



An
Bord
Pleanála

Inspector's Report

ABP-302999-18

Development	Change of use from commercial to a residential duplex along with all associated site development works
Location	St. Michael's Terrace, Tinahisk Lower, Arklow, Co Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	18982
Applicant(s)	Ger and Elsie Rath
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First party
Appellant(s)	Ger and Elise Rath
Observer(s)	None
Date of Site Inspection	28 th February 2019
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The site is located close to the town centre of Arklow, Co. Wicklow. The stated site area is 0.0075 hectares.
- 1.2. An existing two storey commercial building of 107m² is currently located on the site. This building has not been in use for many years.
- 1.3. A large building known as the old Wicklow Vale building that was formerly in use as the Arklow Baptist Church directly adjoins the site to the north. Part of this building is now in use as a gym. Terraced residences are located to the east and west of the site in St. Michael's Terrace and Old School Place. All boundaries of the site on three sides are the external walls of the building itself.

2.0 Proposed Development

- 2.1. Change of use of a commercial building to residential consisting on 1 No. two bedroom own door apartment. The stated floor area is 73m². The bedrooms are located on the ground floor and the first floor provides for an open plan kitchen/ living and dining area of 30m² and a balcony of 17m². There are existing connections to mains water and sewerage.

3.0 Planning Authority Decision

3.1. Decision

- Permission refused for 2 No. reasons relating to inadequate provision of private open space and parking and location of site in Flood Zone A.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Considered that the development required 46.7m² of private open space however, given that the development would result in the renovation and reuse of a disused building and a precedent had been made for reduced open space in similar cases, the private open space proposed was satisfactory.
- Noted that a car parking space had not been provided.

- Noted that site was located in Flood Zone A and B on the flooding map in the Arklow Town and Environs Development Plan and considered that having examined the flood assessment and justification test submitted, the proposed development would not increase the existing flood risk in the area.
- The planner recommended a further information request in relation to car parking provision.
- A Senior Engineer overturned this recommendation and recommended refusal for the two reasons above.

3.2.2. Other Technical Reports

- **Area Engineer:** Report expressed some concerns that no parking has been provided for within the development and requested proposals for car parking.
- **Water Services:** No comment as no new connections requested.

3.3. Prescribed Bodies

No reports.

3.4. Third Party Observations

None submitted.

4.0 Planning History

PA Ref. P.P.R. 17/1519

Withdrawn application for similar development.

5.0 Policy Context

5.1. Development Plan

Arklow and Environs Local Area Plan 2018-2024

- Site is zoned as 'Existing Residential' – RE.

- The flood risk assessment for Arklow is set out in Appendix C. The site is located partially on Flood Zone A (high risk) and Flood Zone B (moderate risk).

5.1.1. Relevant national guidelines include the following:

- Sustainable Urban Housing: Design Standards for New Apartments- Guidelines for Planning Authorities (2015)
- The Planning System and Flood Risk Management - Guidelines for Planning Authorities (2009)

5.2. Natural Heritage Designations

5.2.1. The nearest Natura 2000 site is Buckronev Brittas Dunes and Fen Special Area of Conservation 000729.

5.3. EIA Screening

5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- Similar proposals have been granted in the area and flooding has not been raised as an issue.
- The site lies within Flood Zone B. There is no proposal to increase the footprint of the building and it is considered that the refusal is contrary to Section 5.28 of the Flood Risk guidelines which states that applications for minor development including most changes of use are unlikely to raise significant flooding issues.
- The planner's report stated that given that this is an existing development which was previously in use, it is considered that the proposed development would not increase the existing flood risk in the area.

- No houses in the area have any flood protection measures.
- The proposal meets the minimum requirements for private open space.
- It is proposed that on-street parking is permitted for this development.
- It should be noted that if the building was renovated for commercial use, there would be a potential demand for more parking for the building.

6.2. Planning Authority Response

- No response.

6.3. Observations

- None.

7.0 Assessment

7.1. Having regard to the above and having inspected the site and reviewed all documents on file, the following is my assessment of the case. The main issues are as follows:

- Principle of Development
- Compliance with Development Plan standards
- Flood Risk
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The appeal site is zoned as RE where the objective is 'to protect, provide and improve residential amenities of existing residential areas'. The appeal notes that this is a commercial building which has been vacant for twenty years and there is no interest for a commercial unit in this residential locality. 'At the height of the economic boom, the building was not even developed which further highlights that a commercial unit in this locality has zero potential.' Objective H8 of the Arklow and Environs Local Area Plan encourages in-infill housing developments, the use of

under-utilised and vacant sites and vacant upper floors for accommodation purposes....subject to a high standard of design, layout and finish.

