



An
Bord
Pleanála

Inspector's Report

ABP-312741-22

Development	Demolition of 2 apartments and partial demolition of Woodpecker Pub. Construction of 10 duplex units.
Location	The Woodpecker Pub, Ashford, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	21390
Applicant(s)	Declan Byrne
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Anna and Greg Ward Vincent and Karen Keane Mahony
Observer(s)	None
Date of Site Inspection	19 th August 2022
Inspector	Ian Boyle

1.0 Site Location and Description

- 1.1. The appeal site comprises the Woodpecker Pub and Restaurant and its associated surface car park in Ashford, Co. Wicklow (A67 X337). It has a rectangular layout and there is a fall in ground level from south (higher ground) towards the north (lower ground). The site is roughly 300m north of Ashford village centre. The Varty River is roughly 250m to the northeast. There are existing residential houses to the north and east of the site.
- 1.2. The property is at a prominent corner location on the north side of Ballinalea Road (L5070) and on the east side of Glenealy Road (L1096). It is in elevated position and the pub / apartment building has a strong visual presence, particularly on approaches to it from the north and south. The rear (east) part of the property is used as a car park and comprises most of the site area.
- 1.3. As stated, the site is near the centre of Ashford and within walking distance to many of the services and facilities available in the town. There are two bus stops within approx. 500m of the site (c. a 6-min walk) on the R772, which is a two-direction regional road. The bus services are frequent and include routes connecting Ashford with Dublin City Centre and other regional settlements. The site is within 900m of accessing the M11 National Primary Road, which is to the southeast.
- 1.4. The area is mainly characterised by residential housing, including mostly two-storey dwellings on relatively spacious plots.
- 1.5. The site has a stated area of 0.2ha, approximately.

2.0 Proposed Development

- 2.1. The proposed development is for the demolition of two apartments, partial demolition of the existing public house, construction of 10 no. apartments, removal of the existing car park and associated site works.
- 2.2. The Planning Authority requested further information on 25th May 2021, including details regarding revised drawing details to illustrate the proposed development more clearly, an Architectural Design Statement, a Visual Impact Assessment and a Daylight and Sunlight Assessment (Item 1); a detailed Landscape Plan and

Landscape Rationale Report (Item 2); completion and submission of site investigations and a detailed design for the proposed soakaway (Item 3); an Engineer's Report showing how the proposed quantum of hard standing is appropriate or alternatively a revised design with permeable paving for internal roads and further application of SuDS measures (Item 4).

- 2.3. The Applicant responded with further information on 24th November 2021, including a revised site layout plan, cross section drawings, photomontages and a shadow analysis (Item 1); a Landscape Masterplan and Report (Item 2); a Civil Engineering Report with soil infiltration rates and surface water design calculations (Item 3); a reduction in hardstanding area, the inclusion of permeable paving for internal roads and car parking areas, and the installation of a rainwater butt at the rear of each property to collect and store excess rainwater (Item 4).
- 2.4. The main design change made as part of further information included repositioning the proposed apartment blocks from near the northeast corner of the site to be further away from the shared northern boundary and instead closer to the Ballinalea Road (L5070) to the south. This had the effect of increasing the separation distance between the proposed apartments and existing houses at Ashford Downs. A communal amenity space, play area and cycle parking was also proposed as part of the changes submitted for the northeast corner of the site.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority issued a *Notification of Decision to Grant Permission* on 20th January 2022, subject to 15 no. conditions, which were generally standard in nature.
- 3.1.2. Notable conditions include:
 - Condition 5(a) – Submission of a Construction Management Plan, prior to commencement of development.
 - Condition 10 – Roof finishes to be blue / black natural slate, unless agreed otherwise with the Planning Authority.

- Condition 11 – Public lighting design and details of the road infrastructure layout to be agreed with the Planning Authority prior to commencement of development.

