



Question

Whether the conversion of an existing retail unit to 2 no. one bedroom apartments is or is not development or is or is not exempted development.

Location

No. 2 South Quay, Arklow, Co. Wicklow.

Declaration

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

39/19

Applicant for Declaration

Conor McCarthy

Planning Authority Decision

Is not exempted development

Referral

Referred by

Conor McCarthy

Owner/ Occupier

Conor McCarthy

Observer(s)

None

Date of Site Inspection

27th November 2019

Inspector

Mary Crowley

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1.0 **Site Location and Description**

1.1. The site is located in the centre of Arklow at the corner of Union Lane and South Quay to the south of Bridge Street and fronting onto the Avoca River. The site comprises a single storey gable fronted vacant retail unit. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the file. These serve to describe the site and location in further detail.

2.0 **The Question**

2.1. A referral case has been received by the Board pursuant to Section 5(4) of the Planning and Development Act 2000 whereby Conor McCarthy has sought a determination as to whether the conversion of an existing ground floor retail unit to 2 no. one bedroom apartments in Arklow Town is or is not development or is or is not exempted development.

3.0 **Planning Authority Declaration**

3.1. **Section 5 Determination Application**

3.1.1. Conor McCarthy (owner / occupier) sought a Section 5 Declaration from Wicklow County Council in May 2019 as to whether the conversion of existing vacant ground floor retail unit to 2 no self contained one bedroom apartment (Unit A & Unit B) at No 2 South Quay, Arklow is or is not development or is or is not exempted development.

3.2. **Declaration**

3.2.1. Wicklow County Council issued a Declaration in accordance with Article 5(2)(a) of the Planning & Development Act 2000 on the 29th May 2019. Wicklow County council determined that the works are development and are not exempted development for the following reasons:

- i. The conversion of the existing unit to use as 2 one bedroom apartments would be contrary to the provision of Article 10(6)(d)(iv) of the Planning and

Development Regulation's 2001 (as amended). Article 10(6)(d)(iv) provides that:

No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan pursuant to Part 1 of the First Schedule to the Act, for such to remain in retail use with the exception of any works, the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

The proposal provides for the conversion of the ground floor from Class 1 Shop to Residential usage. The shop is located in an area zoned Town Centre in the Arklow and Environs Local Area Plan 2018 – 2024. This zoning objective provides for:

To provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic use, and to provide for "Living Over The Shop" residential accommodation, or other ancillary residential accommodation.

The conversion from ground floor retail would therefore be contrary to the zoning objective which clearly seeks to provide for town centre uses on the ground floor.

- ii. The Referrer has not demonstrated that the unit has sufficient storage space to accord with the provision of the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities (March 2018), as required by Article 10(6)(d)(iii) of the Planning and Development Regulation's 2001 (as amended)
- iii. Insufficient evidence has been submitted to confirm that the rooms for use, or intended for use, as habitable rooms have adequate natural lighting, as required by Article 10(6)(d)(vii) of the Planning & Development Regulations 2001 (as amended).

3.3. Planning Authority Reports

3.3.1. Planning Reports

- The Case Planner having considered the original submission concluded that the conversion of an existing ground floor retail unit to 2 no. one bedroom apartments is development and is not exempted development as
 - (a) The referrer has not demonstrated that the unit has sufficient storage space to accord with the provision of the “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (March 2018)
 - (b) Insufficient evidence submitted to confirm that the rooms for use, or intended for use, as habitable rooms have adequate natural lighting
 - (c) Development would be contrary to Article 10(6)(d)(iv)
- The Declaration issued by Wicklow County Council reflects the Case Planners recommendation.

3.3.2. Other Technical Reports

- There are no other reports recorded on the Referral file.

4.0 Planning History

- 4.1. There is no evidence of any previous appeal on this site. No planning history has been made available with the Referral file.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Arklow & Environs Local Area Plan 2018 – 2024**. I refer to Map No 1 Land Use Zoning Objectives therein where the site is zoned “**TC Town Centre**”. Chapter 11 - Zoning, Land Use & Action Area Plans sets out the following Zoning Objective for TC Town Centre:

To provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic us and to provide for “Living Over the Shop” residential accommodation, or other ancillary residential accommodation.

