



An
Bord
Pleanála

Inspector's Report

ABP-311467-21

Development	Construction of four storey commercial and mixed-use development.
Location	Gorey Corporation Lands, Esmonde Street and Arklow Road, Gorey, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20211068
Applicant(s)	Tom and Pat Redmond.
Type of Application	Permission.
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Tom and Pat Redmond.
Observer(s)	Fiach McDonagh and Diarmuid and Paula Bolger The Hobbs Family Martha Roche North Wexford Historical Society

Date of Site Inspection

23rd of November 2022.

Inspector

Stephanie Farrington

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.1473ha, is located close to the roundabout junction of Arklow Road, Esmonde Street and St. Michael's Road, Gorey. The site has frontage to Arklow Road to the northwest and Esmonde Street to the south. It is currently occupied by 2 no. 2 storey houses which front onto Arklow Road to the north-west and Esmonde Street (no. 41) to the south.
- 1.2. No. 41 Esmonde Street is a semi-detached dwelling which forms part of a pair of semi-detached dwellings with no. 40 to the east and is adjoined by an existing private laneway to the west. The portion of the site to the rear of no. 41 is currently overgrown. Along Arklow Road the site is adjoined by an existing single storey dwelling to the north. The central portion of the site adjoins the access lane and properties which front onto Esmonde Street to the south. Access to the site is currently provided via the Arklow Road.

2.0 Proposed Development

Initial Proposal

- 2.1. The development, as initially proposed, comprised of the demolition of existing dwellings on site at Arklow Road and no. 41 Esmonde Street and the construction of a part 3-storey, part 4-storey commercial and mixed-use development comprising the following:
 - The demolition of 2 no. existing habitable houses at Arklow Road and Esmonde Street.
 - The construction of a 4 storey structure (to Arklow Road) and a 3 storey structure (to Esmonde Street).
 - Mixed retail, café and restaurant spaces to ground and first floor.
 - Apartment and office space to second and third floor.
 - Improvement and upgrade works to the existing laneway to Esmonde Street with outdoor dining spaces to ground floor.
 - Improvement works to public footpath and roadway to Arklow Road.

- Connection to public services.
- Ancillary works and boundary treatments.

2.2. Table 1 provides a summary of the mix of uses within the initial proposal.

Table 1: Initial Proposal, Key Figures	
Residential Units	<p>6 no. apartment units:</p> <p>Apartment 1: 81 sq.m., 1 bed 34 sq.m. private open space</p> <p>Apartment 2: 84 sq.m., 2 bed, 25 sq.m. private open space</p> <p>Apartment 3: 82sq.m., 2 bed, 7 sq.m. private open space</p> <p>Apartment 4: 108 sq.m., 2 bed, 16 sq.m. private open space</p> <p>Apartment 5: 52sq.m., 1 bed, 9 sq.m. private open space,</p> <p>Apartment 6: 64 sq.m., 1 bed, 35 sq.m. private open space</p>
Retail Floorspace	<p>Retail Unit 1: 336 sq.m.</p> <p>Retail Unit 2: 348 sq.m.</p> <p>Retail Unit 3: 219 sq.m.</p> <p>Retail Unit 4: 239 sq.m.</p>
Commercial Floorspace	Office – 2 nd floor – 73 sq.m.

Appeal Alternative Proposals

Revised plans were submitted in support of the appeal to address the planning authority's reason for refusal. The following amendments were made:

- The application site boundary was reduced to exclude the existing laneway adjoining no. 41 Esmonde Street.

- Revisions are made to the application site boundary along Arklow Road.
- 4 no. apartments (nos. 1, 2, 5 and 6) are omitted. Additional office floorspace is proposed in place of the previously proposed apartments.

Table 2 below provides a summary of the mix of uses within the initial proposal.

Table 2: Alternative Appeal Proposal, Key Figures	
Residential Units	2 no. apartments: Apartment 1: 82 sq.m., 2 bed, 7 sq.m. private open space Apartment 2: 108 sq.m., 2 bed, 16 sq.m. private open space
Retail Floorspace	Retail Unit 1: 336 sq.m. Retail Unit 2: 348 sq.m. Retail Unit 3: 219 sq.m. Retail Unit 4: 239 sq.m.
Commercial Floorspace	Office Unit 1: 81 sq.m. Office Unit 2: 85 sq.m. Office Unit 3: 73 sq.m. Office Unit 4: 52 sq.m. Office Unit 5: 65 sq.m.

3.0 Planning Authority Decision

3.1. Decision

Wexford County Council issued a notification of decision to refuse permission for the development in accordance with the following reasons and considerations:

1. The proposed development by virtue of its location, size, scale and massing would have a negative impact on the character of the area and adjoining

residential dwellings. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development, would by virtue of its design, height and position results in significant overshadowing, loss of light and loss of privacy to the adjoining residential uses. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Advice Note: The applicant has failed to demonstrate sufficient legal interest over the entire proposed site boundary and specifically the linked laneway from Esmonde Street to Arklow Road.

3.2. Planning Authority Reports

Planners Report

- 3.2.1. The report recommends a refusal of permission. The following provides a summary of the main points raised:

- The site is zoned for town centre purposes within the Gorey Local Area Plan. The proposed uses are acceptable in principle.
- All apartments are in excess of the minimum standards outlined in the Section 28 guidance Design Standards for New Apartments- Guidelines for Planning Authorities.
- All apartments are of an adequate size, configuration and offer adequate residential amenity to future occupants including the provision of private open space. The predominately single aspect nature of 6 no. apartments to upper floors is not desirable for cross ventilation and natural light.
- The majority of buildings/sites adjoining are immediately due south and east of the site and the development would not result in significant overshadowing throughout the year. The report outlines that significant shadow would be cast on properties to the northeast and east of the development.
- The report refers to information deficiencies within the application in terms of assessment of loss of daylight and visual impact on existing residential properties at Esmonde Street.

- The overbearing scale of the proposal in the context with the adjoining dwelling to the northeast on the Arklow Road is also of a significant concern for visual and overshadowing reasons.
- The height on Esmonde Street is considered to be at odds with existing adjoining development in the area.
- Overlooking from the development appears to be relatively negligible.
- Impacts of noise and disturbance would not be excessive given the town centre location.
- The principle of retail and commercial floorspace is acceptable within the town centre. A retail impact assessment is not required given the town centre location of the site and scale of development.
- The application documentation does not demonstrate sufficient legal interest over the linked laneway from Esmonde Street to Arklow Road.
- The planners report outlines that insufficient information has been submitted in terms of how the proposal would affect traffic flows and access to private properties. The provision of on street parking on Arklow Road may be considered premature.
- Car parking is not required having regard to the town centre location of the site. A levy can be imposed in relation to the shortfall in car parking.
- Sufficient legal interest over the linked laneway from Esmonde Street to Arklow Road has not been demonstrated as part of the submission.
- Waste storage details are not indicated within the drawings.
- The report recommends a refusal of permission on grounds of impact on residential amenity, impact on visual amenity and insufficient evidence of legal interest over the laneway.

Memo from Director of Services (25/08/2021)

- 3.2.2. The memo seeks clarification as to why a decision to refuse permission is recommended rather than a request for further information. It is suggested that the issues raised could be addressed by means of a FI request.