3.2. Planning Authority Reports

3.2.1. Planning Report

- The proposed layout changes submitted as further information comprising the relocation of Units 1 – 6 to be further south within the site would increase the back-to-back separation distances with adjoining residential houses. This is considered acceptable and would remove the potential for overlooking from these proposed units towards Ashford Downs to the rear of the site.
- The proposed buildings now follow a similar building line as the neighbouring dwellings to the east. The buildings also provide stronger frontage along the L-5070 south of the site and would minimise overshadowing to private amenity areas to the north and east and reduce any potential for loss of privacy associated with these adjoining residential properties.
- The duplex units to the northwest of the site are 1.7m higher than No. 21 Ashford Downs, which is located directly north of the site. They are 3-storeys in height and comprise of 1-bedroom apartments at ground floor level with 2-bedroom apartments above. The buildings have pitched roofs and are approx. 9.9m in height. The proposed design is considered acceptable.
- There is only 1 no. window located above ground floor level on the northern elevation of the building in the northwest corner, which provides light to the first floor landing. The development has been designed to avoid any serious overlooking or loss of privacy issues to existing neighbouring properties to the north and is therefore considered acceptable.
- The submitted photomontages demonstrate that the proposed development would not have a negative visual impact when viewed from the surrounding area.

- The submitted Shadow Analysis confirms that the proposed development would not cause unacceptable overshadowing of the amenity spaces associated with neighbouring properties.
- There are 23 no. car parking spaces, which will be shared between the pub and the residential units. The parking provision is considered acceptable.
- The Landscape Masterplan, details relating to surface water runoff and drainage arrangements, and SuDS measures are considered acceptable.
- Report recommended permission be granted.

3.2.2. **Other Technical Reports**

Water and Environmental Services: No objection, subject to carrying out site investigations and submitted a detailed design for the proposed soakaway, introduction of suitable SuDS measures, and a means of dealing with rainfall runoff without adverse effects on both the proposed development and neighbouring properties.

Roads: Initial report queried whether parking proposed was sufficient and required justification for 35m sightlines. No formal report provided post receipt of further information. However, an internal email was issued by the Council's District Engineer, dated 19th January 2021, see below.

Municipal Drainage Engineer: No objection. Stated that the proposed access off the Glenealy Road (L1096) was acceptable, that the main site entrance from Ballinalea Road (L5070) was also acceptable, that a 2m wide footpath would be required around the site perimeter where it bounds with the public road, and that the proposed SuDS measures must be agreed with the Planning Authority prior to commencement.

Chief Fire Officer: No objection, subject to standard conditions.

Housing: No objection.

3.3. Prescribed Bodies

Irish Water: No objection, subject to standard conditions, including that the Applicant should sign a connection agreement with Irish Water prior to the commencement of the development and adhere to the standards and conditions set out in the Agreement and that all development be carried out in compliance with Irish Water standards and codes of practice.

3.4. Third Party Observations

A total of 5 no. third party submissions were received by the Planning Authority, which are from the residents at Nos. 21, 22, 23, 24 and 25 Ashford Downs. These are the residential properties adjoining the appeal site directly to the north.

The main issues can be summarised as follows:

- Excessive height, loss of privacy, overshadowing / loss of light and overbearance.
- Loss of views.
- Proposed works encroach onto the shared boundary between the appeal site and third party lands. Also concerns regarding the stability of the shared boundary wall.
- Flood risk.
- The proposed development would be out of character with the area.
- Application form omitted information regarding the proposed demolition works.
- Requirement for an EIAR.
- Requirement for an asbestos report.
- Car parking inadequate.

4.0 Planning History

Subject Site

Many various small-scale permissions relating to physical changes and minor modifications to existing public house. Not relevant to the assessment of the proposed development.

Reg. Ref. 19/1097: The Planning Authority granted permission in January 2020 for a change of use of existing first floor function room to a three bedroom apartment and ancillary site works.

Reg. Ref. 003129: The Planning Authority granted retention permission in November 2000 for a chalet in the rear yard of the public house.