5.1.2. The Development Plan states that the planning authority shall determine each proposal on its merits, and shall only permit the development of uses that enhance, complement, are ancillary to, or neutral to the zoning objective. Uses that are materially inconsistent with and detrimental to the zoning objective shall not be permitted. Typical uses for “TC Town Centre” are stated to the following:

*retail, retail services, health, restaurants, public house, public buildings, hotels, guest houses, nursing/care homes, parking, **residential development**, commercial, office, tourism and recreational uses, community, including provision for religious use, utility installations and ancillary developments for town centre uses in accordance with the CDP (emphasis added).*

5.2. **Natural Heritage Designations**

5.2.1. The site is not located within a designated Natura 2000 site. There are no Natura 2000 sites located in the vicinity of the site.

6.0 **The Referral**

6.1. **Referrer’s Case**

6.1.1. The referral has been submitted by Conor McCarthy, referrer and owner of the No. 2 South Quay, Arklow, Co. Wicklow and may be summarised as follows:

6.1.2. **Contravention of Local Area Plan**

6.1.3. Section 6(d)(iv) of the Planning and Development Regulations allows for the conversion of former retail to residential to be exempt development subject to certain conditions as follows:

No development shall consist of or comprise the carrying out of works to the ground floor area for any structure which conflicts with the objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First schedule to the Act, for such to remain in retail use, with the exception of any works the purposes of which is to solely provide on street access to the upper floors of the structure concerned.

6.1.4. Submitted that the relevant phrase here is “any objective”. Under the LAP the site is zoned Town Centre. This covers a significant portion of the town centre but not the Bridgewater Shopping centre to the North of the river. From Chapter 11 of the LAP “Zoning, Land Use & Action Area Plans” the stated objective for Town Centre (TC) zoning is:

To provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic use, and to provide for “Living Over the Shop” residential accommodation, or other ancillary residential accommodation”.

6.1.5. Under the general TC zoning there is no stated objective in the LAP to retain retail use at ground floor. Chapter 6 of the LAP does provide clarification of its intended objectives by identifying a “retail core area” within the Town Centre. The “sub zoning” ties back to the County Development Plan which under RT11 states inter alia:

RT11: To promote developments which reinforce the role and function of the “core retail area” as the prime shopping area of town centres in settlements where no “core retail area” is defined, regard shall be paid to the designated “town centre” area, the location of the traditional / historical centre and the location of other retail units. Where an application is made for a new development with street frontage either in the defined retail core of a larger settlement or on the “main street” of smaller town, retail or commercial use will normally be required at street level.

6.1.6. For Arklow, a retail core area is clearly defined in the LAP. As the subject site is outside the defined “Retail Core Area” for Arklow the application of RT11 is not appropriate in this case.

6.1.7. The Department issued a Circular Letter, PL01/2018, to outline the changes and their proposed intention. It states:

Specifically, Action 5.9 of Rebuilding Ireland commits to reviewing planning legislation to allow the change of use of vacant commercial units in urban areas, including vacant to underutilised areas over ground floor premises, into residential units within having to go through the planning process the main objectives of the exemption are to facilitate the provision of increased and much needed

housing supply, to maximise the use of vacant underutilised spaces and assist in the rejuvenation of inner-core urban areas

