



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313271-22

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<b>Development</b>	Two storey commercial building comprising retail, offices and storage and all associated site development works.
<b>Location</b>	Castlepark, Arklow, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	211035
<b>Applicant(s)</b>	Arklow Electrical Wholesale Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refusal of Permission.
<b>Type of Appeal</b>	First Party V Refusal of Permission.
<b>Appellant(s)</b>	Arklow Electrical Wholesale Ltd.
<b>Observer(s)</b>	Duncan and Sheena Ward.
<b>Date of Site Inspection</b>	30/08/2022.
<b>Inspector</b>	Enda Duignan.

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located directly to the south of Castle Park public car park within Arklow Town. The infill site has an irregular shape and is substantially cleared, with the exception of shrubs and some taller vegetation along the southern site boundary. The appeal site has a stated area of c. 0.06ha.
  
- 1.2. In terms of the surrounding area, the site has an eastern abuttal with a laneway and a gated vehicular access which serves the rear of properties to the south and south-east. St. Colmcilles Band Hall is located directly to the west of the site and a pedestrian access is located along the common boundary. There is an extant permission on the lands immediately to the south of the site for a residential development comprising a total of 4 no. apartments. Perpendicular car parking was observed to the north of the appeal site, immediately adjacent to its front boundary.

## **2.0 Proposed Development**

- 2.1. The proposal seeks planning consent for the construction of a two storey commercial building on site. The commercial building had a stated area of c. 580sq.m. and comprises a combination of retail, offices and delivery and storage space.
  
- 2.2. At ground floor level, the proposed development comprised a retail shop with the majority of the floor space allocated to storage and deliveries. Additional retail floor space was provided at first floor level with ancillary office space. The first level also contained a void to accommodate the deliveries at ground floor level. Access to the delivery area was provided from the north of the site.
  
- 2.3. The proposal was modified by way of additional information so that retail space was provided along the full length of its frontage (north) at ground floor level. The commercial building was internally modified, and additional retail and office floor space was proposed at first floor level. Access to the site was also amended so that delivery access is provided from the east via the existing laneway.
  
- 2.4. The proposed building will have a flat roof form with a maximum height of c. 8.1m above natural ground level. Materials and finishes will comprise a combination of white

and orange monocouche render and navy brick for the principal elevations with aluminium framed windows. Signage is also proposed at ground floor level on the front (north) elevation of the building.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Wicklow County Council refused planning permission for the development for the following 1 no. reason:

1. The proposed development would endanger public safety by reason of traffic hazard due to the vehicular turning movements generated by the proposed delivery entrance which would result in vehicles reversing in a public car park across a public one way street into a laneway which would obstruct an existing vehicular entrance and result in conflicting vehicular movements with Laffin's Lane, within the public car park itself and with the existing vehicular entrance on the laneway serving the proposed delivery entrance. The development if granted would therefore, be contrary to the proper planning and sustainable development of the area.

##### **3.1.1. Planning Reports**

The Wicklow County Council Planning Reports form the basis of the decision. The First Planning Report provides a description of the subject proposal and site, it sets out the planning history of the site and surrounds and provides a summary of the observations on file.

The report highlights that the site is zoned TC (Town Centre) within the Arklow and Environs Local Area Plan, 2018-2024. Given the stated nature of the proposed use and the location of the site on lands zoned TC, the Planning Authority note that the principle of development is acceptable. However, the Planning Authority indicated that a large proportion of the unit was dedicated to storage and deliveries and concerns were highlighted that the unit could become a warehouse for storage rather than a retail unit.

In terms of vehicular access, the Planning Authority noted that there are currently perpendicular public car parking spaces directly to the north of the site. It was highlighted that the Applicant had not submitted any autotrak drawings to demonstrate how delivery vans and trucks could safely manoeuvre into the building given the current parking arrangement. The Planning Authority also noted that vehicles directly associated with the proposed business should not result in hazardous parking arrangements, including for the loading and unloading of vehicles serving the proposed development. As no car parking was proposed, the Applicant was requested to address this matter by way of additional information.

