



An  
Bord  
Pleanála

## Inspector's Report ABP-305264-19

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|-------------------------------------|---|
| <b>Development</b>                  | Change of use from retail unit to apartment and change of use from office meeting room and basement to apartment with rear utility areas for both apartments. |
| <b>Location</b>                     | 13 & 14 Lower Mall, Wicklow Town.   |
| <b>Planning Authority</b>           | Wicklow County Council  |
| <b>Planning Authority Reg. Ref.</b> | 19566   |
| <b>Applicant(s)</b>                 | Frederick Rooney  |
| <b>Type of Application</b>          | Permission  |
| <b>Planning Authority Decision</b>  | Refuse Permission   |
| <b>Type of Appeal</b>               | First Party   |
| <b>Appellant(s)</b>                 | Frederick Rooney  |
| <b>Date of Site Inspection</b>      | 12 <sup>th</sup> November 2019  |
| <b>Inspector</b>                    | Paul O'Brien  |

## 1.0 Site Location and Description

- 1.1. The subject site contains nos. 13 and 14, The Lower Mall, Wicklow Town. These are two-storey units forming part of a terrace of buildings on the northern side of the street in the centre of Wicklow Town; the rear of the units are three storey in height. The rear yards of these units extend northwards to back onto Salthouse Lane; this lane connects the Lower Mall with the South Quay and harbour area. There is a sharp fall in the ground levels to the north/ rear of the site. The Mall forms part of the Main Street in Wicklow Town and the main characteristic of it, is that the road splits in two with an upper and lower level separated by a difference in height with the road supported by wall with railings over. The Lower Mall allows for access to the harbour area via Salthouse Lane.
- 1.2. Number 14 has a shopfront and appeared to be vacant on the day of the site visit. From the outside, number 13 looks a residential unit with single window at ground floor level to the front. There are three front doors serving these units with a total of five windows to the front at first floor level. The upper level of these units does not form part of this development and from the submitted plans there are apartments at first floor level with direct access from the middle of the ground floor front doors. It was noted on the day of the site visit that numbers 13 and 14 were painted in the same colour scheme to the front and appeared to be in good external condition.
- 1.3. To the west of number 13 is a similar unit, number 12 forming the end of the terrace. To the east of number 14 is a large contemporary unit which was formerly a bank and is now under renovation for use as a public library.
- 1.4. Car parking is not available to the front or rear of the site. The front of the site on the Lower Mall is narrow and double yellow lines are marked on the street and the laneway to the rear. Public parking is available within walking distance of the site.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the following:
  - Change of use from office/ meeting room and basement to a two-bedroom apartment at number 13.

- Change of use from retail unit to one-bedroom apartment at number 14. The revisions to number 14 include a new front elevation.
- Both units to be provided with rear utility areas on the northern side.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority's decision to refuse permission is subject to one reason as follows:

*The proposal to change the use of a ground floor retail/ office premises on a principal street within the designated retail core of Wicklow town to residential use would materially contravene objective RT14 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, as set out in that Plan and in the Wicklow-Rathnew Development Plan 2013 – 2019.*

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

The Planning Report was positive towards the development and the Planning Authority Case Officer recommended that permission be granted subject to standard conditions. The use of these units for residential use was not considered to '...be detrimental to the viability of the town centre or its retail function given the limited scale and location of the development'. A Supplementary Report dated 12<sup>th</sup> July 2019, prepared by the Senior Executive Planner superseded this decision and permission was recommended for refusal. This recommendation was agreed and accepted by the Senior Engineer and Director of Services.

##### 3.2.2. Other Technical Reports

**Planning, Development and Environment:** No objection subject to conditions.

### 3.2.3. Prescribed Bodies Reports

**Irish Water:** No objection subject to conditions.

## 4.0 Planning History

### 4.1. Subject site:

**P.A. Ref. 18/1110** refers to a November 2018 decision to refuse permission for the change of use from retail to two-bedroom apartment, with revised front elevation at no. 14 the Lower Mall and for the change of use from office/ meeting room at no. 13 The Lower Mall, with rear extension. Also for new entrance to the rear and hard surface car parking area with access from Salthouse Lane. Two reasons for refusal were issued and in summary referred to; poor quality of residential amenity that would not demonstrate compliance with the Sustainable Urban Housing Design Standards for New Apartments, 2018 and secondly; the change of use from commercial to residential use would contravene the zoning for the area and would set an undesirable precedent for similar development in the area.

**P.A. Ref. 93/1835** refers to a decision to grant permission for alterations to nos. 13 and 14 The Lower Mall to include shop, meeting room and two apartments. A subsequent application under **P.A. Ref. 94/938** increased the number of apartments from two to three.