Senior Planner's Report (26/08/2021)

3.2.3. The Senior Planner's Report recommends a refusal of permission in accordance with the reasons cited within the notification of decision to refuse permission for the development. The following provides a summary of the key points raised.

- The report refers to the comments from the Director of Services. The development would have a significantly adverse impact on surrounding buildings due to its scale, height and massing.
- It is not considered that the elevations to Esmonde Street would have a significant impact as there are a variety of architectural styles and heights on this street and it would not have a negative impact on adjoining properties. The report raises concern in relation to the main bulk of the building as the site envelops the rear of a number of properties on Esmonde Street and has an overbearing impact on the single storey dwelling to the north of the site.
- The provision of shadow studies would not resolve the issues. It is not considered that the proposal can be amended sufficiently by means of a further information request and revised plans. A full redesign is required which omits third and fourth floors along the northern boundary.
- The report outlines that the designer has sought to avoid overlooking with a number of design solutions but has to provide private amenity space for the apartments. The provision of balconies and the position of some of the southern facing windows would result in significant loss of privacy.
- The report recommends amendments to the reasons for refusal recommended within the planners report.

Other Technical Reports

- Disability Access Officer: DAC Certificate is required.
- Fire Officer: A Fire Safety Certificate is required in respect of the development.

3.3. **Prescribed Bodies**

Irish Water:

- The correspondence on file from Irish Water confirms that the water and wastewater connection is feasible with no requirement for an upgrade by Irish Water.

3.4. Third Party Observations

7 no. observations were submitted in respect of the proposal. The following provides a summary of the points raised:

- Land Registry Issues: The applicant has not demonstrated sufficient legal interest over the laneway adjoining no. 41 Esmonde Street. The laneway provides access to no. 42 and 43 Esmonde Street. It is considered that these properties have a right of way.
- Stone Arch: The stone arch over the laneway which is proposed for removal is historic and should warrant preservation.
- Design: The proposed development is incongruous in scale, massing, and detailed design and would have a detrimental impact on the visual amenity of the area.
- Height: There is an excessive height difference between the proposed development and the surrounding streetscape in particular on Esmonde Street. The proposed 3-4 storey building will adversely affect the streetscape.
- Information Deficiencies: The contiguous elevations lack detail. Insufficient information has been provided in relation to daylight, sunlight and shadow analysis. A visual impact assessment should have been submitted in support of the application. Insufficient information is provided in relation to rainwater harvesting.
- Impact on Residential Amenity: Overlooking, overbearing, overshadowing of properties to the rear of Esmonde Street.
- Mix of Uses: The provision of retail and commercial floorspace in a primarily residential area is inappropriate.
- Traffic Impact: The construction and operation of the development will negatively impact on traffic flows on Arklow Road and Esmonde Street. The

development is premature pending full consideration of the future street and footpath layout of Arklow Road. The proposed parking area may become a taxi rank, could raise health and safety concerns and impact on private accesses along Arklow Road.

4.0 Planning History

None.

5.0 Policy Context

5.1. Development Plan

Gorey Local Area Plan 2017-2023

Zoning Objective

- 5.1.1. The appeal site is subject to 2 separate zoning objectives within the Gorey Town and Environs Local Area Plan. The portion of the site which fronts onto Esmonde Street is zoned for “Retail Core” purposes with an objective: *“To provide for retail uses and to protect and strengthen the vitality and viability of the area”*.
- 5.1.2. The development plan outlines that the area defined as “retail core” has the same meaning as town centre or retail area in the Retail Planning Guidelines. The LAP outlines that the retail core is the preferred location for retail development. Retail (convenience) and retail (comparison) are listed as uses which are “permitted in principle” under this zoning objective and residential and office uses are listed as uses which are “open for consideration”. Footnote 4 applies to open for consideration uses as follows: It is particularly important to consult with Section 8 Retail with regard to the uses that are “open for consideration” and what it means in this case.
- 5.1.3. The portion of the site which fronts onto Arklow Road is zoned for “Central Business Area” purposes with an objective: *“To provide a mix of uses, primarily business, services, residential, civic and recreational”*.
- 5.1.4. The LAP outlines that the objective for this area is the enhance the vitality and viability of this area through the development of under-utilised land and brownfield sites and by encouraging a mix of uses which make a town centre an attractive place

to visit, shop and live in. The character of the area shall be protected and enhanced. It is an objective to encourage the full use of buildings and backlands.

- 5.1.5. Office and residential are listed as permitted uses on lands zoned for CBA purposes. Retail (convenience) and retail (comparison) uses are listed as uses which are “open for consideration” on lands zoned for Central Business Area purposes. Footnote 4 applies to open for consideration uses as follows: *“It is particularly important to consult with Section 8 Retail with regard to the uses that are “open for consideration” and what it means in this case”.*

Urban Design Strategy

- 5.1.6. Chapter 3 of the LAP sets out the urban design strategy for Gorey and refers to the historical development of the town. Section 3.2.5 relates to the urban grain within the town centre and outlines that Esmonde Street features some very small plots of less than 4m frontage which reflects the modest scale of domestic architecture on the 19th century secondary street. The LAP outlines that the fine urban grain of the town has provided very significant benefits in terms of variety of streetscape, diversity of building types and uses and is essential for the long-term viability of the town centre.
- 5.1.7. Section 3.2.7 of the LAP relates to Scale and Building Height in the town centre and outlines that building heights generally range from 2 to 4 storeys. Section 3.6 sets out Urban Design Guidelines. The following guidelines are of relevance:

- *Scale: In the town centre building scale should reflect an established range of building heights...Opportunities for increased building height will be considered where they make a clear contribution to the legibility and character of the town.*
- *Diversity: New development should contribute to an expansion of the range of uses and activities in the town.*

Town Centre Development and Regeneration:

- 5.1.8. Chapter 7 of the LAP outlines the important role and functions of the Gorey town centre. Objective TC05 seeks: *“To provide for the development of a mix of uses within the town centre, including residential, retail, services, commercial, complementary leisure, entertainment, cultural and community facilities”.*

Retail

5.1.9. Chapter 8 of the LAP relates to Retail in Gorey. The retail core, as identified in Map 6 of the LAP, is identified as the preferred location for future retail development. The portion of the appeal site which fronts onto Esmonde Street is location within the retail core and Esmonde Street is classified as a “Secondary Retail Street”. The following objectives are of relevance:

- Objective RS01: *To promote and protect the vitality and viability of the retail core, identified on Map 6, and to ensure that it remains the primary location for retail development.*
- Objective RS03: *To retain the retail function of ground floors on the Primary Retail Streets identified in Map 6. The Planning Authority will prohibit development which would individually or cumulatively undermine the primary use of the street for retail purposes (with the exception of temporary uses to address vacancy).*

5.1.10. Section 8.7.1 sets out guidance for shopfronts. This outlines that new shopfronts on infill sites should in general reflect traditional plot width dimensions and floor to ceiling heights/fascia heights of adjoining buildings.

Heritage

5.1.11. Chapter 9 of the LAP relates to heritage. Objective AH03 seeks: *“To retain and reinforce the existing street layouts, historic building lines and traditional plot widths which derive from the town’s historical development (except in circumstances where there is a reason of justifiable public interest)”*.