- 6.1.8. The legislation specifically targets “urban areas” and furthermore “inner-core urban areas” which by their very nature will be zoned “Town Centre”. The logic proposed by the Planning Authority is that this legislation cannot apply to any ground floor non-residential unit anywhere in the zoned Town centre region.
- 6.1.9. However the current legislation clearly targets ground floor conversions as previous urban regeneration schemes were explicitly “living over the shop” is not ground floor. It is therefore contended that the proposed development, by virtue of its location outside the core retail area, as defined within the local area plan, does not conflict with any objective of a local area plan for ground floor to remain in retail use.
- 6.1.10. **Storage Space** – The legislation requires that the minimum storage space of the “2015 Design Standards for New Apartments” be complied with. This requires a storage area of 3sqm to be provided. The proposed units are 48sqm with generous external private open space to the rear. In accordance with section 3.23 of the Apartment Standards, 1.5sqm of storage will be provided outside with the balance being provided inside.
- 6.1.11. **Natural Light** – The units are dual aspect with generous open space to the rear giving plenty of natural light to the bedrooms. The front elevation of the units is open to the river again giving adequate natural light. Further lighting could be provided, if deemed appropriate, with roof lights as the building is only single story but it is contended that adequate natural light is available.
- 6.1.12. **Conclusion** – The proposed development by virtue of its location, does not contravene an objective in the LAP for ground floor units to remain in retail use. The minimum storage areas required are complied with. Adequate natural light is provided.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority stated that they would not be making any further submissions or observations on this referral.

6.3. Further Responses

6.3.1. There are no further responses recorded on the Referral file.

7.0 Statutory Provisions

7.1. Planning and Development Act, 2000 (as amended)

7.1.1. **Section 2 (1)** of the Act provides the following definitions:

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal...

“alteration” includes –

(a) plastering or painting or the removal of plaster or stucco, or

(b) the replacement of a door, window or roof,

That materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

“structure” means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate, and

(b) in relation to a protected structure or proposed protected structure, includes—

(i) the interior of the structure,

(ii) the land lying within the curtilage of the structure,

(iii) any other structures lying within that curtilage and their interiors, and

(iv) all fixtures and features which form part of the interior or exterior of any structure or structures referred to in subparagraph (i) or (iii)

Section 3(1) of the Act defines “development” as follows:

“In this Act, “development” means, except where the context otherwise requires, the carrying out any works on, in, over or under land or the making of any material change in the use of any structures or other land.”

Section 4(2) of the Act provides that the Minister may by regulation provide any class of development to be exempted development. The Regulations which are applicable in this case are the Planning and Development Regulations 2001 (as amended).

7.2. **Planning and Development Regulations, 2001**

Article 10(1) provides that any change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development provided that they do not:-

- (a) involve the carrying out of any works other than works which are exempted development;*
- (b) contravene a condition attached to a permission under the Act;*
- (c) be inconsistent with any use specified or included in such a permission, or*
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned;*

Part 4 of the Second Schedule to the Regulations states as follows:-

Exempted Development – Classes of Use

Class 1: Use as a shop

Class 9: Use—

- (a) for the provision of residential accommodation and care to people in need of care (but not the use of a house for that purpose),*
- (b) as a hospital or nursing home,*
- (c) as a residential school, residential college or residential training centre.*

S.I. No. 30 of 2018 relates to certain change-of-use from e.g. shop or office use to residential use being exempted development. Article 10(6) was inserted by the Planning and Development (Amendment) (No 2) Regulations 2018 (S.I. No. 30 of 2018). New Provision to provide an exemption for the change of use, and any related works, of certain vacant commercial premises to residential use.

Article 10 (6) (a) defines the relevant period as “*the period from the making of these Regulations until 31 December 2021.*”

Article 10 (6)(d)(iii), (iv) and (vii) states as follows:

(i) The development is commenced and completed during the relevant period.

(ii) Subject to sub-paragraph (iii), any related works, including works as may be required to comply with sub-paragraph (vii), shall affect only the interior of the structure and shall not materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.

(iii) Any related works for the alteration of existing ground floor shop fronts shall be consistent with the fenestration details and architectural and streetscape character of the remainder of the structure or of neighbouring structures.

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

(v) No development shall consist of or comprise the carrying out of works which exceeds the provision of more than 9 residential units in any structure.

(vi) Dwelling floor areas and storage spaces shall comply with the minimum floor area requirements and minimum storage space requirements of the “Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities” issued under section 28 of the Act or any subsequent updated or replacement guidelines.

(vii) Rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting.