- 7.2.2. I consider that the change of use of this former commercial building to a residential use would be acceptable in principle subject to an assessment of the impact of the proposal on the amenities of existing and future occupants and compliance with other relevant Development Plan policies and objectives.

7.3. **Compliance with Development Plan standards**

- 7.3.1. The two main issues raised regarding compliance with Development Plan standards relate to private open space provision and parking.
- 7.3.2. I note that the relevant standards are set out in Appendix 1 of the Wicklow County Council Development Plan - Development and Design Standards which requires compliance with the Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities 2015 DoECLG. The private open space requirement is 7 square metres for two bed apartments. Three small areas of open space are provided - a recessed porch area (9m²), green area to side (10m²) and a first floor balcony of 17m². I consider that the porch area and the small green area to the side are leftover open space and not of high quality, however the balcony is considerably in excess of the guidelines and would provide adequate privacy and amenity for the intended occupants.
- 7.3.3. An issue is raised in the planner's report that this is a duplex house rather than an apartment and as such 46.7m² of open space is required. I am of the view that the key issue is quality and standard of design and am satisfied that the development provides a reasonable quality of development. I note that both the application and appeal provide a table which illustrates that the development complies with the room sizes, overall floor area, storage requirements and private open space requirements for two bed apartments.
- 7.3.4. I note that whilst no parking space is available within the site (either presently or proposed), the proposed development is a former commercial building and the change of use to residential is encouraged by Objective H8 of the Local Area Plan. There is a terrace of houses opposite the site with on street parking and no issues have been raised in relation to traffic hazard or congestion in the area.

7.3.5. As such, I am satisfied that the proposed change of use complies with the relevant standards and that the proposed change of use will offer a reasonable standard of amenity for future residents of the development.

7.4. **Flood Risk**

7.5. Appendix C – Strategic Flood Risk Assessment of the Arklow and Environs LAP Map C 5 indicates that the site is located partly within Flood Zone A (highest risk) and partly within Flood Zone B (moderate risk).

7.6. The developer makes the following points in the appeal:

- The site is in Flood Zone B (moderate).
- No house on St. Michael's Terrace has any flood risk prevention barriers in place as no house has ever flooded.
- The proposed finished floor level is 300mm more than St. Michael's Terrace on the opposite side of the street.
- The justification test has been carried out and it is concluded that the change of use proposed will not cause unacceptable adverse flood impacts and will not increase the risk of flooding in the area.

7.6.1. Section 5.28 of The Planning and Flood Risk Management Guidelines states that *'applications for minor development, such as small extensions to houses, and most changes of use of existing buildings and or extensions and additions to existing commercial and industrial enterprises, are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant number of people into flood risk areas or entail the storage of hazardous substances. Since such applications concern existing buildings the sequential approach cannot be used to locate them in lower risk areas and the Justification Test will not apply.'*

7.6.2. The proposed development provides for the change of use of an existing building and as such I do not consider that the justification test applies. There is no evidence of flooding in the area and the proposed finished floor level is 300mm higher than buildings on the opposite side of the street. I note that Map C4 of Appendix C of the Arklow and Environs LAP (Strategic Flood Risk Assessment) indicates that there are no recorded flood events at this location. Having regard to the change of use proposed, I am satisfied that the development will not cause unacceptable flood impacts at this location.

7.7. Appropriate Assessment

- 7.7.1. The proposed development comprises the change of use of an existing commercial building within a serviced area. Consequently, it is not considered that appropriate assessment issues arise or that the proposed development would be likely to have a significant effect individually or in combination with other plans and projects on any European site.

8.0 Recommendation

- 8.1. I recommend that permission should be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the nature, scale and design of the proposed development and the existing pattern of development in the vicinity, it is considered that the proposed development would not contravene the provisions of the Arklow and Environs Local Area Plan 2018, would be compatible with the existing pattern of development in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.</p> <p>Reason: In the interest of clarity.</p>
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2.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: To ensure servicing of the development, and to prevent pollution.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
5.	<p>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 noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
6.	<p>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, as amended. 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</p>

planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Emer Doyle
Planning Inspector

28th day of June 2019