### 4.2. Other relevant sites:

**P.A. Ref. 17/319** and **ABP Ref. PL27.248673** refers to a September 2017 decision to refuse permission for the change of use from 2 retail units to 1 apartment, new stairwell to apartment, alterations to elevations and ancillary site works at 57 Market Square, Main Street, Wicklow. A single reason for refusal was issued as follows:  
*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, as set out in that Plan and in the Wicklow-Rathnew Development Plan 2013-2019.*

## 5.0 Policy and Context

Wicklow Town is a Level 2 settlement – Large Growth Town 1 in the Wicklow Development Plan Hierarchy.

### 5.1. Development Plan

Under the **Wicklow-Rathnew Development Plan 2013 – 2019**, the site is zoned TC – ‘Town Centre’ and is located within the Core Retail Area. The TC zoning in the Typically Permitted category includes Residential as well as Shop – Local, Shop Other and Office-Based Employment.

The site is also located within a ‘Zone of Archaeology’ and the Wicklow Town ‘Architectural Conservation Area (ACA)’.

*Section 2.2.5 Retail* of the ‘Core Strategy’ refers to the requirements of a retail strategy.

*Section 3.6.4 Suitability of the proposed use at the location* states the following:

*‘The uses allowable in any zone are set out in the zoning chapter of this plan (chapter 13). However, while a particular use may be allowable, it does not imply that it is desirable or acceptable at all locations:*

*In particular, in core town / village centre areas, active uses will normally be required at ground floor level i.e. retail, commercial, community or leisure uses. All non-residential floors will be required to be designed to be suitable to a range of users...’*

*Section 4.2.9 Retail Role of the Core* describes the retail importance of the Main Street and to control the ‘Conversion of non-retail premises in the core area to retail use’. Objectives RC 1 and 2 are noted, however RC 3 is very relevant:

*‘To promote and facilitate the conversion of non-retail premises to retail/retail service use and to strongly resist the conversion of existing retail/retail service premises to alternative, less active uses that would diminish vibrancy and daytime activity in the area’.*

The **Wicklow County Development 2016 – 2022** sets out the importance of the settlements and urban areas of the County in *Chapter 6 – Centres and Retailing*. A number of Objectives are provided and the following in particular are noted in summary. RT1 seeks to continue to ensure the vibrancy and vitality of town centres; RT10 seeks to protect and promote the vitality and vibrancy of town centres and RT11 promotes the ‘core retail area’ for retail development.

RT13 seeks to: *‘To promote the revitalisation of vacant / derelict properties / shop units. Where no viable retail use can be sustained, alternative uses will be assessed on their own merits against the requirements of the proper planning and sustainable development of the areas within which they are located.*

*This objective will be used 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’.*

RT14 seeks to *‘To control the provision of non-retail uses at ground floor level in the principal shopping streets of centres, in order to protect the retail viability of centres and to maintain the visual character of streets. This objective aims to prevent the proliferation of ‘dead frontages’ on key streets. In particular, active use of corner sites, particularly within larger centres, is considered pivotal in creating a sense of vibrancy’.*

## 5.2. National Guidance

‘Project Ireland 2040 - National Planning Framework’ includes Chapter, No. 6, entitled ‘People Homes and Communities’ and which includes 12 objectives, the following are considered relevant to this proposed development:

- National Policy Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- National Policy Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

- *Quality Housing for Sustainable Communities* (DoEHLG, 2007).
- *Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities* (DoHPLG, 2018).

### 5.3. Natural Heritage Designations

None.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The applicant has engaged the services of Alphaplan Design to prepare this appeal against the decision of Wicklow County Council to refuse permission for this development. The issues raised include

- The building was originally in residential use, the ground floor was used for offices in the 1960s and 1970s. From the 1970s to early 2000s the Saint Vincent de Paul Society used the ground floor as a charity shop and as a meeting room. The upper floor residential units were used as subsidised apartments. The applicant subsequently took over ownership of the building and the apartments were modernised. The applicant has been unable to find tenants for the ground floor units.
- The lack of suitable delivery/ loading parking, narrowness of the road/ footpath to the front and the volume of traffic have been cited as issues preventing the use of these units.
- There are other vacant units in the area and a map of these has been provided.
- The applicant proposes a large window to overcome concerns regarding dead frontage.
- Retail has been lost to areas outside of the county and to retail centres outside of the traditional core retail area.
- Reference to a similar development at 22 Lower Main Street, Arklow has been provided.

- Car parking is not to be provided as the area is central to facilities and public transport.

## 7.0 **Assessment**

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Principle of Development
- Impact on Wicklow Town Retail Core
- Design and impact on the Character of the Area
- Residential Amenity
- Appropriate Assessment Screening

### 7.2. **Principle of Development**

7.2.1. The TC zoning that applies to this site allows for a wide range of uses including residential and therefore the change of use from retail/ commercial to residential use would be in accordance with the town centre zoning that applies to this site. The key issue therefore is how would the proposed development impact on Wicklow Town Centre.

