour of retail use in town centres.

4.0 Planning History

04/622829 – the planning authority granted permission to change the ground floor of a house to retail use and to install a new shop front.

5.0 Policy Context

5.1. Development Plan

The Wicklow-Rathnew Development Plan 2013-2019 applies. The site is zoned for town centre uses. It is part of the designated retail core and the Architectural Conservation Area for Wicklow.

The Wicklow County Development Plan 2016-2022 also applies. The site is within the designated core retail area. Objective RT11 of the plan is to reinforce the role and function of the core retail area as the prime shopping area of town centres. Where an application is made for new development with street frontage a retail or commercial use will normally be required at street level. Objective RT13 is to promote the revitalization of vacant/derelict properties / shop units. Where no viable retail use can be sustained alternative uses will be assessed on their own merits to ensure that all proposals for the reuse of existing retail floorspace can be evaluated against the proportion of overall vacancy and to reduce the possibility of dereliction. Objective RT14 is to control the provision of non-retail uses at ground floor level in the principal shopping streets in order to protect the retail viability of centre and to maintain the visual character of streets. This objective aims to prevent the proliferation of dead frontage in key streets.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

- The shops have been vacant since 2009 and 2011 despite being consistently advertised. It is intended that the proposed apartment would be let on a long term basis for social housing. The property was in residential use for nearly 150 years from its construction until 2004 when permission was granted for shops on the ground floor.
- The change of use would be in keeping with the town centre zoning of the site. Residential use is referred to in the zoning objective and is allowed under the use matrix in the development plan. Objective RT11 does not exclude residential development in a core retail area. Objective RT13 specifically states that where no viable retail use can be sustained then alternative uses will be assessed, having regard to vacancy rates in order to reduce the possibility of dereliction. The ground floor premises on the site have been vacant for eight years and have not been maintained and have become an eyesore. Objective RT14 is to prevent the proliferation of dead frontages on principal shopping streets, which the proposed development would meet by refurbishing the property and returning it to residential use for which there is economic demand and economic feasibility.
- The town centre strategy in the Wicklow Rathnew Development Plan includes the site as part of the retail core area, but not as part of the active town centre to the east of the Mall. Even within the active town centre there is a high vacancy rate. It is even higher in the secondary core area around the site. There are 10 vacant premises in the vicinity of the site which is in dire need of regeneration. A mix of uses in town centres is an accepted planning objective for town centres to encourage vitality and busy pedestrian friendly environments. The town development plan supports living over the shop

initiatives to keep residential uses in town centres, which is clearly an objective of the planning authority.

- The proposal would change a temporary retail use that persisted for 7 years back to a residential use that was in place for 100 years and is not a radical proposal. There are many residential properties on Main Street. There are a large number of vacant retail and office premises at ground floor level on our streets and there is little demand for such in Wicklow. The proposed development could not, therefore, be regarded as an undesirable precedent. The most economic use for the ground floor at the moment is residential. A grant of permission would not prevent its return to commercial use in the future if economic conditions were favourable. It would get rid of an unkempt eyesore on the Main Street.
- The shopfronts are only c13 years old and in poor condition and detract from the streetscape. The proposed front elevation is more symmetrical than the current one.
- The board is entitled to grant permission under section 37(2)(b) of the planning act as the proposed development accords with many of the objectives in the town development plan and the county development plan to which the planning authority has not had regard, and there is no prohibition on residential use in town centres in the plan that could be regarded as having been materially contravened. The planning authority did not consider the overall vacancy rate and risk of dereliction in the town centre, and so materially contravened objective RT14 of the county development plan. The planning report offers no justification for saying that a change of use of 93m² could be material.

6.2. Planning Authority Response

The planning authority's response stated that it conducted a retail floorspace survey in late 2014/ early 2015 which found 7,610m² in active retail use in Wickow town centre and 455m² retail floorspace that was vacant, which demonstrates a low vacancy rate there.