5.1.12. Map 8 of the LAP identifies a Proposed Architectural Conservation Area (ACA) for Gorey. The proposed ACA extends to include the existing Coach House pub at the junction of Arklow Road and Main Street. The site is not located within the proposed ACA.

5.1.13. The site is located within the Recorded Monuments and Zone of Archaeological Potential identified within Map 9 (A) and 9 (B) of the Local Area Plan. Objective ARH01 seeks *“To have regard to the Record of Monuments and Places (RMP) and newly identified sites identified on Map 9 (a) and 9 (b) when dealing with planning applications for development or threats to recorded items”*.

Wexford County Development Plan 2022-2028

- 5.1.14. The following development management objectives as set out within the County Development Plan are of relevance to the proposal.

Building Heights

- 5.1.15. Section 2.4 of the Development Management Manual relates to Building Heights. This outlines that there is a presumption in favour of buildings of increased height in town/city cores and in other urban locations with good public transport accessibility.

Amenity: Daylight, Sunlight and Overshadowing:

- 5.1.16. The Plan outlines that siting, layout and design should ensure that the development would not give rise to undue overshadowing of properties in the vicinity, in particular, residential properties such as private residences, nursing/retirement/residential care homes, schools and childcare facilities. *“Daylight and sunlight levels, as a minimum, should be in accordance with Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (Bre 2011) and British Standard (BS 8206) Lighting for Buildings, Part 2 Code for Practice for Daylighting or any update on these documents”.*

Overlooking:

- 5.1.17. The siting, layout and design should also ensure that the development does not give rise to undue overlooking of properties in the vicinity, in particular, residential properties such as private residences, nursing/retirement/residential care homes, schools and childcare facilities. In general, a minimum distance of 22m between opposing above ground floor windows will be required for habitable rooms. In cases where an innovative design solution is proposed, this standard may be relaxed.

Apartment Standards:

- 5.1.18. Section 3.12.3 relates to Apartment Standards and Design. This outlines that *“all apartments, including the new concept ‘Built to Rent’ and ‘Shared Living’ residential accommodation, must comply with the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, DECLG (2020), in particular, the Specific Planning Policy Requirements (SPPR) set out therein”.*

Office Developments:

5.1.19. Section 5.3 of the Plan relates to Office Developments and outlines that the PA will encourage office development to take place in town centres and all new office floorspace over 200sq.m. shall be fully accessible.

Car Parking Design and Layout:

5.1.20. Section 6.3.4 relates to dimensions of parking spaces and loading bays. The recommended dimensions for loading bays for vans are 6.0m x 2.8m.

5.2. Section 28 Ministerial Guidelines

- Sustainable Urban Housing: Design Standards for New Apartments – December 2022.
- Urban Development and Building Heights-Guidelines for Planning Authorities (DHPLG, 2018).

5.3. Natural Heritage Designations

The following designated sites are located within 15km of the appeal site.

- Slaney River Valley SAC - 3.4km
- Kilpatrick Sandhills pNHA – 10.7km
- Kilpatrick Sandhills SAC – 10.7km
- Kilgorman River Marsh pNHA – 8.5km
- Ballymoney Strand – 6km
- Courtown Dunes And Glen pNHA – 5.2km
- Ardamine Wood pNHA – 7.2km
- Donaghmore Sandhills pNHA – 10.4km
- Cahore Marshes SPA – 14.7km
- Cahore Polders And Dunes p NHA – 14.7km
- Cahore Polders and Dunes SAC- 14.7km

5.4. EIA Screening

Having regard to the nature and scale of the proposed development it is considered that 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

6.1.1. A first party appeal has been submitted in respect of Wexford County Council's notification of decision to refuse permission for the development. The following provides a summary of the points raised:

- The appeal outlines that while it is open to the Board to grant permission for the original proposal or a modified version thereof following from the decision of Wexford County Council to refuse permission for the development a number of amendments have been made to the proposed development, all while maintaining the proposed height and footprint of the building which are submitted to the Board for consideration.
- The key revisions are summarised in the appeal as follows:
 - The number of apartments have been reduced from 7 to 2;
 - The adjoining laneway is omitted from the development; access to the development will be provided via the public footpaths on Esmonde Street and Arklow Road;
 - Revised plans, elevations and 3D images have been prepared showing timber louvres screening to the south and east facing curtain walling to negate any concerns regarding overlooking of adjoining properties to the west;
 - The proposed car parking spaces along Arklow Road to the north of the site will be relocated to the south of the original proposed location and concerns about impact to a private residential access to the north will be addressed.
- The proposed revisions are considered to address the planning authority's reasons for refusal.

- In terms of the first reason for refusal, the appeal addresses the location and character of the area. The appeal outlines that the replacement of an existing 2 storey dwelling on site with 2 storey properties would be pointless exercise. Existing heights should not impose a barrier to the redevelopment potential of a site. The principle of additional height has been accepted in the immediate vicinity of the site. Permission was granted for a four-storey development at the opposite side of Arklow Road under PA Ref: 2008215.
- The owner of the existing single storey dwelling to the north of the site did not lodge an objection to the proposal.
- The development is not out of scale or character for this site, has limited massing, is a narrow building with limited street frontage and is similar in height to other buildings within the town centre.
- The second reason for refusal relates to “significant overshadowing and loss of light”. A series of Shadow Studies prepared by Molloy Architecture is submitted in support of the appeal.
- The revised plans include the provision of office floorspace in place of 5 no. previously proposed apartments to negate against overlooking on adjoining residential properties. A glazed privacy screen is proposed to the south-west elevation at 2nd and 3rd floor level to negate against overlooking of existing properties to the south.
- It is proposed to relocate the proposed 3 no. car parking spaces southwards along Arklow Road to alleviate the concerns of observers on the application.
- The laneway from Esmonde Street is omitted from the appeal site boundary.
- A Construction and Waste Management Plan could be submitted by means of a condition.
- The alternative proposal set out in the appeal reduces the number of residential units from 7 to 2 and would provide new office accommodation that would increase the footfall in Gorey town centre.

- It is requested that the Board overturn the decision of the planning authority and grant permission for the development in its original format or as amended by the revised proposals submitted in conjunction with the appeal response.

6.2. Planning Authority Response

- None received.

6.3. Observations

4 no. observations were lodged in respect of the first part appeal from the following:

- Ian Doyle Planning Consultant on behalf of Fiach McDonagh and Diarmuid and Paula Bolger (owners of no. 44 Esmond Street);
- Hobbs Family (no.40 Esmonde Street);
- BPS Planning Consultants on behalf of Martha Roche, Arklow Road;
- North Wexford Historical Society;

The following provides a summary of the key points raised within the observations on the appeal.

Ian Doyle Planning Consultant on behalf of Fiach McDonagh and Diarmuid and Paula Bolger (owners of no. 44 Esmond Street)

- Material Alterations to Original Proposal: The applicant is proposing substantive revisions to the originally proposed development. The application considered by the Council is significantly and materially different to that before the Board. The alterations are material in nature and beyond the scope as consideration as part of the appeal. The observation outlines that changes have been made to the application site boundary to remove the adjoining lane way, the number of apartments has been reduced from 7 to 2, the top 2 floors are now proposed for office use and substantial changes have been made to the appearance of the structure. Permission should be refused for the development on grounds that the development proposed is materially different to that described/advertised and considered by Wexford County Council.