### 7.3. **Impact on Wicklow Town Retail Core**

7.3.1. Objective RT14 of the Wicklow County Development Plan seeks to control non-retail uses in the town centres at ground floor level so as to ensure that the vitality and vibrancy of the town centre is maintained. However, Objective RT13 seeks to revitalise vacant properties including the change of use from retail to other uses.

7.3.2. The continued use of the ground floor units for retail/ active commercial use is desirable and would ensure a sense of vibrancy/ vitality in Wicklow Town Centre and Objective RT14 is considered to be appropriate. However, on the day of the site visit I noted a number of relevant issues. Firstly, the location of units 13 and 14 is problematic. The site is located on the Lower Mall, on a narrow stretch of road and where the footpath is also narrow to the front of these units. Whilst not heavy on the



day of the site visit, traffic passed on a regular basis and combined with the narrow footpath, it did not feel pedestrian friendly. There was also disruption associated with the renovation of the former bank for use as a public library. I do not foresee any improvement for pedestrians in this area unless traffic was removed from Wicklow Town Centre, which is very unlikely. Secondly, the external appearance of these units does not suggest a retail/ commercial use. The elevation onto the Lower Mall was well maintained but combined with number 12, the appearance is of a terrace of residential units. From looking at Google Street View from October 2014, it can be seen how the unit looks when in retail use. The existing floor to ceiling heights at ground floor level may not be suitable for modern retail needs. Finally, I did note that there are a number of vacant units in the immediate area that would have a better shopfront presence.

7.3.3. I note the decision to refuse permission for a similar development under ABP Ref. PL27.248673 to the east of the subject site. I would concur with this decision as the use of the ground floor for retail, ensures active frontage on a suitable part of the street. The subject units do not at present provide for such active frontage and this would only change if the front elevation was demolished and rebuilt. I therefore consider that Objective RT13 is relevant to this site. For the reasons outlined, I consider that the applicant may have a difficulty in getting occupants for the retail unit in no. 14. It may be possible to get occupants for the commercial unit in no. 13 but the external appearance of this unit is such that it does nothing to create an active frontage. The conversion of the retail use of no. 14 to residential use, will not negatively impact on the retail core of Wicklow Town. The use of these units for residential use combined with the existing use of the upper floors will create their own sense of activity on this section of the Lower Mall that will not be to the detriment of the vibrancy/ vitality of the town centre. The introduction of residential uses to the ground floor of these units may benefit the rear of the site onto Salthouse Lane which is currently lacking any sense of vibrancy/ vitality during the daytime.

7.3.4. I have noted the history of the site and surrounding sites and again I consider it appropriate that the retail function of the town core be retained and improved. The subject site has unique difficulties, primarily due to the location on the Lower Mall at a narrow point in this street. The acceptability of the replacement of the retail/

commercial use with residential use should not set a precedent for any other such applications in the area.

#### **7.4. Design and Impact on the Character of the Area**

- 7.4.1. No external alterations to no. 13 are proposed and those to no. 14 include the removal of the shop front/ signage and the provision of a new window on the front/ southern elevation. The window will be of a similar dimension to the existing except the cill height will be between 0.8 m and 1 m above ground level (the ground slopes upwards here from west to east). Whilst the large window may be unusual it will retain the sense of retail use/ activity as well as maximising the amount of light into the living room of this unit.

#### **7.5. Residential Amenity**

- 7.5.1. Room sizes and storage provision are considered to be acceptable and appropriate for these apartment units. What is described as 'open rear utility' space is provided to the rear of these units and which will function as private amenity space. The two-bedroom unit to have 20 sq m and the one-bedroom unit will be provided with 15 sq m. This exceeds the minimum standards set out in the *Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities*.
- 7.5.2. No car parking is proposed to be provided; however, I consider this to be acceptable having regard to the town centre location and proximity to established services/ facilities.

#### **7.6. Appropriate Assessment Screening**

- 7.6.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

## 8.0 Recommendation

8.1. I recommend that permission be granted subject to the following conditions and reasons.

## 9.0 Reasons and Considerations

9.1. Having regard to the nature, extent and design of the proposed development and the provisions of the Wicklow County Development Plan 2016 -2022 and the Wicklow-Rathnew Development Plan 2013 – 2019, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the Wicklow Town Retail Core, or the residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

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| 1. | <p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 24<sup>th</sup> of May 2019, 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><b>Reason:</b> In the interest of clarity.</p> |
| 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><b>Reason:</b> In the interest of public health.</p>   |

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| 3. | <p>The applicant or developer shall enter into water and/ or waste water connection agreement(s) with Irish Water, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</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 the hours of 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.</p> <p><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>   |
| 5. | <p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p><b>Reason:</b> To protect the amenities of the area.</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 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as</p> |

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|  | 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. |
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Paul O'Brien  
Planning Inspector

21<sup>st</sup> November 2019