6.3. Further response

The applicant responded to the planning authority's response. It states that the planning authority's survey was conducted 20 months ago and is out of date. Existing retail floorspace demand projections are unlikely to ever met due to online retailing. The vacancy rate is not expressed as a percentage of existing floorspace. If it was it demonstrates that vacancy rate is not reflective of lack of suitable properties for retail use. The low vacancy rate in other towns is cited. The vacancy rate quoted by the planning authority does not include authorised retail floorspace such as the 12,942m² permitted under Reg. Ref. 06/6864 and 13/8233. The proposed development would be in keeping with government policy to address the housing crises by means including the reuse of vacant commercial properties for residential use in town centres including the stated proposal to make this exempted development. The survey was not adequate to determine, where in town centres planning permission should be refused for change of use to residential it is clearly inadequate because it has not surveyed level of non-retail vacancies that would be suitable to retail use and did not have regard to emerging government policy in relation to vacant properties in town centres or the differences between Wicklow Town's centre active town centre and the remainder which is secondary town centre. The survey does not agree with the applicant's survey of the immediate area. It is not possible to draw conclusions from the retail floorspace survey as the planning authority has done. A policy of refusing permission to change retail use to residential is not supported by the Wicklow County Development Plan or the Wicklow Rathnew Development Plan zoning which supports mixed uses in town centres.

7.0 Assessment

- 7.1. The development plan for Wicklow and Rathnew was made in 2013 when the site would have been in the area of the town council as a planning authority. A county development plan was made in 2016 after the town council had been abolished and the site was part of the functional area of the county council as a planning authority. The provisions of both plans may be relevant, but the latter would take priority.
- 7.2. Residential use is permitted under the town centre zoning of the site. Residential use is also established in the building on the site. The proposed change of use does not contravene the use zoning objective as town centre that applies to the site. The statement submitted by the applicant in response to the planning authority's response to the appeal also indicates that the minister's policy also supports residential use in town centres. However it does not follow from the acceptability in principle of residential use in an area that any particular development would necessarily be in keeping with the provisions of a development plan, or wider planning policy. The issue in this case is not whether residential use is appropriate to this area, but whether a flat should be provided on the ground floor along the street frontage within the designated retail core of the town.
- 7.3. The county development plan has a clearly stated objective to maintain retail use at ground floor level on principal shopping streets - RT14. The proposed development would contravene this objective. Objective RT13 allows consideration of alternative non-retail uses in vacant shops where no viable retail use can be sustained. The applicant asserts that the level of vacancy in the shops in Wicklow town centre indicates that this objective should apply and that an insistence on maintaining retail use would lead to dereliction and detract from the character of the town centre. There is merit in this argument. There are several empty shops in the immediate vicinity of the site, and the building upon is not in good visual condition. However the level of vacancy in the town centre as a whole is not particularly high. The results of the survey submitted by the planning authority are consistent with the condition of the town centre observed the time of inspection. The applicant's arguments in this respect are not accepted, therefore.

- 7.4. Residential use requires some privacy for its occupants. The frontage that the proposed apartment would present to the main street would therefore be much less animated than a retail use. It would also be much less animated than other non-retail uses that might be located there, including commercial or community services, or offices. The absence of any setback or privacy strip on the street means that activity on the street would impinge on the amenity of the proposed apartment. So, even if it were accepted that retail use was not viable on the ground floor on the site, the proposed residential use would constitute dead frontage to a greater extent than other non-retail uses that might be viable there. It is noted that the building on the site was entirely in residential use until 2004. However the occupants of the previous house would have been afforded a greater level of privacy and amenity than those of a ground floor flat on the main street, as they would have had recourse to the first floor and the private space at the back of the house.
- 7.5. The site is centrally located and there is no clear basis to distinguish it from the other premises in the town centre. If permission was granted in the current case, it would be inconsistent to apply objective RT14 to any of the other shops in Wicklow town centre. The proposed contravention of this provision of the development is therefore material. If there is a general issue regarding an absence of demand for retail floorspace in the area, then the basis of the retail strategy for the county and the town would have to be revisited. The revised strategy would then inform specific policies as to the extent of lands and streets where retail development was permitted. The appropriate means to do so is through the planning process set out in part 2 of the planning act, rather than in response to individual applications for permission under part 3.
- 7.6. The shopfronts on the site of recent construction and are in poor condition. However it is not considered that an absence of maintenance would justify granting permission for a development that contravenes the development plan. The detailed design for the proposed front elevation does not reflect the established character of the architectural conservation area. If the board were minded to grant permission for the change of use then the issue of architectural design should be addressed, as should the provision of private open space for the proposed apartment.

8.0 Recommendation

8.1. I recommend that permission be refused.

9.0 Reasons and Considerations

The proposal to change the use of a ground floor retail premises on a principal street within the designated retail core of Wicklow town to residential use would materially contravene objective RT13 of the Wicklow County Development Plan 2016-2022 and would be inconsistent with the provisions to promote the vitality and viability of the retail role of the town centre set out in that plan and in the Wicklow-Rathnew Development Plan 2013-2019.

Stephen J. O'Sullivan
Planning Inspector

14th September 2017