- Ownership Issues: The observation raises ownership issues in respect of the existing laneway adjoining no. 41. The observation outlines that the applicant has no right of way over the laneway, the lane is not in charge by the Council and is therefore not a public lane. The lane currently provides access to the rear of no. 42 and 43 Esmonde Street. There has never been an association between the lane and no. 41 Esmonde Street in terms of access. The lane provides vehicular access to the rear of the observer's property and has been used as a parking space for in excess of 12 years. The observation includes an excerpt from the deeds of no. 43 Esmonde Street which highlights the extent of Mr. McDonagh's ownership. The applicant has not demonstrated sufficient legal interest in the lane and associated arch to carry out any development or demolition works.
- While the revised proposals submitted with the appeal omit the lane from the application boundary, the lane still forms an integral part of the future operation of the development in terms of access. The observation highlights that despite the removal of the lane from the application boundary that the development includes the demolition of the existing archway and incorporation of the lane into the scheme as public access to the retail units, security access and a storm water holding tank is proposed within the lane. Development is also proposed over the lane in the form of cantilevered windows.
- Impact on Residential Amenity: The observation raises concern in relation to overlooking and loss of privacy as a result of the development. Glass fronted internal stairways front the observer's property. The ground floor of the observer's property consists primarily of glass. The development will overlook the ground floor and private amenity space regardless of the proposed louvers. The proposed louvers are considered to be a response to poor design are unsightly and will result in poor internal light.
- The observation refers to information deficiencies within the application. In this regard it is stated that no sections or 3D viewpoints are provided and separation distances between the existing and proposed development are not illustrated.

- The proposed elevation along the rear of the objector's property is blank and dominated by a single building material from ground to the 4th floor. The development will result in a 4-storey blank gable just 15m from the rear window and patio doors of the observer's kitchen. The development is visually overbearing from the rear of existing properties on Esmonde Street and will have significantly implications in terms of light and shadow. The Daylight/Sunlight, Shadow Analysis is incomplete. The proposed development will have an overbearing impact on both of the observers' properties and will have a detrimental impact on the residential amenity of properties along Esmonde Street.
- Height/Visual Impact / Overbearing: The application drawings fail to accurately illustrate the height of the proposed development relative to the existing buildings along Esmonde Street. The street views are not contextual and lack the appropriate detail to make a proper assessment. The accuracy of the views are questionable particularly with regard to height and location of surrounding buildings. A full Visual Impact Assessment and Photomontages would be required to properly assess a development of this scale.
- The east elevation of the proposed retail unit and apartments at Esmonde Street also consist of large blank expanse of a single building material 3 storeys tall and nearly 35m in length.
- The proposal is significantly taller than existing buildings on Esmonde Street and the visual impact of the proposal has not been demonstrated. The submitted planning report refers to the continual rise in roof profile along Esmonde Street. The observation outlines that the proposal will alter this feature at a mid-street location. The development will have an overbearing visual impact on Esmonde Street and Gorey town centre and has little purpose in terms of urban design. The observation raises concern in relation to the bulk and form of the proposal relative to the proposed height. The scale form and bulk of the development is completely at odds with the established building pattern in the area.

- The observation refers to the precedent cited in the appeal to a 4-storey building being permitted within the area in 2008. The observation outlines that the permitted building was significantly smaller in footprint and bulk.
- The observation questions the value, effectiveness and viability from a maintenance perspective of a “living wall” as the main feature on the Esmonde Street elevation. The engineers report refers to rainwater harvesting to maintain the living wall but no details are submitted.
- Historic Significance of the Arch: The existing arch is an important historic feature evident in towns and villages across Co. Wexford. The arch is of traditional stone construction and may warrant preservation on the basis of architectural merit. The development includes the removal of the arch which lies outside of the application boundary.
- Response to WCC’s reason for Refusal: The appeal does not address WCC’s reasons for refusal. The appeal statement offers a justification for the proposal. No justification for the scale and massing of the proposal relative to surrounding development is provided and no additional views or visual impact assessment is provided in terms of wider street views.
- Conclusion: The proposed design is wholly unacceptable and would have a detrimental impact on the residential amenities of the area, would constitute and overbearing intervention in urban design terms and is excessive in mass and bulk. An Bord Pleanála is respectfully requested to uphold the decision of WCC and refuse permission for the development.

Hobbs Family (no. 40 Esmonde Street)

- The proposed development by reason of grossly excessive scale and massing relative to the established residential dwelling adjoining the application site at no. 40 Esmonde Street would be seriously injurious to the residential and visual amenities of the area.
- Design, Layout and Orientation: The observation raises concern in relation to the Design, Layout and Orientation of the development. Concerns are raised in relation to the significant changes to the layout of scheme as submitted to the Board. The development as amended includes demolition of 2 no.

residential dwellings on the site and their replacement with 2 no. apartments. There is therefore no net increase in residential use in Gorey town centre and the development is contrary to national policy in this regard. The applicant's have not provided a justification for the demolition of the existing 2 no. dwellings on site.

- The design of the development does not harmonise with the built character of Gorey. The scale of the development does not reflect the built character of Esmonde Street and its interface with no. 40 comprises a 3-storey blank façade.
- The rationale for the provision of a narrow 3 storey development at this location is unjustified and will have a serious negative impact on the amenities of the area. Figure 1.0 of the observation includes a building height study of Esmonde Street which illustrates that the height context along Esmonde Street is 2 storeys with 1 no. 3 storey building at the junction of Esmonde Street and Arklow Road. The observation outlines that the built character of Esmonde Street is long characterised by detached and semi-detached 2 storey buildings set out in a linear format.
- The observation outlines that the proposed development contravenes the provisions of the Gorey Town and Environs Local Area Plan 2017-2023 primarily in respect of urban design principles, character, building height, style and materials. It is furthermore stated that the development fails to adhere to the guiding principles set out within the Building Height Guidelines as the proposal does not respond to the built environment nor make a positive contribution to the urban neighbourhood and streetscape, especially at Esmonde Street. No. 41, as a single plot, is too narrow to make a positive contribution to Esmonde Street. The observation outlines that the design is monolithic and characterised by long, uninterrupted blank walls.
- Visual Impact: The design and siting of the development will negatively impinge on the visual quality of the existing well-established setting of Esmonde Street. The observation raises concern in relation to the negative jarring visual impact of the proposal when viewed from a westerly direction from the railway bridge along Esmonde Street. No views are submitted to

illustrate this impact. It is stated that the proposal would detract from the value of the streetscape and detract from its historical merit.