5.0 Policy Context

5.1. Wicklow County Development Plan 2022 – 2028

Zoning

- The appeal site is zoned 'RE – Existing Residential' under the Wicklow County Development Plan 2022 – 2028 where the objective is 'to protect, provide and improve residential amenities of existing residential areas'.
- The Development Plan description for this zoning is to provide for house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity. In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the residents will normally be zoned 'RE' as they form an intrinsic part of the overall residential development. However, new housing or other non-community related uses will not normally be permitted.

The Wicklow County Development Plan 2022-2028 is in effect as of 23rd October 2022.

Chapter 4: Settlement Strategy

Ashford is a Level 5 – Small Growth Town under the Development Plan

These settlements are small growth towns, ideally serviced by good bus or rail links and located approximately 5-25km or so from large growth towns.

Chapter 6: Housing

CPO 6.3

New housing development shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.

CPO 6.16

To encourage and facilitate high quality well-designed infill and brownfield development that is sensitive to context, enables consolidation of the built environment and enhances the streetscape. Where necessary, performance criteria should be prioritised provided that the layout achieves well designed high quality outcomes and public safety is not compromised and the environment is suitably protected.

CPO 6.21

In areas zoned 'Existing Residential' house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see CPO 6.25 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.

CPO 6.22

In existing residential areas, small scale infill development shall generally be at a density that respects the established character of the area in which it is located,

subject to the protection of the residential amenity of adjoining properties. However, on large sites or in areas where previously unserved, low density housing becomes served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.

CPO 6.25

In existing residential areas, the areas of open space permitted, designated or dedicated solely to the use of the residents will normally be zoned 'RE' as they form an intrinsic part of the overall residential development. Such lands will be retained as open space for the use of residents and new housing or other non-community related uses will not normally be permitted.

Section 6.3.5 of the Development Plan is in relation to '**Higher Densities**'. It states that higher densities are encouraged to achieve an efficient use of land and create compact, vibrant and attractive settlements. The capacity of a site to absorb higher densities is influenced by a range of factors including the local setting, development context, neighbouring uses, access, topography etc. The preparation of a design statement, including a detailed contextual and site analysis, will help determine a site's capacity and the appropriate density. The potential of brownfield sites to consolidate the built form and deliver higher densities should be capitalised subject to protecting existing amenities and achieving high quality standards for future occupants.

Volume 3, Appendix 1: Development and Design Standards

- The Development Plan under 'Volume 3 - Appendix 1 – Development Design Standards' sets out the requirements with respect to development and design standards. It sets out the principal factors that should be considered in the design of new development, including residential development.

5.2. National and Regional Policy

- *Sustainable Urban Housing: Design Standards for New Apartments, 2020 ('Apartment Guidelines')*

- *Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 ('RSES')*
- *Design Manual for Urban Roads and Streets, 2019 ('DMURS')*
- *Project Ireland 2040: National Planning Framework, 2018*
- *Urban Development and Building Heights Guidelines for Planning Authorities, 2018*
- *BRE Guide: Site Layout Planning for Sunlight and Daylight, 2011*
- *Architectural Heritage Guidelines for Planning Authorities, DAHG (2011)*
- *Urban Design Manual: A Best Practice Guide, 2009*
- *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009*
- *Quality Housing for Sustainable Communities – Best Practice Guidelines, 2007*

5.3. Natural Heritage Designations

No natural designations apply to the subject site.

The following Natura 2000 sites in the vicinity of the appeal site include:

- The Murrough Special Protection Area (Site Code: 004186), approximately 2.8km east of the site.
- The Murrough Wetlands Special Area of Conservation (Site Code: 002249), approximately 2.8km east of the site.

Further natural heritage designations in the vicinity include:

- The Murrough Proposed Natural Heritage Area (Site Code: 000730), approximately 2.8km east of the site.
- The Glenealy Wood Proposed Natural Heritage Area (Site Code: 001756), approximately 3.6km southwest of the site.
- The Devil's Glen Proposed Natural Heritage Area (Site Code: 000718), approximately 2.6km northwest of the site.