In terms of amenity impacts, the Planning Authority recommended the lowering, reduction or omission of the window serving the stairwell on the eastern elevation to address the potential for overlooking of adjoining properties. No additional concerns with respect to overlooking are highlighted by the Planning Authority. The Planning Authority was also satisfied that the proposal will not result in undue overshadowing of properties within the vicinity of the appeal site.

In terms of proposed shopfront and streetscape, the Planning Authority indicated that there was an opportunity to enhance the streetscape at this location and the Applicant was requested to provide a shopfront to the retail element of the building which was more human in scale. It was also noted that that signage on the building should be carefully considered, and the Applicant was requested to submit photographic samples of the proposed coloured render. The Applicant was requested to provide details of all boundary treatments proposed on site, including along the laneway to the east of the site and along the boundary shared with the property to the west. Details were requested to be provided of how the Applicant proposes to address the shared boundary with the outhouse structures along the eastern boundary of the site, which are in separate ownership.

The Second Planning Report notes that the Applicant has relocated the proposed delivery vehicular entrance from the front facade of the building to the side facade with access off the laneway to the east. It is stated that this was done to avoid conflict with the existing public car parking spaces to the north of the site. The Planning Authority

note that this laneway is not taken in charge by Wicklow County Council and serious concerns are highlighted with respect to the location of this entrance on an access laneway in terms of its proximity to an existing vehicular entrance to a residential property and a potential conflict with traffic movements and the obstruction of this private vehicular access. Concerns are also highlighted regarding the maintenance of this road as a consequence of the proposed development. The Planning Authority note that larger delivery trucks would have to turn right into the public car from Laffin's Lane (a one-way street) and then reverse back across the junction with Laffin's Lane into the right of way to unload, while obstructing the vehicular entrance into a private residential property. The Planning Authority highlight that this arrangement would result in a traffic hazard for pedestrians and other road users using the public car parking. In terms of car parking, the response of the Applicant is noted by the Planning Authority. However, the concerns with respect to the proposed vehicular movements associated with the proposed delivering entrance to the unit and the impact that this entrance will have on an existing vehicular entrance to a private residential property to the south are again highlighted. The Planning Authority indicate that all other items requested by way of additional information had been satisfactorily addressed.

In conclusion, the Planning Authority note that the vehicular movements associated with the proposed delivery entrance would endanger public safety by reason of serious traffic hazard and a refusal of permission is recommended.

### 3.1.2. Other Technical Reports

Engineer: First report received recommending a request for additional information. A second report was also received outlining that the laneway that is proposed for access is not taken-in-charge by Wicklow County Council.

Waste Management: Report received stating no objection to the proposed development.

### 3.2. Prescribed Bodies

Irish Water: Report received stating no objection subject to compliance with conditions.

### **3.3. Third Party Observations**

3.3.1. One third-party observation was received from the occupants of No. 23 Lower Main Street (Observers to Appeal). A summary of the issues raised in the observation are included as follows:

- The property utilises the vehicular access route to the east of the application site. It is indicated that sheds and outbuildings associated with this property also adjoin the application site along its south-eastern boundary.
- The site was bought from the Observer's family in 1970 by CPO and it is not clear why the site is no longer within the ownership of the Local Authority.
- The use of the proposed development is considered by the observer to be a retail warehouse which they consider is not compatible with the Town Centre zoning of the application site and would have a negative impact on Arklow's Town Centre. The application site is located outside of the main retail core of Arklow Town.
- Concerns with respect to excessive signage.
- Concerns with respect to the impact of the proposal on the residential amenity of surrounding properties by reasons of overlooking, overshadowing and by being visually overbearing.
- Concerns with respect to the impact of the proposal on the future development potential of the observer's property.
- Concerns with respect to the impact on the boundary treatments.
- Concerns with respect to the impact from external lighting and CCTV.
- Concerns with respect to impacts on car parking and traffic congestion.
- The proposed development would result in the overdevelopment of the site.
- It was noted that the application site is located in a zone of archaeological potential.