(viii) No development shall consist of or comprise the carrying out of works to a protected structure, as defined in section 2 of the Act, save where the relevant planning authority has issued a declaration under section 57 of the Act to the effect that the proposed works would not materially affect the character of the structure or any element, referred to in section 57(1)(b) of the Act, of the structure.

(ix) No development shall contravene a condition attached to a permission under the Act or be inconsistent with any use specified or included in such a permission.

(x) *No development shall relate to any structure in any of the following areas:*

(I) an area to which a special amenity area order relates;

(II) an area of special planning control;

(III) within the relevant perimeter distance area, as set out in Table 2 of Schedule 8, of any type of establishment to which the Major Accident Regulations apply.

(xi) *No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply.*

(xii) *No development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system to which the code of practice made by the Environmental Protection Agency pursuant to section 76 of the Environmental Protection Agency Act 1992 relates and entitled Code of Practice — Wastewater Treatment and Disposal Systems Serving Single Houses together with any amendment to that Code or any replacement for it*

8.0 Assessment

8.1. Preliminary Matters

- 8.1.1. A determination is sought as to *whether the conversion of an existing ground floor retail unit to 2 no. one bedroom apartments in Arklow Town is or is not development or is or is not exempted development.*
- 8.1.2. It should be noted that the purpose of this referral is not to determine the acceptability or otherwise of the use of the existing ground floor of the property for residential development but rather whether or not the matter in question constitutes development, and if so falls within the scope of exempted development.
- 8.1.3. In carrying out this assessment, the planning referrals data base was consulted. There was a relatively recent case where the issue of change of use from shop to residential unit was considered. ABP-301388-18 refers. A copy of the Planning Inspectors Report together with the Boards Direction and Order is provided in the pouch attached.

8.2. Is or is not development

- 8.2.1. The proposed development comprises 3 different elements, namely the use of the ground floor unit as 2 no residential apartments together with external and internal alterations to facilitate same.

Works

- 8.2.2. Having regard to the definition of works under Section 2 of the Act which includes “any act or operation of alteration”, it is considered that the external and internal alterations are likely to fall within this definition and thus constitute development.

Material Change of Use

- 8.2.3. The definition of development also refers to the making of any material change in the use of any structure or other land. It is contended by the Planning Authority that a material change of use has occurred whereby the existing retail unit is in an area zoned Town Centre in the Arklow and Environs Local Area Plan 2018 – 2024 where the objective is to *provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic us and to provide for “Living Over the Shop” residential accommodation, or other ancillary residential accommodation* and where the conversion to residential would conflict with the zoning objective *which seeks to ensure that ground floor uses are retained as town centre uses*.
- 8.2.4. Article 10 of the Regulations provides for a number of categories of development that are exempted from requiring planning permission. This Article is linked to Part 4 of Schedule 2 of the Regulation’s that consists of a table of use classes. Shop is defined as a Class 1 use. Residential accommodation is considered a Class 9 use. Article 10(1) provides an exemption for development which consists of a change of use within anyone of the classes of use specified in Part 4 of Schedule 2. In this regard I also refer to Planning and Development (Amendment) (No 2) Regulations 2018 (S.I. No. 30 of 2018). Under these amended Regulations the conversion of a Class 1 (Shop) use to Class 9 (residential use) is exempted under certain conditions.
- 8.2.5. Article 10 (6)(d)(iv) of the Regulations states that:

(iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant

local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.

8.2.6. The LAP states that typical uses for “TC Town Centre” include as follows:

*retail, retail services, health, restaurants, public house, public buildings, hotels, guest houses, nursing/care homes, parking, **residential development**, commercial, office, tourism and recreational uses, community, including provision for religious use, utility installations and ancillary developments for town centre uses in accordance with the CDP (emphasis added).*

8.2.7. It is further noted from the LAP that a stated key vision for Arklow and Environs is to *maintain and enhance the viability and vibrancy of Arklow town centre, to ensure that the core town centre remains at the heart of the community and provides a wide range of uses including retail, employment, commercial, social, recreational and **residential** in a consolidated and accessible manner (Vision 4 Vibrant Core refers) (emphasis added).*

8.2.8. The LAP further states that the objective is to develop and consolidate the existing town centre to improve its vibrancy and vitality with the densification of appropriate commercial and **residential developments** ensuring a mix of commercial, recreational, civic, cultural, leisure, **residential uses**, and urban streets, while delivering a quality urban environment which will enhance the quality of life of resident, visitor and workers alike (emphasis added).