5.4. EIA Screening

Having regard to the nature and relative small scale of the proposed development, which comprises the demolition of two apartments, partial demolition of an existing public house and construction of 10 no. apartments, the nature of the receiving environment, and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A total of 2 no. third party appeals were received by the Board from residents in the area, including from:

- Anna and Greg Ward (No. 21 Ashford Downs, Ashford), and
- Vincent and Karen Keane Mahony (No. 25 Ashford Downs, Ashford).

The main grounds of appeal generally reiterate the concerns in the third party observations lodged with the Planning Authority. However, the following issues are also raised:

- Proposed development, and particularly Blocks A & C and B & D, are excessively tall. They will severely block sunlight and daylight due to the level change across the site. (i.e. the subject site is on higher ground.) A bungalow with a hipped roof would be a better design outcome in this location.
- There is a history of building by the Applicant without seeking planning permission.
- The revised plans submitted as further information has changed nothing in relation to the impact on No. 21 Ashford Downs. The apartments are still positioned against the full length of the back garden wall. The separation distances are inadequate and below the 22m required under planning policy.

- The shadow analysis is inadequate and does not correctly portray the impacts of shadows on adjoining properties. It does not include any 3D imaging and there are inconsistencies in the report. The proposed tree planting will also cause overshadowing of the Appellants' lands.
- Visual Impact Assessment is not realistic.
- Apartment No. 3 has a wrap-around balcony which would overlook Nos. 21 – 25.
- Flooding risk and risk that excessive surface water would spill into adjoining residential properties.
- Concerns regarding the stability of the shared boundary wall along the north side of the appeal site. If this wall failed, this would potentially cause injury.
- No. 21 Ashford Downs is entitled to a right to light.
- Inaccuracy in planning application form – states that no demolition works are proposed, which is incorrect due to the proposed partial demolition of the pub.
- Asbestos may have been used in the construction of the pub.
- Inadequate car parking. 28 no. spaces required but only 23 no. are proposed.

6.2. Applicant Response

- 6.2.1. The Applicant lodged an Appeal Response with the Board on 28th March 2022.
- 6.2.2. A revised Site Layout Plan was submitted, which seeks to shift the proposed apartment building at the northwest corner of the site approximately 2.7m further south. This has the effect of increasing the separation distance from the abutting residential properties to the north, including Nos. 21 and 25 Ashford Downs (i.e. the Appellants).
- 6.2.3. A revised set of photomontages has been submitted to reflect this change.
- 6.2.4. The main issues raised in the Applicant's Response can be summarised as follows:
 - The height of the proposed building at the northwest corner of the site has been misrepresented by the Appellants. It is for two-storeys, and not three storeys.

There are no windows on the gable end or any wrap-around balconies. The balconies are to east and south.

- The 22m separation distance is only for back-to-back windows and there are no windows proposed on the northern elevation of the proposed duplex block.
- The proposed car parking provision is acceptable to the Planning Authority and is adequate for the proposal, particularly given the trend of people tending not to drive to public houses.
- Not aware of any flooding issues affecting the site or floodplain maps that shows the site floods.
- Appropriate tests have been completed as part of the application in relation to the proposed method of surface water drainage and a detailed design for the proposed soakaway was submitted as part of further information.
- The proposed development would be located well away from the existing boundary wall and there would be no issues regarding its stability on foot of the proposal. There is also no intention to build on the existing boundary wall.

6.3. Further Responses

The Board received two further responses in relation to the Applicant's Response. Both submissions are from the Third Party Appellants and state that their objection / appeal still stands. No new issues are raised.