3.3.2. Following the submission of additional information by the Applicant, a further observation was received from the occupants of No. 23 Lower Main Street. A summary of the issues raised in the observation are included as follows:

- Concerns with respect to the impact of the proposal on the right-of-way and vehicular access to the residential property located to the south/south east of the application site.

- Concerns with respect to the impact of the proposal on the laneway in terms of wear and tear if it is being used for turning movements by vans and trucks.
- It is highlighted that the laneway which is a right-of-way was not included in the red line boundary.
- Continued concerns that the building would still appear overbearing on the observer's property.
- It is noted that the proposed boundary treatments are not acceptable.

## **4.0 Relevant Planning History**

### **4.1. Appeal Site**

**07/610147:** Planning permission refused by WCC and An Bord Pleanála (33.229402) for the construction of a 3 no. storey mixed use development comprising 2 no. retail units, 2 no. 2 bed apartments & 2 no. 1 bed apartments at second floor level, connecting into existing services with ancillary site works

### **4.2. Surrounds**

**19/1268:** Planning permission granted on the lands immediately to the south of the appeal site for the construction of a 2 no. storey building comprising 4 no. one bedroom apartment units and for connection to existing services along with all associated site development works on lands. This active permission has not been constructed to date.

## **5.0 Policy Context**

### **5.1. Wicklow County Development Plan (CDP), 2016-2022.**

Arklow Town is identified as a 'Hinterland Area Large Growth Town II' (Level 3) in the current Wicklow CDP. Chapter 6 (Centres and Retailing) of the current CDP is relevant to the assessment of the application and it identifies Arklow as a Level 3 Sub County Town Centre (Tier 1 Towns serving a wide district). A specific objective of the CDP is "To facilitate and encourage the consolidation and improvement of retailing and other town centre activities of the Level 3 centres of Arklow and Greystones and to ensure that there is an equitable, efficient, competitive and sustainable distribution of retail floorspace in the towns"



The current CDP notes that Arklow is the main centre located in the south of the County, removed from other large centres. The centre provides for the service needs of its residents and a large geographical catchment extending to Avoca, Aughrim, Redcross, a significant rural population, and to some extent to Tinahely/Shillelagh/Carnew area (although some expenditure is lost from these centres to Gorey and Carlow). It is the vision that Arklow will be the principal shopping and service destination for this wide catchment area.

As per Map No. 06.10A of the Plan, the appeal site is located outside the boundary of Arklow's Core Retail Area.

Other relevant policy objectives of the current CDP include:

- **RT1** "To ensure the continued vibrancy and life of centres, to direct new development and investment into towns and villages in the first instance and to particularly prioritise actions that enhance business, retail, leisure, entertainment and cultural uses, as well as making town and villages centres an attractive place to live."
- **RT19** "To promote quality design in all retail development, in accordance with the design principles set out in the Retail Planning Guidelines 2012 and companion document 'Retail Design Manual' (DoAHG, 2012), including the guidance set out in the 'Development and Design Standards' appended to this plan."

## **5.2. Arklow and Environs Local Area Plan (LAP), 2018-2024.**

Under the current LAP, the appeal site is located on lands zoned TC, the objective of which is "To provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic use, and to provide for 'Living Over the Shop' residential accommodation, or other ancillary residential accommodation". The description for TC zoned lands included the current LAP is as follows:

- "To develop and consolidate the existing town centre to improve its vibrancy and vitality with the densification of appropriate commercial and residential developments ensuring a mix of commercial, recreational, civic, cultural,

leisure, residential uses, and urban streets, while delivering a quality urban environment which will enhance the quality of life of resident, visitor and workers alike. The zone will strengthen retail provision in accordance with the County Retail Strategy, emphasise town centre conservation, ensure priority for public transport where applicable, pedestrians and cyclists while minimising the impact of private car based traffic and enhance and develop the existing centre's fabric."