8.2.9. It is recognised that the amended exempted development provision might lead to the loss of retail use on the ground floor where it is an objective in the development plan or local area plan that such use should be maintained. However, in this case there is no stated policy in the Development Plan or LAP for existing ground floor shop uses within the Town Centre to *remain in retail use*. This is reflected in the wording of the Town Centre zoning objective for the site as set out above.

8.2.10. Having regard to the foregoing where it is stated that “residential development / use” is a typical Town Centre Use and that the provision of same forms part of a wider range of uses that contribute to the vitality and vibrancy of the core it is evident that residential use in the Town Core is not prohibited nor is it incompatible with the

zoning objective for the site. Having regard to the stated zoning objective for the site residential use is an appropriate town centre use.

- 8.2.11. I conclude that in this particular case, the residential use of the unit is not a material change of use having regard to Town Centre Zoning objective for the site and Article 10 (6)(d)(iv) of the Regulations.

8.3. Is or is not exempted development

- 8.3.1. I refer to Article 10 (6)(d)(ii) and (iii). With regard to the internal alterations proposed to be carried out to facilitate the development, it is considered that these works are exempt under to Article 10 (6)(d)(ii) being works which affect only the interior of the structure. However, the external works comprise alterations to the shop front whereby a second entrance is door is provided and the existing large single window is removed and replaced with 2 no slightly smaller windows to serve each unit respectfully. The external works also include the removal of a section of the rear roof to provide private open space to each unit together with the introduction of a new pedestrian door onto Union Lane providing rear access to both properties.
- 8.3.2. I agree with the Case Planner that the alteration of the existing shop front is consistent with the fenestration details and architectural and streetscape character of the remainder of the structure.
- 8.3.3. The works proposed in relation to the provision of open space to the rear of the property whereby the remainder of the main roof profile will be maintained are not considered to materially affect the external appearance of the structure so as to render its appearance inconsistent with the character of the structure or of neighbouring structures.
- 8.3.4. The provisions of Article 10(6)(d)(ii) and (iii) does not therefore apply.

8.4. Restrictions on exempted development

- 8.4.1. Commencement / Completion of work - Article 10 (6)(d)(i) requires that the development is commenced and completed during the relevant period. No date for the works to be commenced and / or completed has been submitted. Compliance or

otherwise with this requirement would be a matter for the Local Authority in the first instance. The provisions of Article 10(6)(d)(i) does not therefore apply at this time.

- 8.4.2. Residential Units - Article 10 (6)(d)(v) requires that no development exceeds the provision of more than 9 no residential units in any structure. There are only 2 no units being provided. The provisions of Article 10(6)(d)(v) does not therefore apply.
- 8.4.3. Storage Area – Article 10 (6)(d)(vi) requires that floor areas and storage space complies with the minimum requirements as set out in the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities. The amended plans and particular submitted with the referral comply with these Guidelines in terms of overall floor area, room widths and bedroom floor area. In terms of storage the revised plans provide 1.8sqm internally with the 2sqm externally for each unit. This is in excess of the 3sqm required by the Guidelines. The provisions of Article 10(6)(d)(vi) does not therefore apply.
- 8.4.4. Natural Lighting - Article 10 (6)(d)(vii) requires that rooms for use, or intended for use, as habitable rooms shall have adequate natural lighting. The units are dual aspect. Adequate natural light is available. The provisions of Article 10(6)(d)(vii) does not therefore apply.
- 8.4.5. Protected Structure - Article 10 (6)(d)(viii) requires that no development shall consist of or comprise the carrying out of works to a protected structure. Not applicable in this case as the building is not listed on the Record of Protected Structure. The provisions of Article 10(6)(d)(viii) does not therefore apply.
- 8.4.6. Condition - Article 10 (6)(d)(ix) requires that no development shall contravene a condition attached to a permission. I refer to the Case Planners report where it is states that the development will not contravene a condition. The provisions of Article 10(6)(d)(ix) does not therefore apply.
- 8.4.7. Restricted Areas - Article 10 (6)(d)(x) requires that no development shall relate to any structure in a special amenity area, area of special planning control or within the relevant perimeter distance area to which the Major Accident Regulations apply. Not applicable in this case. The provisions of Article 10(6)(d)(x) does not therefore apply.