7.0 Assessment

The main planning considerations relevant to this appeal case are:

- Design and Layout
- Visual and Residential Amenity
- Drainage and Flood Risk
- Car Parking
- Other Issues

- Appropriate Assessment

7.1. Design and Layout

- 7.1.1. The Appellants submit that the proposal constitutes overdevelopment of the site and that the scale of the buildings would detract from the character of the area and its wider vicinity. The area is mainly characterised by low - medium density housing and the site adjoins existing residential properties to the north (Nos. 21 – 25 Ashford Downs) and east (No. 1 Ashford Downs). However, I note that there are also some apartments in the vicinity, including within the town centre.
- 7.1.2. The appeal site is on a prominent corner location on the north side of Ballinalea Road and on the east side of Glenealy Road. It is on slightly higher ground than the adjoining lands to the north. The site is in a visible setting, with the public house facing southwards onto the public road. The majority of the lands are used as a surface car park and I note that during my site inspection a very number of spaces were in use; albeit I note that this was during the morning time, and when the pub was shut. Nonetheless, it is clear to me that the site is currently underutilised and that, in principle, it represents a good opportunity for infill residential development, subject to meeting the appropriate development management standards for such sites and having regard to the character of the area and existing pattern of residential development.
- 7.1.3. The zoning objective for the site is 'Existing Residential' which is to protect, provide for and improve the residential amenities of adjoining properties and areas. It allows for infill residential development that reflects the established character of the area in which it is located. I note that there are several local policies and objectives with the County Development Plan which support more compact forms of residential development on sites such as this, particularly where sites are within a short walking distance of an existing urban settlement and good public transport links.
- 7.1.4. This policy is consistent with national and regional planning policy documents, including the National Planning Framework (2018) (NPF) and Regional Spatial and Economic Strategy for the Eastern and Midland Region (2019) (RSES). In particular, I note that the NPF seeks to make better use of under-utilised land and buildings,

including infill, brownfield, and under-occupied buildings, with higher housing and jobs densities, better serviced by existing facilities and public transport. The NPF specifically targets a greater proportion (40%) of future housing development to be within and close to the existing 'footprint' of built-up areas.

7.1.5. In my opinion, the development proposed would be consistent with the general aims of urban consolidation, as set out in Policies HD5 and HD10 of the Development Plan, which generally seek to make best use of land resources and services and that new residential development shall be expected to aim for the highest density indicated for the lands. However, this is subject to meeting the appropriate safeguards and standards identified in Volume 3, Appendix 1: Development and Design Standards.

7.1.6. I note also that as the general is a mixed tenure of modest sized bungalows, dormer bungalows, 2-storey detached and semi-detached houses. The proposed development comprising 5 no. one-bedroom and 5 no. two-bedroom units is considered acceptable and that this would contribute to an improved dwelling mix and typology in what is a relatively low-density residential area.

7.1.7. The proposed development includes the following main components:

- Demolition of two existing apartments in the northwest part of the site.
- Partial demolition and the redevelopment of the existing public house to have a reduced floorspace, with an existing single apartment kept above.
- the construction of 10 no. duplex units (comprising 5 no. 1-bedroom and 5 no. 2-bedroom units) spread over three residential blocks.
- Two of the residential blocks are in the eastern part of the site, within the existing surface car park, and comprise a 3-storey semi-detached building and 3-storey detached building
- There is a single duplex block in the northwest corner of the site, which would replace the existing 2 no. single storey apartments in this location.
- Relocated vehicular access to be at the south boundary of the site.

- 7.1.8. The proposal has a contemporary design and seeks to create a more legible and better-defined streetscape due to the placement and orientation of the proposed units to face directly towards the street. I note that there are limited details of the proposed materials and finishes shown on the technical plans and drawings. However, the submitted Design Statement indicates that development seeks to utilise a combination of off-white sand and cement render and reconstituted stone on the main building façades. It is intended to use blue/black natural slate for the roof. The proposed fenestration arrangement throughout is relatively uniform and avoids any intricate designs or features.
- 7.1.9. The proposed eastern blocks respect the existing building line which has been established by the adjoining residential houses to the east, including No. 1 Ashford Downs. They are also setback appropriately from the residential properties to the north (being Nos. 21 and 25 Ashford Downs) and the positioning of communal amenity space to the north simultaneously allows for ‘breathing room’ between the proposed duplex units and dwelling to the north but also good opportunities for passive surveillance.