Uses on TC zoned land typically include retail, retail services, health, restaurants, public house, public buildings, hotels, guest houses, nursing/care homes, parking, residential development, commercial, office, tourism and recreational uses, community, including provision for religious use, utility installations and ancillary developments for town centre uses in accordance with the CDP. The current LAP notes that the Planning Authority shall determine each proposal on its merits, and shall only permit the development of uses that enhance, complement, are ancillary to, or neutral to the zoning objective. The policy notes that uses that are materially inconsistent with and detrimental to the zoning objective shall not be permitted.

Map No. 5.1 of the current LAP identifies the appeal site as falling within an "Opportunity site for redevelopment". This also includes land to the immediate south and west of the appeal site.

Policies with respect to retail development are included within Chapter 6 (Retail) of the current LAP.

### **5.3. Draft Wicklow County Development Plan, 2022-2028.**

I wish to bring to the Board's attention the imminent implementation of the Draft Wicklow County Development Plan, 2022-2028. I note Arklow is identified as a "Level 3 Town and/or District Centres & Sub-County Town Centres (Key Service Centres)" and the appeal site remains outside the town's Core Retail Area as identified in Map No. 10.01b. of the draft CDP.

Other relevant policy objectives of the draft CDP include:

- **CPO 10.8** “To vigorously protect and promote the vitality and viability of town centres. Development proposals not according with the fundamental objective to support the vitality and viability of town centre sites must demonstrate compliance with the ‘sequential approach’ before they can be approved. The ‘sequential approach’ shall be applied and assessed in accordance with the ‘Retail Planning Guidelines, (DoECLG, 2012)’<sup>4</sup>. The Planning Authority will discourage new retail development if they would either by themselves or cumulatively in conjunction with other developments seriously damage the vitality and viability of existing retail centres within the County. In the application of the ‘sequential approach’ due regard shall be paid to CPO 10.9 below which prioritises the ‘core retail area’ for new retail development.”
- **CPO 10.10** “New retail developments in town centres will be required to provide proximate and easily accessible car and cycle parking or to make a financial contribution towards car parking where it has been or will be provided by the Local Authority...”
- **CPO 10.15** “To facilitate the identification, promotion and development of key town centre opportunity sites.
  - Opportunity sites are prime sites within a town, which are under-utilised in terms of their development potential, and as such they should be revitalised.
  - The sites can be located at critical gateways or entry points to the town, and as such can be highly visible and may be suitable for ‘landmark’ type buildings. As the development of these sites will help set the tone for the town and influence the public perception of it, a high quality of urban design and innovation will be required at these locations.
  - Opportunity sites are to be the subject of comprehensive (not piecemeal) integrated schemes of development that allow for sustainable, phased and managed development.
  - Opportunity sites are identified within local area/town/settlement plans.”
- **CPO 10.16** “To promote quality design in all retail development, in accordance with the design principles set out in the Retail Planning Guidelines 2012 and companion document ‘Retail Design Manual’ (DoAHG, 2012), including the

guidance set out in the 'Development and Design Standards' appended to this plan."

#### **5.4. Natural Heritage Designations**

There are no European designated sites within the immediate vicinity of the site. The nearest designated site is the Buckronev-Brittis Dunes and Fen Special Area of Conservation (SAC) (Site Code: 000729), c. 5.2km to the north-east of the site. The 'Proposed Natural Heritage Area: Arklow Town Marsh' is also located c. 100m to the north-east of the site.