- 8.4.8. Restrictions - Article 10 (6)(d)(xi) requires that No development shall relate to matters in respect of which any of the restrictions set out in subparagraph (iv), (vii), (viiA), (viiB), (viiC), (viii) or (ix) of article 9(1)(a), or paragraph (c) or (d) of article (9)(1), would apply. The proposed change of use would not alter the front boundary, would not interfere with landscape / listed view or prospects and will not impact on a recorded monument. The site is not within or located adjoining any NHA and therefore will have no impact. Having regard to the nature and scale of the proposed development and its distance 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. The provisions of Article 10(6)(d)(xi) does not therefore apply.
- 8.4.9. Wastewater Disposal - Article 10 (6)(d)(xii) requires that no development shall consist of or comprise the carrying out of works for the provision of an onsite wastewater treatment and disposal system. Not applicable in this case. The provisions of Article 10(6)(d)(xii) does not therefore apply.

9.0 Recommendation

- 9.1. Arising from my assessment above I consider that the development works in question constitutes development that is exempted development having regard to Article 10 (6)(d)(iv) and (vii) of the Planning and Development regulations, 2001, as amended.
- 9.2. I recommend that the Board should decide this referral in accordance with the following draft order.

WHEREAS a question has arisen as to whether the conversion of an existing retail unit to 2 no. one bedroom apartments is or is not development or is or is not exempted development:

AND WHEREAS Conor McCarthy requested a declaration on this question from Wicklow County Council and the Council issued a declaration on the 29th day of May, 2019 stating that the matter was development and was not

exempted development:

AND WHEREAS referred this declaration for review to An Bord Pleanála on the 25th day of June, 2019:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) Section 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 5, 6, 9 and 10 of the Planning and Development Regulations, 2001, as amended,
- (c) Planning and Development (Amendment) (No 2) Regulations 2018 (S.I. No. 30 of 2018)
- (d) Sustainable Urban housing: Design Standards for New Apartments – Guidelines for Planning Authorities (March 2018)
- (e) Arklow & Environs Local Area Plan 2018 - 2024
- (f) the report of the Inspector

AND WHEREAS An Bord Pleanála has concluded that the conversion of an existing retail unit to 2 no. one bedroom apartments is development and is not exempted development as it would:

- (a) The external and internal works to facilitate the residential use of the ground floor unit would constitute “works” that are “development” under Section 3 of the Planning and Development Act 2000 (as amended).
- (b) The external and internal works and alterations come within the scope of Article 10 (6)(d)(ii) and (iii) of the Regulations and are consistent with the fenestration details and architectural and streetscape character of the remainder of the structure and are not considered to materially affect the external appearance of the

structure.

- (c) Having regard to Article 10 (6)(d)(iv) of the Regulations, the use of the ground floor unit for residential use accords with the TC Town Centre land use zoning objectives for the site as set out in the Arklow & Environs Local Area Plan 2018 – 2024
- (d) Having regard to Article 10 (6)(d)(vi) and (vii) the amended plans and particulars submitted with the referral comply with the requirements of the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities in terms of provision of storage for each unit and the rooms for use, or intended for use, as habitable rooms have adequate natural lighting

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the 2000 Act, hereby decides:

- (a) The internal alterations at No 2 South Quay, Arklow, Co Wicklow are development and are exempted development.
- (b) The use of the of the existing retail unit as 2 no. one bedroom apartments is development and is exempted development.

Mary Crowley

Senior Planning Inspector

19th February 2020