7.2. Visual and Residential Amenity

Visual Impact and Overlooking

- 7.2.1. Having regard to the revised version of the site plan submitted as part of the Applicant’s Response to the Board, I consider that the scheme architect has designed to mitigate against any direct or perceived overlooking. This is achieved by way of proposing appropriate building height(s) and the careful positioning of residential blocks within the site.
- 7.2.2. The Applicant has submitted a series of photomontages comprising closeup and longer views of the development proposed. It provides an evaluation of the visibility and prominence of the proposal against its immediate environs, but also the wider context of the surrounding vicinity, including from locations north of the site, which is in the vicinity of the appellants’ properties. Having physically visited the site, and completed a visual inspection up close and from the surrounding vicinity, it is my

opinion that the photomontages are an accurate description of how the proposed development would appear as if constructed.

- 7.2.3. I consider that the proposed scheme would integrate with its receiving environment appropriately. The scale of the scheme proposed, its design, and the overall elevational treatment of the apartment blocks and public house, are of sufficient architectural quality and would be a welcome addition to the streetscape, in my opinion. I do not consider that the proposed three storey height would be excessive in this context or that it would result in any negative visual, amenity or overbearing effects on the surrounding residential area, including that of the properties located to the north. I note that whilst there is a level change between the appeal site and these abutting properties, it is my opinion that significant negative overlooking or loss of privacy is unlikely in this case. This is mainly because of the separation distances proposed – i.e., a minimum of c. 14.1m would be between the northwestern block and nearest residential dwelling (No. 22 Ashford Downs) – and the various elevational designs and treatments, including the judicious placement of windows to reduce the potential for overlooking.
- 7.2.4. Section 7.4 of the ‘Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)’ state that at the rear of dwellings, there should be adequate separation (traditionally about 22 m between 2-storey dwellings) between opposing first floor windows. However, I note that there are no windows proposed for the northern elevation of the northwestern block, which negates the potential for overlooking or invasion of privacy.
- 7.2.5. The blank gable end of the proposed block has the potential for overbearance however and to be visually dominating. In this regard, I acknowledge the level difference between the properties and that No. 21 is somewhat lower than the appeal site. However, I do not consider this level change to be so great that it would result in a significant amount of additional overbearance or overdominance, particularly as the northwestern block has now been moved further south as part of the revised site layout submitted to the Board in the Applicant’s Response. However, I do not consider that an appropriate finish for this elevation would be solely render and that a higher quality material, potentially using a combination of stone or brick with the

render, should be required, particularly as this elevation will be highly visible on the approach to the site from the south along the L5070. Therefore, in the event permission is granted by the Board, I recommend that a condition be attached requiring details of all materials to be used in the external treatment of the development and that this be submitted to and agreed in writing with the Planning Authority prior to commencement of development.

- 7.2.6. In relation to the potential wraparound associated with the redeveloped public house, I consider that while this could give rise to inappropriate overlooking, it can be addressed via a condition which would prohibit the use of any spaces above ground to be used as outdoor terrace or seating area.

Sunlight, Daylight & Overshadowing

- 7.2.7. The Applicant submitted a Sunlight & Daylight Assessment of the proposed development as part of further information. I note that Section 3.3.7 of the Development Plan (Appendix 1) states in relation to residential design quality that 'layouts shall ensure adequate sunlight and daylight, in accordance with Site layout planning for daylight and sunlight: a guide to best practice, (BRE 1991)'.
- 7.2.8. Regarding the potential overshadowing impact on third parties, no assessment against Virtual Sky Component (VSC) or Annual Probable Sunlight Hours (APSH), in accordance with the BRE Guide has been conducted or submitted by the Applicant. Whilst I accept a series of shadow projection diagrams have been completed by the Applicant, these do not provide a review against the criteria as per the relevant British Standard(s), or BRE Guide. However, the diagrams provide a series of useful illustrations that make a comparison between the existing and proposed scenarios for 21st March (3pm), which is the required test date according to the guidance.
- 7.2.9. The diagrams indicate that the property most affected at this time (i.e. 21st March (3pm)) would be No. 21 Ashford Downs, which is the property directly north of the proposed northwestern block. There would be a small amount of overshadowing on the rear (south) elevation of the house at this time but there would be no significant loss of sunlight experienced, in my opinion. In relation to the private amenity space associated with this property, it is apparent that there would be some overshadowing of the garden caused by the proposal during the 21st March.