#### **5.5. EIA Screening**

Having regard to the nature and scale the development which consists of the construction of a commercial development in a serviced urban 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**

The main points made can be summarised as follows:

- In order to overcome the reason for refusal, the plans have been modified so that the front building line has been set back 1.8m so it is in line with the adjoining buildings to the west to provide a 4m wide vehicular access lane and set area to the front of the building within the site boundaries. It is stated that this also allows for a minimum 1.2m wide footpath to the front of the building.
- In terms of rigid truck deliveries, it is stated that stock deliveries will be received between 3 to 5 times per week between 7.30am and 8am which take 15 minutes to off load. The following proposals for deliveries of this nature are detailed:
  - o Rigid trucks approach the site using the one-way system on Laffin's Lane.
  - o The truck can then turn left towards the site and drive forward freely into the new set down area in front of the building.

- Using the rigid truck tail lift, goods can be unloaded from the rear of the truck and transferred along the laneway using an electric pallet truck to inside the store room where the storeroom fork lift can then place the goods in storage or lift up to the first floor for display on the shop floor.
  - Once unloaded, the delivery truck can move forward through the yellow box area in front of the pipe band hall and pigeon club (min. 4m wide) safely manoeuvre back out onto the public one-way system road of Castle Park
- In terms of delivery vans, the appeal submission outlines the existing delivery schedule and it is stated that it will have no impact on existing car parking within the site surrounds.
  - A rationale has been put forward by the Applicant for the non-provision of on-site car parking for the proposed development. The Applicant has also outlined precedent cases within the surrounds, whereby a relaxation in the car parking requirement was permitted.
  - The appeal submission includes a Stage 1 Road Safety Audit for the modified proposals and includes further design recommendations to address potential traffic conflicts.
  - A full set of modified plans and elevations of the proposed development also accompany the appeal submission.

## **6.2. Planning Authority Response**

None.

## **6.3. Observations**

1 no. observation received and prepared on behalf of:

- Duncan and Sheena Ward, Lower Main Street, Arklow, Co. Wicklow (south of appeal site).

The issues raised can be summarised as follows:

- The decision of the Planning Authority should be upheld and planning permission refused for the proposed development.

- Significant concerns are raised that the proposal will block the existing right-of-way and the vehicular entrance that serves properties to the south.
- Concerns are highlighted with respect to the modified proposals at appeal stage, whereby the front of the property is to be transformed into a delivery area.
- It is purported that validation issues arise with the Applicant's modified proposals at appeal stage.
- The appeal proposals comprise an extremely simplistic and self-serving proposal for allowing delivery trucks and vehicles to do drop offs to the front of the site and for these trucks and vehicles to drive off over lands to the front of adjoining properties. It is stated that the Applicant is asking that their needs be prioritised over the safety of the community members which access these community buildings each day.
- Concerns are highlighted with respect to the proposals for unloading of vehicles via the existing right-of-way.
- Concerns that the modified proposals would effectively sterilise the area to the front of the community buildings making it the Applicant's access permanently.
- The Applicant's proposals would result in a loss of a considerable number of existing car parking spaces within a car park which is already often out 100% capacity.
- Concerns with respect to how the proposed set down area is to be managed by the applicant. It is stated that the applicant has already a retail warehouse in this area and there can be no justification for the current proposals to have any further impacts.
- Concerns with respect to the lack of car parking for the proposed development.
- Concerns with respect to the adequacy of the road safety audit.
- Concerns with respect to the principle and nature of the proposed development as the site is not suitable for a retail warehouse

#### **6.4. Further Responses**

None sought.

### **7.0 Assessment**

The main issues are those raised in the grounds of appeal, the Planning Report and the reason for refusal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. I again wish to highlight the impending implementation of the Draft Wicklow County Development Plan, 2022-2028. It is noted that the subject proposal has been assessed against the policy provisions of the current CDP and the Board will need to have due regard to policy that is in place at the time of their determination. On the basis of the foregoing, the items to be addressed under within the assessment will be considered under the following headings:

- Principle of Development & Streetscape
- Vehicular Access & Car Parking
- Residential Amenity
- Other Matters
- Appropriate Assessment

#### **7.1. Principle of Development & Streetscape.**

7.1.1. The proposed development seeks planning consent for the construction of a 2 no. storey commercial building comprising a combination of retail and ancillary office and storage floor space. The Planning Authority in their initial assessment of the application raised concerns with respect to the nature of the proposed development, noting that c. 40% of the floor area was dedicated to storage and deliveries. In addition, concerns were highlighted with respect to the design of the building, notably, a front elevation which was dominated by a large roller door to serve the proposed delivery and storage area. The Applicant was therefore requested to submit a rationale for the development as originally proposed and amended design proposals which provided for an enhancement of the streetscape at this location.