- Loss of Residential Amenity: The observation raises concern in respect of loss of residential amenity to a number of properties on Esmonde Street including the observer's property at no. 40. The observation cites impacts of light, overshadowing and general overbearing in this context.
- The observation states that the development will result in an oversized obtrusive mass of an irregular shaped 3 / 4 storey building adjoining existing residential development. The observation outlines that the proposed 12m height and mass wall of the proposal would eliminate the amenity of the existing private open space at no. 40. Under the zoning objective pertaining to the area there is an obligation to protect existing residential amenities not destroy them.
- The proposal will result in significant overshadowing and loss of light to no. 40 Esmonde Street. Such concerns formed part of WCC's reason for refusal. The observation states that the submitted shadow analysis is inaccurate and has not had appropriate regard to no. 40.
- Archaeological Impact: The observation outlines that due regard has not been given to the archaeological potential of the site in the context of its location within the recorded monument of Gorey town. An Archaeological Assessment was not submitted with the application.
- Ownership Issues: No. 40 forms part of a pair of semi-detached dwellings with the applicant's property at no.41. The applicant has not engaged with the observer. The observation furthermore outlines that the applicant's have no legal right of way over the adjacent laneway.
- Devaluation of Property: The proposal will greatly detract from the character and setting of Esmonde Street and make it less attractive to potential buyers.
- Conclusion: The need for infill development is acknowledged but this needs to be sensitive and sympathetic to the established and existing residential amenities of the area. The revised proposal submitted to the board has not addressed the concerns of the observer. The proposal is contrary to national and local

policy and the Board is requested to uphold the decision of Wexford County Council and refuse permission for the development.

BPS Planning Consultants on behalf of Martha Roche, Arklow Road

- Figure 1B of the observation illustrates the location of the observer's property relative to the appeal site. The observer's property is located at the opposite side of the Arklow Road and is in office and residential use.
- The observer fully supports the decision of Wexford County Council to refuse permission for the proposed development. In particular the observer raises concerns in relation to the siting, size, scale and massing of the proposal, the negative impact on the character and pattern of development in the area, impact on residential properties in the vicinity including the observer's part residential property and impact on visual and residential amenity as a result of overshadowing/loss of light, loss of privacy, visual dominance and visual overbearing.
- Traffic and Transportation: The observation outlines that WCC did not fully consider substandard proposals for revisions to the existing road and parking arrangements for the Arklow Road which are deemed unacceptable. The observation outlines that the proposed changes along Arklow Road including changes to existing and creation of new parking spaces, creation of a loading bay and changes to access arrangements are poorly considered. It is stated that future changes to Arklow Road should form part of an official roads scheme. The Board is requested to include a reason for refusal in relation to the proposed alterations to Arklow Road.
- The Arklow Road is a busy regional road and forms part of the main traffic artery through the town. Any slight interruption to traffic along the road could cause traffic congestion in the town.
- The proposals are premature pending full consideration by WCC of the layout and alignment of this section of the Arklow Road including provision of footpath widths, laneway widths and introduction of on road car parking. The proposals have implications on adjoining properties.

- The proposed parking area would become a taxi rank and there are associated disamenity impacts on the observers dwelling including noise and light flicker. The parking area would impact on existing vehicular entrances. It is requested that this element of the proposal is removed.
- The extent of the existing footpath illustrated on the application drawings is incorrect. The footpath is not particularly wide in the vicinity of the observer's property and ranges from 1.8m to 2m. The trees shown on the Site Layout Plan would block access.
- The parking area would impede access and reduce visibility to the observer's vehicular entrance and represent a traffic hazard on this basis. The parking area would impact on bin collection arrangements.
- The proposed loading bay constitutes a traffic hazard and should be refused permission.
- The demolition of the existing dwelling fronting Arklow Road will not protect or enhance the streetscape. This is contrary to the CBA Central Business District zoning objective pertaining to the site which outlines that "*the character of the area shall be protected and enhanced*". There is no justification provided for the demolition of the building. The dwelling should be incorporated within a revised proposal.
- The height, scale and massing of the development adjoining the Arklow Road should be reduced. The development as proposed is too tall, over-scaled and maintains an excessive mass and bulk and should be reduced to 2 storey's in height. The scheme is 3 storeys and slender as it adjoins Esmonde Street.
- The height, scale and massing of the development would be visually injurious to the streetscape, contrary to the established character and pattern of development along Arklow Road and would impact negatively on the visual amenities of the observer's property.
- Concerns relating to impact of the development on the adjoining bungalow along Arklow Road are raised. The development is visually overbearing and will overlook and overshadow this property.

- The observation raises concerns in relating to overlooking from the development to the property at the opposite side of the Arklow Road.
- Concerns are raised in relation to noise and light spillage from the development.
- The scheme is visually jarring and out of place with development along the Arklow Road.
- The development will result in a significant intensification in both the property and the Arklow Road entrance/exit.
- The proposal would cause morning and mid-day overshadowing of the observer's property including its front windows. The south facing elevation of the observer's property is the only elevation which receives any quantum of sunlight. Figures 2.1 and 2.2 illustrate overshadowing. The observation outlines that the development would cause significant, negative and permanent overshadowing.

North Wexford Historical Society

- The observation from the North Wexford Historical Society raises concern in relation to the proposal to permanently remove the stone-built archway across the laneway to the side of no. 41 Esmonde Street. The observation outlines that this archway and other similar arches are part of the historical fabric of the street and town and should be retained.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions and observations received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Alterations to Original Proposal
- Design and Layout
- Height and Visual Impact

- Impact on Residential Amenity
- Access and Transportation
- Other Issues
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The appeal site is located within Gorey town centre and has frontage to both Esmonde Street and the Arklow Road. The site is located within the central business district and partially within the retail core of Gorey and is zoned for both Retail Core and Central Business Area purposes.
- 7.2.2. The proposal includes a mix of residential, retail and office uses. All of the proposed uses proposed are listed as either permitted or open for consideration under the sites zoning objectives. I consider the principle of a mixed-use development on an existing underutilised town centre site to be acceptable and in accordance with the sites zoning objectives.
- 7.2.3. The proposed development seeks the demolition of the existing 2 no. dwellings on site which front onto Arklow Road and no. 41 Esmonde Street and the construction of a mixed-use development. Drawing nos. SH07 Esmonde Street and SH07 Arklow Road illustrate plans, sections and elevations of the existing dwellings proposed for demolition. The observation on the appeal by the Hobbs family outlines that the loss of the existing houses on site is unjustified. Particular concern is raised in relation to the revised appeal drawings which reduce the overall number of apartments proposed to 2 no. apartments and reference is made to the net loss of residential accommodation within the town centre in this regard. The observation furthermore questions the appropriateness of the provision of commercial floorspace within the town centre.
- 7.2.4. In considering the points raised within the observation, I note that the Retail Planning Guidelines outline that a range of uses contribute to the vitality and viability of town centres and such uses include commercial floorspace. The provision of retail floorspace at ground floor level would provide pedestrian flow within the town centre and enhance the vitality and viability of both Esmonde Street and Arklow Road. I

consider the proposed alternative mix of uses proposed by the applicant elsewhere within this appeal but in principle I have no objection to the proposed mix of uses.

7.3. Material Alterations to Original Proposal

- 7.3.1. The observations on the appeal outline that permission should be refused for the development on grounds that the development proposed is materially different to that described/advertised and considered by Wexford County Council. I note that revised drawings were submitted by the application in conjunction with the first party appeal. The first party appeal outlines that the revisions are proposed to address the planning authority's reason for refusal. The appeal outlines that the Board is invited to consider either the original proposal or the modified version of the development.
- 7.3.2. I have reviewed both the original drawings submitted in conjunction with the planning application and those submitted in support of the appeal. The main revisions relate to the reduction in the site boundary to exclude the laneway adjoining no. 41 Esmonde Street, revisions to the extent of the Arklow Road which is included in the site boundary, incorporation of screening and removal of balconies and the replacement of 4 no. originally proposed apartment units with office floorspace.
- 7.3.3. On review of the original and proposed modified scheme I consider that the scale, footprint and format of the development remains primarily unaltered from that originally submitted to Wexford County Council. I consider changes to the application site boundary elsewhere in this report. On an overall basis, I consider that the original proposal and alternative layout can be considered on their individual merits.