- 7.2.10. However, I have carried out a physical inspection of the appeal site, and its surrounding vicinity, and viewed the technical drawings accompanying the application. I note also that the shadow analysis report submitted by the Applicant shows the northwestern block moved southwards by an additional 2.7m to assist with better lighting conditions.
- 7.2.11. Having considered the issue, I am satisfied that due to the minimum back-to-back separation distance of approximately 14m, and overall height of the proposed development, which is three-storeys (with an overall, approximate ridge height of 9.9m) and which is, therefore, generally consistent with the existing, prevailing height of the area, that there would no significant overshadowing impact on any adjoining residential properties houses, or their associated amenity spaces, caused by the proposed development.
- 7.2.12. In summary, I consider, that having regard to the overall scale, design, height and massing of the proposed development, that it would not result in significant negative overbearance, overdominance or any inappropriate negative visual impact and that it would not significantly affect the amenity and established residential character of its receiving environment. The proposal would be in accordance with the relevant policy guidance outlined in the County Development Plan, including Objectives CPO 6.3, CPO 6.22 and Section 6.3.5 which are in relation to new residential development and housing density, respectively.

7.3. Drainage and Flood Risk

- 7.3.1. The Appellants raise concerns regarding flood risk and state that there is a history of flooding on the site during periods of heavy rainfall.
- 7.3.2. The appeal site is not identified as being within any of the flood zones according to the Office of Public Works (OPW) Flood Hazard Mapping website (www.floodinfo.ie). There are no past flood events recorded on the site, or in the vicinity of site.
- 7.3.3. I have also consulted Map No. 3 'Indicative Flood Zones' of the Wicklow County Development Plan 2021 – 2027 and note that the site is not identified at being at flood risk.

- 7.3.4. During my physical inspection of the site, I observed that the land is on relatively high ground and that the fall is downwards, and towards the Avoca River, which is to the northeast of the property.
- 7.3.5. In relation to the proposed method of drainage, I note that the Applicant provided a detailed response to this issue as part of further information. Soil infiltration tests were carried out and it was found that infiltration rate was favourable for using a modular soakaway system to deal with stormwater.
- 7.3.6. The scheme design was also amended at further information stage to reduce the extent of hardstand area on the site and for the inclusion of permeable paving as part of the new access road. The Applicant considered the introduction of other SuDS measures, including swales, but this was discounted due to the relatively small size of the site and other constraints, which I consider acceptable. The installation of a rainwater butt at the rear of each property to collect and store excess rainwater is now included as part of the revised scheme design, which is a positive addition, in my opinion.
- 7.3.7. I note also that the Planning Authority examined the proposed soakaway system and considered it capable of dealing with collecting stormwater that would be created during heavy rainfall. The system was designed to cater for the 1:100 year storm event and thus deemed a safe means of dealing with excessive rainfall and runoff generated by the development and that it would not result in any adverse effects for either the subject development or neighbouring properties.

7.4. Car Parking

- 7.4.1. The Appellants submit that the amount of car parking proposed would be insufficient to cater for the proposed development.
- 7.4.2. In total, the Applicant proposes 23 no. car parking spaces, which would be shared between the pub and residential components.
- 7.4.3. Section 2.1.7 of the Development Plan (Appendix 2.3) states that private car usage should be encouraged to be reduced in locations where public transport and parking

enforcement are available. In such locations, the car parking standards set out in Table 2.3 of the Development Plan are to be taken as 'maximum standards'.