7.1.2. In response to the Planning Authority's concerns, delivery access to the site was reconfigured at additional information stage so that access was to be provided from

the existing laneway to the east of the appeal site. A rationale was put forward by the Applicant with respect to the specific requirement for storage space. In addition, the overall retail floor area was increased by c. 10%. The proposal also provided for internal modifications and the provision of an active interface along the full length of the site's frontage, with retail floor space provided at ground floor level and a combination of retail and office floor space at first floor level. In terms of the design of the building, the Applicant proposed an alternative palette of materials and finishes and incorporated a combination of brick and render finishes for the front façade of the building.

- 7.1.3. In terms of the principle of the proposed development and the nature of the proposed use, I am conscious of the commentary of the Third Party observer, whereby it is purported that proposed commercial premises will function as a retail warehouse, similar to the existing premises currently operated by the Applicant to the north of the appeal site. Although a significant portion of the ground floor level of the building is allocated to storage, I note that the retail floor space was increased at additional information stage, and I accept the rationale put forward by the Applicant with respect to the storage requirements of the business. As per the Guidelines for Planning Authorities, Retail Planning, April 2012 (Retail Planning Guidelines), a retail warehouse is defined as “a large single-level store specialising in the sale of bulky household goods such as carpets, furniture and electrical goods, and bulky DIY items, catering mainly for car-borne customers”. The Retail Planning Guidelines provides policy guidance for retail parks and retail warehouses given the potential negative impact they can have on core retail areas, typically when they are located at a distance from town and village centres. I note that the Retail Planning Guidelines also recognises that many bulky goods stores can and are accommodated in city and town centres. I am conscious of Policy RT24 (Retail Warehousing) of the current CDP which notes “Single retail warehouse units may be considered on infill sites in built up areas and flexibility with regard to the type of goods sold may be considered where the location is easily accessible by foot from the core retail area.”
- 7.1.4. Under the current LAP, the site is zoned TC which seeks “To provide for the development and improvement of appropriate town centre uses including retail,



commercial, office and civic use, and to provide for 'Living Over the Shop' residential accommodation, or other ancillary residential accommodation". Given the nature of the proposed development and internal layout of the retail premises at ground and first floor level, I am satisfied that the proposed use is in accordance with the zoning provisions of the site and can in fact make a positive contribution to the retail offering in the town. In this regard, I am satisfied that the proposal will not impact adversely on the vitality and viability of the established town centre and I therefore consider that the principle of the proposed development is acceptable at this location

- 7.1.5. In terms of the design of the proposed development, I note that the Planning Authority was satisfied that the modifications to the design of the development at additional information stage satisfactorily addressed their initial concerns. The front elevation of the proposed building has been successfully articulated through the use of contrasting materials so that it now provides visual interest within the streetscape. In addition, the relocation of the roller doors to the side elevation facilitates the provision of an active interface at ground and first floor level. On the basis of the modified plans at additional information stage, I am satisfied that the design of the development is acceptable at this location and will not detract from the visual amenity of the surrounding area.