7.4. Design, Scale and Massing

- 7.4.1. Wexford County Council's first reason for refusal outlines that the proposal by virtue of its location, scale, size and massing would have a negative impact on the character of the area and adjoining residential dwellings. Such concerns are raised within the observations on the appeal.
- 7.4.2. The first party appeal outlines that the proposal is not out of scale for the character of the site, has limited massing, is a narrow building with limited street frontage and is similar in height to other buildings within the town centre. I refer to the alternative proposal submitted in support of the appeal. I note that no significant revisions have

been made to the location, scale, size and massing of the proposal to address the planning authority's 1st reason for refusal.

- 7.4.3. The site is located within the town centre of Gorey and has frontage onto Arklow Road to the north-west and Esmonde Street to the south. The site is located within close proximity to the proposed Architectural Conservation Area for Gorey which extends to include the existing Coach House pub (a protected structure) at the junction of Arklow Road and Esmonde Street. The existing character of development within the immediate vicinity of the site includes a mix of retail, commercial and residential uses. The site is directly adjoined by existing residential properties to the north and east and is located within the vicinity of existing residential properties which front onto Esmonde Street to the south. The proposal comprises demolition of the existing 2 no. residential units which front onto Arklow Road and Esmonde Street and their replacement with a 4-storey building to Arklow Road and 3 storey building fronting Esmonde Street.
- 7.4.4. I consider that the proposal is contemporary in design and the massing to Arklow Road is modulated by height setbacks and a variety of materials. The Gorey Local Area Plan defines Esmonde Street as a 19th Century secondary street which is defined by modest scale domestic architecture with small plots of less than 4m frontage. In this regard I note that the presentation of the development to Esmonde Street reflects the plot width of the existing semi-detached dwelling.
- 7.4.5. However, I have concern in relation to the scale and massing of the development along the southwest and north-east elevation of the proposal. I consider that the development would be visually overbearing from adjoining residential properties in the vicinity and recommend a refusal of permission broadly in accordance with Wexford County Council's first reason for refusal on this basis.
- 7.4.6. I furthermore share the concerns of the planning authority in respect of the location and scale of the proposal. The observations on the application raise concern in relation to the scale of the development, proposed access arrangements and overspill on the adjoining private laneway to the west of no. 41. The footprint of the development is tight to site boundaries, and I do not consider that appropriate space has been provided for servicing arrangements associated with the various uses within the development. A loading bay is proposed within the vicinity of the existing

access to the site from Arklow Road but I consider the dimensions are restricted and would result in a pedestrian and traffic hazard at this location. I consider this point further in Section 7.7 of this assessment. No cycle parking is indicated on site for the proposed uses and waste proposals are undefined. Adherence to the development management standards set out within the Wexford County Development Plan has not been demonstrated.

7.4.7. The layout as, as revised within the appeal drawings, excludes the existing laneway adjoining no. 41 (pending clarification of legal interest), but the development as proposed is still dependant on the lane for provision of access and drainage measures. The development also includes cantilevered windows for the proposed apartments which overhang the laneway. Proposals for the archway over the lane are unclear within the revised proposals and no details are provided within the application in relation to the interface of the proposal with the archway. I consider that these issues are best resolved via a revised proposal.

7.4.8. In conclusion, I consider that the location, scale, size and massing of the development would have a negative impact on the character of the area and adjoining residential dwellings. I recommend that permission is refused for the development broadly in accordance with WCC's notification of decision to refuse permission.

7.5. Height and Visual Impact

7.5.1. The observations on the appeal raise concern in relation to the proposed 3 and 4 storey height of the development and the visual impact of the development on the character and setting of Esmonde Street and the Arklow Road. The observations outline that limited information is provided in support of the application to illustrate the visual impact of the development.

7.5.2. The site is located within the town centre of Gorey. The Gorey Local Area Plan outlines that existing heights in the town centre range from 2 to 4 storeys. I refer to the photomontages submitted in conjunction with the first party appeal which illustrate the views of the proposal along Esmonde Street, Arklow Road and from Main Street.

7.5.3. The observation on the appeal from the Hobbs family raises concern in relation to the negative jarring visual impact of the proposal when viewed from a westerly

direction from the railway bridge along Esmonde Street. No views are submitted to illustrate this impact. It is stated that the proposal would detract from the value of the streetscape and detract from its historical merit. I agree with the points raised within the observation that there are information deficiencies within the application in this regard.

7.5.4. On an overall basis I do not consider that the principle of a 3 to 4 storey building would represent an abrupt transition in height from the surrounding site context. Existing development within the immediate vicinity of the site ranges in height from 2 to 3 storeys. The Gorey Local Area Plan outlines that existing buildings within the town centre range in height from 2 to 4 storeys. I note that Wexford County Council have not raised concern in relation to the principle of the proposed 3 and 4 storey heights within Gorey town centre and I consider the principle of the proposed height to be acceptable in this town centre location subject to visual impact and amenity considerations.

7.5.5. Concerns relating to the height of the proposal are also raised in WCC's notification of decision to refuse permission for the development in the context of its impact on residential amenity (overshadowing and loss of light). I consider the points raised below as follows.

7.6. Impact on Residential Amenity

7.6.1. The appeal site is adjoined by existing residential properties to the north, east and south. Wexford County Council's second reason for refusal outlines that the design, height and position of the proposal results in overshadowing, loss of light and loss of privacy to the adjoining residential uses. Such concerns are raised within the observations on the appeal on behalf of the owners of nos. 40 and 44 Esmonde Street and the existing dwelling at the opposite side of the Arklow Road. I consider the issues raised in turn as follows.

Overshadowing/Loss of Light

7.6.2. The proposed development ranges in height from 3 to 4 storeys. Wexford County Council's second reason for refusal relates to "significant overshadowing and loss of light" on adjoining residential properties. The planner's report which informs the decision of WCC to refuse permission for the development raises particular concern in relation to overshadowing of the existing properties to the northeast and east of

the site and lack of wintertime shadow studies. The observations on the appeal raise concern in relation to overshadowing and loss of light and outline that the insufficient information is provided in relation to the sunlight, daylight and overshadowing impact of the proposed development on adjoining residential properties along Esmonde Street and Arklow Road.