- 7.4.4. Furthermore, the Apartment Guidelines state that in suburban/urban locations served by public transport or close to town centres or employment areas, planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard.
- 7.4.5. As previously noted, the subject site is a short distance from Ashford town centre and within walking distance of its various services and facilities. There are two bus stops within approx. 500m of the site on the R772. The services are frequent and include routes connecting Ashford with Dublin city centre and other regional settlements.
- 7.5. Therefore, having regard to the locational characteristics of the site and its proximity to Ashford town centre, and public transport services, I consider it appropriate that the provision of car parking be relaxed and that the provision of 23 no. spaces is appropriate in this case.

7.6. Other Issues

Boundary Wall

- 7.6.1. Both Appellants raise concerns regarding the structural integrity of the shared boundary wall running along the north section of the appeal site and state that the proposed development could potentially cause the wall to fail, thus causing potential injury.
- 7.6.2. I consider that this can be adequately addressed by way of requiring the Applicant to prepare and submit a structural survey and detailed construction methodology statement, indicating the means proposed to ensure the protection of the structural stability of the wall.

Deficiencies in application documentation

- 7.6.3. In terms of the alleged irregularities of application documentation submitted, I note that the application was considered valid and deemed acceptable by the Planning Authority.

- 7.6.4. I acknowledge that the application form submitted, under Question No. 17, failed to reference that the proposed development is seeking demolition works comprising the removal of 2 no. apartments and part-demolition of the existing public house.
- 7.6.5. However, I am satisfied that this did not prevent the concerned party from making representations and that they are party to the appeals process. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

Right to Light

As the issue of determining rights to light is a matter for the Courts, I do not consider that the Board is in a position to draw any conclusions in relation to the matters raised.

Asbestos

I note the concerns raised in relation to the potential presence and disposal of asbestos. Asbestos is, however, a notifiable substance and, therefore, the subject of a separate legal code.

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and small scale of the proposed development, which is for demolition works, construction of 10 no. residential units in an established urban and serviced area, and the distance from the nearest European site, no Appropriate Assessment issues arise. Therefore, 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.
- 7.7.2. I note also that the Planning Authority, and Applicant as part of their appeal submission, completed an AA Screening, which confirmed that there would be no material risk to any protected habitats and, therefore, no requirement for a Stage 2 AA.

8.0 Recommendation

I recommend that planning permission be granted for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the *Wicklow County Development 2022 - 2028*, including the zoning objective for the site ('RE – Existing Residential') where the objective is to protect, provide for and improve residential amenities of adjoining properties and areas while allowing for infill residential development that reflects the established character of the area in which it is located; it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, or of property in the vicinity; and would provide an acceptable standard of amenity for future residents. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 24th November 2021 and by the further plans and particulars received by An Bord Pleanála on the 28th March 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
----	---

2.	<p>There shall be no external terrace or balcony above groundfloor level used for purposes of seating patrons, or otherwise, for the public house.</p> <p>Reason: In the interest of visual and residential amenity.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any residential unit.</p> <p>Reason: In the interests of amenity and public safety.</p>
5.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan (CMP), which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise and traffic management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>

8.	<p>Construction and demolition waste shall be managed in accordance with a Construction Waste and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
9.	<p>Prior to commencement of development, final finishes, construction makeup and detailing of the proposed footpath and the layout of the proposed car parking, junction kerbing, drainage, roadmarkings and signage shall be submitted to and agreed in writing with the Planning Authority.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
10.	<p>a) The landscaping scheme submitted to the planning authority on the 24th November 2021 shall be carried out within the first planting season following substantial completion of external construction works.</p> <p>b) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>

11.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity.</p>
12.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
13.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
14.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and</p>

	<p>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>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
15.	<p>The developer shall pay to the planning authority a financial contribution of 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. The application of any indexation required by this condition 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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

Ian Boyle
Planning Inspector

28th October 2022