## **7.2. Vehicular Access & Car Parking**

- 7.2.1. The proposed development originally included a double height roller door on the front elevation to facilitate vehicular access to the delivery and storage area within the proposed building. The Planning Authority raised concerns with respect to this aspect of the proposal given there is a row of existing parallel public car parking spaces located to the north of the appeal site and the likely traffic conflict that would arise as a consequence of the proposed access arrangement. To address the concerns of the Planning Authority, the Applicant modified the proposal so that access to the site was to be provided via the existing laneway to the east of the site. Although the Applicant in their appeal submission has purported that the laneway is in the ownership of the Local Authority, the Planning Authority have indicated in their report that the laneway is not taken-in-charge. I also note that the Third Party observer has indicated that they benefit from a right-of-way over this laneway and I noted from my inspection of the site

and surrounds that there was a gated vehicular entrance at the southern end of the laneway which provides access to the rear of the properties to the south of the site.

- 7.2.2. As part of the additional information response, the Applicant submitted auto track analysis for rigid trucks and delivery vans. In order to provide access to the site, rigid trucks would have to turn right into the public car park to the north of the site from Laffin's Lane (one way street) and then reverse across Laffin's Lane into the right-of-way to unload goods into the premises. Smaller delivery vans accessing the site would turn left into the right-of-way and then would have to reverse across the right-of-way when exiting the building. Planning permission was refused by the Planning Authority given the proposed development would endanger public safety by reason and would obstruct an existing vehicular entrance on the laneway serving the proposed delivery entrance.
- 7.2.3. Given the requirement for larger delivery trucks to reverse from the existing public car parking across a one way street, into a right-of-way, which the Planning Authority have indicated is not taken-in-charge, and the potential obstruction of an existing vehicular entrance which benefits from this right-of-way (i.e. serving the lands to the south), I would share the concerns of the Planning Authority with respect to the proposed access arrangement. Although the Applicant has indicated that delivery times will be limited to the morning time (i.e. between 7.30am and 8am), I am not satisfied that this can be successfully managed through the planning process in this particular instance and I therefore consider that the proposed development has the potential to endanger public safety by reason of a traffic hazard. Although I acknowledge that the Applicant has attempted to address the concerns of the Planning Authority, I note that potential access arrangements for the site are constrained due to the existing public car parking arrangement to the north of the site which is outside the control of the Applicant. This is particularly relevant in this instance given the nature of the proposed use and the requirement for larger delivery vehicles to access the site.
- 7.2.4. In an attempt to overcome the refusal reason and address the concerns of the Planning Authority, the Applicant has submitted a modified proposal as part of the appeal submission. The proposals now seek to set back the building by 1.8m so that

the front building line aligns with the property to the west. It is proposed to provide a 4m wide vehicular access lane, set down area and 1.2m wide pedestrian footpath to the front of the building within the site boundaries. I note that access to the storage/delivery area from the laneway to the east is maintained. In terms of larger delivery trucks, the following proposals are noted:

- Rigid trucks will approach the site using the one-way system along Laffin's Lane.
- The truck can turn left towards the site and drive forward into the new set down area to the front of the building.
- Goods can be unloaded from the rear of the truck and transferred along the laneway using an electric pallet truck to inside the store room.
- Once unloaded, the delivery truck can move forward through the yellow box area in front of the pipe band hall and pigeon hall to the west and manoeuvre back out onto the public one-way system road of Castle Park.

7.2.5. I note a similar arrangement is proposed for smaller vans. The appeal submission indicates that no reversing movements are required with this arrangement, and it is intended to mark the set down area as a yellow box which is in keeping with the land in front of the buildings to the west of the site so as to ensure free access and movement at all times. It is also stated that there is now no requirement for vehicles to enter the laneway to the east of the site. It is stated that this will ensure that there will be no impact to the lane surface and there shall be no obstruction of the existing vehicular access to the adjoining lands. In support of the appeal, a Stage 1 Road Safety Audit was undertaken for the modified proposal and included recommendations with respect to the provision of signage and road markings within the laneway and set down area to ensure that customers are aware that car parking is prohibited. It was also recommended that a dropped kerb and tactile paving be provided between the car park to the north and the proposed development.