- 7.6.3. The Wexford County Development Plan 2022-2028 outlines that the siting, layout and design of development should ensure that the development would not give rise to undue overshadowing of properties in the vicinity, in particular, residential properties such as private residences, nursing/retirement/residential care homes, schools and childcare facilities. The Plan outlines that: *“Daylight and sunlight levels, as a minimum, should be in accordance with Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (Bre 2011) and British Standard (BS 8206) Lighting for Buildings, Part 2 Code for Practice for Daylighting or any update on these documents”*.
- 7.6.4. The provisions of BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) are relevant in the assessment of this development. The BRE document is specifically referenced in the Wexford County Development Plan, in addition reference to same is made in the Section 28 Ministerial Guidelines on Urban Development and Building Heights 2018. While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 ‘Daylight in buildings’), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development & Building Heights Guidelines and the Wexford County Development Plan 2022-2028.
- 7.6.5. I have also carried out a site inspection, considered the submissions and observations received, that have raised issues in respect of potential impact on their houses and properties as a result of overshadowing/loss of sunlight/daylight and reviewed the planning drawings relating to the properties to the north (Arklow Road), south (fronting Esmonde Street), east (no. 40 Esmonde Street) and west (opposite side of Arklow Road) of the appeal site.

7.6.6. The Building Height Guidelines seeks compliance with the requirements of the BRE standards and associated British Standard (although I note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018), and that where compliance with requirements is not met that this would be clearly articulated and justified.

7.6.7. The Building Research Establishments (BRE) 'Site Layout Planning for Daylight and Sunlight – A guide to good practice' provides a number of tests relevant to residential amenity (eg. ADF, VSC, Sunlight to existing amenity space, Sunlight to adjoining property and APSH, etc) to measure daylight, sunlight and overshadowing impact. However, it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria (para.1.6). The BRE guidelines also state in paragraph 1.6 that:

“Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.”

7.6.8. The BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. in Section 5 of the standards. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones. The BRE guidelines state that in relation to daylight to existing buildings:

“Loss of light to existing windows need not be analysed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. In these cases, the loss of light will be small...” (para. 2.2.4)”

7.6.9. No Sunlight and Daylight assessment is submitted in conjunction with the application. A series of Shadow Studies for Summer were submitted in conjunction with the application. In responding to the grounds of appeal the applicant submitted a series of Shadow Studies prepared by Molloy Architecture. Drawing no. SH06 illustrates shadows cast by the development during Summer at 10 am, 1pm and 5pm. Drawing no. SH07 illustrates Autumn shadows (9am and 12am) and Winter shadows (10am and 2pm).

- 7.6.10. The observation's on the appeal outline that the Daylight/Sunlight, Shadow Analysis is incomplete. I agree with the assertions of the observers in this regard. The Shadow studies submitted relate to Summer, Autumn, Winter with no specific dates provided. The shadow analysis does not demonstrate that the open space areas associated with open space of adjoining dwellings will receive at least 2 hours of sunlight on the 21st of March in accordance with the guidance set out within the BRE guidelines. No information is provided within the appeal in relation to loss of daylight/sunlight to existing properties. I consider that there are information deficiencies within the application in this regard.
- 7.6.11. I note the town centre location of the site and the Retail Core, Central Business Area zoning objective pertaining to the site and adjoining residential properties. I do not consider the principle of a part 3, part 4 storey building on site to be excessive. However, on the basis of the information submitted in conjunction with the appeal I am not satisfied that the proposal would not injure the residential amenities of adjoining residential properties to the east at no. 40 Esmonde Street and to the north of the site at Arklow Road by means of overshadowing and loss of light. The applicant has therefore not addressed the concerns raised within WCC's second reason for refusal.

Overbearing

- 7.6.12. The observations on the appeal outline that the proposal would be visually overbearing when viewed from the adjoining residential properties. Such concerns are raised within the observations on the appeal.
- 7.6.13. The observation from the occupant of no. 40 Esmonde Street outlines that the proposed development by reason of grossly excessive scale and massing relative to the established residential dwelling adjoining the application site at no. 40 Esmonde Street would be seriously injurious to the residential and visual amenities of the area. The east elevation of the proposed retail unit and apartments at Esmonde Street which consist of large blank expanse of a single building material 3 storeys tall and nearly 35m in length.
- 7.6.14. Drawing no. SH02 illustrates that the proposed eastern elevation of the Esmonde Street building, the elevational treatment includes a napp render blank wall finish. I agree with the grounds of the observation that the proposal will be overly dominant

and visually overbearing from the existing dwelling at no. 40 and consider that it would impact on the residential amenity of this dwelling.

- 7.6.15. The observation on behalf of the residents of no. 44 Esmonde Street outlines that the proposed elevation along the rear of the objector's property is blank and dominated by a single building material from ground to the 4th floor. The development will result in a 4-storey blank gable just 15m from the rear window and patio doors of the observer's kitchen. I concur with the conclusions of Wexford County Council that the proposal would be visually overbearing when viewed from adjoining properties at this location.
- 7.6.16. The observation from BPS Planning Consultants raises concern in relation to the overbearing impact of the proposal on the dwelling at the opposite side of the Arklow Road. However, I consider that the modulated approach to height along the Arklow Street and incorporation of setbacks successfully breaks up the mass of the structure from this location.

Overlooking/ Loss of Privacy

- 7.6.17. Wexford County Council's second reason for refusal raises concern in relation to loss of privacy to existing residential properties in the vicinity of the site. I refer to the report on file from the Senior Planner in WCC which raises particular concern in relation to overlooking from the provision of balconies and southern facing windows. I agree with the concerns of the planning authority in relation to overlooking from the development within the original proposal particularly from the proposed west facing balconies at fourth floor level.
- 7.6.18. In order to address WCC's reason for refusal the appeal includes revised drawings which illustrate the omission of 4 no. previously proposed apartment units and associated private open space and their replacement with office floorspace.
- 7.6.19. The revised proposals include the provision of timber louvres screening to the south and east facing curtain walling to mitigate any concerns about overlooking of adjoining properties to the west. The proposed west facing balconies are omitted and a glazed privacy screen is also proposed at the office balcony along the south-west elevation at second and third floor level to negate against overlooking. The appeal outlines that the proposed revisions will eliminate any potential for overlooking from

the proposed development in a southern direction and overcomes the key concerns of the planning authority.

- 7.6.20. The observation on the appeal on behalf of the residents at no. 44 Esmonde Street raises concern in relation to overlooking from the proposal and loss of privacy from the glass fronted stairs. However, I note the provision of privacy louvres to negate against overlooking of adjoining properties within the revised proposals. While the observation outlines that the proposed louvers are unsightly and will result in poor internal light, I note that these are provided along a stairwell.
- 7.6.21. I note the concerns relating to overlooking from the development raised within the observation on the appeal from BPS Planning Consultants in respect of the property at the opposite side of the Arklow Road. However, considering the location of the site within a town centre context and the nature of intervening development including a public road, I do not consider that the proposal would result in undue overlooking/loss of privacy at this location.
- 7.6.22. On review of the drawings submitted in support of the appeal, I consider that WCC's concerns relating to overlooking from the proposed development are substantially addressed within the revised drawings particularly through the omission of the previously proposed west facing balconies and provision of privacy screens at proposed balconies.

Light Spillage/ Noise

- 7.6.23. The observation on the appeal by BPS Planning Consultants outlines that the proposal will impact on the residential amenity of the observers dwelling at the opposite side of the Arklow Road on grounds of light spillage and noise impact. The observation outlines that the proposal would lead to the depreciation in the value of their residential property on this basis.
- 7.6.24. In this regard I note the town centre location of the site along a public road and the presence of street lighting. I do not consider that noise or light emanating from the development would be over and above that of the existing baseline environment or result in a depreciation of the value of the observers dwelling at the opposite side of the Arklow Road.

7.7. Traffic and Transportation

- 7.7.1. The observation on the appeal from BPS Planning Consultants raises a range of traffic and transportation related concerns in respect of the proposed alteration to Arklow Road in the vicinity of the site. Pedestrian access to the development is proposed via Arklow Road and Esmonde Street. A loading bay is proposed to the west of the site along Arklow Road. No parking is proposed within the development. The Proposed Site Layout Plan illustrates the provision of on street parking along Arklow Road.
- 7.7.2. The observation on the appeal by BPS Planning Consultants outlines that the proposed changes along Arklow Road including changes to existing and creation of new parking spaces, creation of a loading bay and changes to access arrangements are poorly considered. The observation states that the proposals are premature pending full consideration by WCC of the layout and alignment of this section of the Arklow Road including provision of footpath widths, laneway widths and introduction of on-street car parking.
- 7.7.3. The observation raises concerns in relation to the siting of the proposed on street parking area within the original site layout. I note that the alternative site layout plan submitted in conjunction with the appeal includes revisions to the site boundary along the Arklow Road including the relocation of the proposed parking spaces further south of the observer's property which would address some of the concerns raised within the observation. Notwithstanding this, I do not consider that the impact of the provision of on street parking is appropriately considered or addressed within the application in terms of its interface with existing properties and their boundaries and impact on the existing footpath. I consider that there are information deficiencies within the application on this basis. Drawing no. SH01 Proposed Site Layout submitted in conjunction with the appeal illustrates the provision of 3 no. on-street parking spaces at the opposite side of the Arklow Road. I note that such spaces would not be reserved exclusively for the proposed development in the instance of a grant of permission. I recommend the omission of works to Arklow Road in the instance that the Board is minded to grant permission for the development.
- 7.7.4. I refer to the town centre location of the site and have no objection to the non-provision of car parking to serve the development. However, provision of cycle

parking for the proposed uses in accordance with Development Plan standards should be provided on site. These are not addressed within the development as proposed.

- 7.7.5. The proposed development includes the provision of 4 no. retail units at ground and first floor level with a combined floorspace of 1,142 sq.m. A loading bay is proposed along the to the west of the site accessed from Arklow Road. I note that a gated entrance to the site is currently provided in the vicinity of the proposed loading bay and the footpath is dished at this location. The observation on the appeal from BPS Planning Consultants outlines that the loading bay would constitute a traffic hazard. The Proposed Ground Floor Plan Drawing no. SH02 illustrates a loading bay with a depth of c. 5.7m and a width of 3.6m within the site. No room is provided for manoeuvring of delivery vehicles on site. I furthermore note that sight lines associated with the proposed loading bay are not illustrated on the application drawings and the interface of the proposed loading bay with the existing entrance to the Coach House is not addressed.
- 7.7.6. I consider that the layout of the proposed loading bay as proposed could result in reversing vehicles onto Arklow Road immediately adjacent to an existing access lane and agree with the points raised within the observation on the appeal that this would result in both a pedestrian and traffic hazard. I recommend that permission is refused for the development on this basis.

7.8. Other

Ownership – Access/Laneway

- 7.8.1. The development, as originally proposed, included improvement and upgrade works to the existing laneway adjacent to no. 41 Esmonde Street with outdoor dining spaces to ground floor. While not cited as a reason for refusal, I note that Wexford County Council's notification of decision to refuse permission for the development outlines that the applicant has failed to demonstrate sufficient legal interest over the entire proposed site boundary and specifically the linked laneway from Esmonde Street to Arklow Road.
- 7.8.2. The appeal outlines that it will take time to address the legal nature of the right of way and therefore the revised proposals omit the access laneway from the application boundary. This is illustrated on Drawing no.SH01 Site Layout Plan

submitted in conjunction with the appeal. While the revised drawings exclude the laneway adjacent to no. 41 Esmonde Street from the appeal site boundary, I consider that the proposal is still dependent on the laneway and works remain to the proposed outside of the revised site boundary as detailed below.

- 7.8.3. The site layout illustrates cantilevered windows for the proposed apartment units overhanging the laneway along Esmonde Street. While these would negate against overlooking of existing residential properties to the west, I note that the windows overhang the existing laneway which has been omitted from the appeal site boundary. Revised proposals for window openings to these properties would be required in the instance that the Board is minded to grant permission for the development. The ground floor retail unit on Esmonde Street also incorporates a entrance and a security entrance to the site is proposed from the laneway. The existing laneway is currently overgrown and was in use for parking on the day of site inspection. The current condition of the lane is not conducive to public access.
- 7.8.4. The revised elevations illustrate the removal to the existing archway over the laneway. The observations on the appeal raise concern in relation to the proposal to remove the existing stone-built archway over the laneway and adjacent to no. 41 Esmonde Street. I refer to the observation on file North Wexford Historical Society which outlines that such archway features form part of the historical street and should be retained. The interface between the existing archway and proposed building is not clear within the application.
- 7.8.5. Surface water proposals include a rainwater harvesting system within the existing laneway as illustrated within the proposed Drainage Plan Drawing no. 1030-P-D-0001. No revised proposals are indicated within the alternative appeal drawings. A number of these concerns are raised within observations on the appeal.
- 7.8.6. On the basis of the above, notwithstanding the revised application site boundary, I consider that the concerns expressed by the planning authority in relation to sufficient legal interest within the notification of decision to refuse permission for the development remains unresolved within the revised proposal. I consider that the application is premature pending resolution of the interface and relationship of the development to the existing laneway. I recommend that permission is refused for the development on this basis.

Construction Management Plan

- 7.8.7. I note that observations on the appeal raise concern in relation to the lack of a Construction Management Plan in support of the application. This point could be addressed via condition in the instance that the Board are minded to grant permission for the development.

Archaeology

- 7.8.8. The site is located within the Recorded Monuments and Zone of Archaeological Potential identified within Map 9 (A) and 9 (B) of the Local Area Plan. Objective ARH01 seeks *“To have regard to the Record of Monuments and Places (RMP) and newly identified sites identified on Map 9 (a) and 9 (b) when dealing with planning applications for development or threats to recorded items”*.
- 7.8.9. No Archaeological Assessment was submitted in support of the application. I consider that this should be addressed via condition in the instance of a grant of permission.

7.9. Appropriate Assessment

- 7.9.1. Having regard to the nature and scale of the proposed development and to the nature of the receiving environment, namely an urban and fully serviced location, 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 that planning permission is refused in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

1. The proposed development by reason of its scale, height, massing and proximity to site boundaries would have a negative impact on the character of the area and would injure the residential amenity of adjoining properties by reason of visual obtrusion, overshadowing and loss of light. The proposed

development would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposal includes works to the Arklow Road in the vicinity of the site and the provision of a loading bay within the site boundary. The impact of the proposed works to Arklow Road are not assessed within the application and the turning movements onto the Arklow Road associated with the proposed loading bay would result in a pedestrian and traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development includes works outside of the application site boundary on the existing private laneway adjacent to the site on Esmonde Street. The applicant has not demonstrated appropriate legal consent to carry out such works and the development is considered premature on this basis.

Stephanie Farrington
Senior Planning Inspector

30th of January 2023