7.2.6. As summarised in the foregoing, deliveries trucks and vans are required to exit the set down area to the front of the building via the yellow box to the front of the 2 no. sites to the west of the appeal site. Although a yellow box is currently identified on the lands to the west, it would appear from the land registry information that these areas to the

west of the appeal site are located within private lands. The Applicant would therefore be relying on access through lands which are outside the control of both the Applicant and the Planning Authority. Although a letter in support of the proposal has been enclosed from “Arklow United Racing Pigeon Club”, I am not satisfied that the Applicant has sufficient legal interest to rely on this access arrangement. I also note that the existing site and the lands further to the west are identified as an “Opportunity site for redevelopment” as included in Map No. 5.1 of the current LAP. I would have significant concerns that the development, as proposed at appeal stage, may impact upon the development potential of the adjoining lands. In addition, the development of these lands to the west in the future may impact on the ability for the Applicant to rely on this access arrangement in perpetuity. On this basis, the proposed access arrangement is not in accordance with the proper planning and sustainable development of the area and I recommend that permission be refused for the proposed development.

- 7.2.7. In terms of car parking, I note the Planning Authority raised concerns with the respect to the lack of designated on site car parking for delivery vehicles associated with the proposed development. Upon inspecting the site and site surrounds, it was evident that car parking was at a premium within the existing public car park to the north of the site. The Applicant has put forward a justification for the development as proposed and outlined a rationale for the lack of off-street car parking given the central location of the site. It is also indicated that modified proposal at appeal stage will allow for loading/unloading of vans to be carried out on site within the set down area at designated times. It is also stated that vans will be in use throughout the day and will therefore not result in car parking pressures within the public car park at peak times. In terms of the modified proposal, it is unclear whether the Applicant is intending to utilise the existing car parking spaces within the public car park when the premises is closed. I note that at additional information stage, a letter from the Applicant confirmed that the delivery vans will be parked within the proposed building during closing hours. Although I am satisfied that the non-provision of off-street customer car parking is acceptable in this instance given the central location of the site and the overall scale of the proposed development, further clarity is required with respect to the car parking arrangement for delivery vans associated with the proposed development.

### **7.3. Residential Amenity**

- 7.3.1. The proposed double storey building will have a flat roof form with a maximum height of c. 8.1m above natural ground level. The building is proposed to be set back c. 500mm from its eastern boundary which it shares with the existing laneway and the single storey out buildings associated with the adjoining property. A set back of c. 1m and between c. 1m and 3m is provided from its western and southern boundaries respectively. At additional information stage, modified proposals were submitted to address concerns raised by the Planning Authority with respect to overlooking. The modifications included replacing the windows on the rear first floor elevation with high level windows and the provision of opaque glazing to the first floor level window on the eastern elevation. High level windows are also proposed on the western elevation of the building. Having regard to the proposals at additional information stage, I am satisfied that the proposal will not result in undue overlooking of properties within the vicinity.
- 7.3.2. Given the overall scale, design and form of the proposed development, the surrounding site context and the orientation of the site, I am also satisfied that the proposal will not adversely impact the residential amenity of properties within the vicinity of the site by reasons of overshadowing or by being visually overbearing. The proposal is therefore considered to be acceptable having regard to the residential amenity of the surrounding area.

### **7.4. Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the development proposed, a double storey commercial development in a serviced urban site, and to the nature of the receiving environment, remote from and with no direct hydrological or ecological pathway to any European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

I recommend that the planning application be refused for the following reasons and considerations.

## **9.0 Reasons and Considerations**

1. The proposed development would endanger public safety by reason of a traffic hazard due to the vehicular turning movements generated by the proposed delivery entrance located on an existing laneway and right-of-way. In addition, the modified proposals at appeal stage rely on permanent egress from the site for delivery vehicles through lands which appear to be in private ownership and therefore outside of the control of the Applicant. The development if granted would therefore, be contrary to the proper planning and sustainable development of the area.

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Enda Duignan

Planning Inspector

30/09/2022