



An
Bord
Pleanála

Inspector's Report

ABP-314325-22

Development	Duplex apartment, first floor extension to and conversion of ground floor of existing shed and ancillary site works.
Location	Rear of No. 21, Wexford Road, Arklow, Co. Wicklow.
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	22560
Applicant(s)	Derek Byrne.
Type of Application	Planning Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Derek Byrne.
Observer(s)	No Observers.
Date of Site Inspection	24 th of July 2023.
Inspector	Elaine Sullivan

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.3. Natural Heritage Designations	8
5.4. EIA Screening	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Planning Authority Response.....	9
6.3. Observations.....	9
7.0 Assessment.....	9
8.0 Recommendation.....	11
9.0 Reasons and Considerations.....	11

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.018ha and is located within the town centre of Arklow, Co. Wicklow. It is located on Wexford Road which has a mix of commercial and residential uses. The site comprises a two-storey, end of terrace house which has a two-storey extension to the rear. The house opens onto Wexford Road and the private landing to the front of the house has been enclosed with a low wall.
- 1.2. Buildings to the north and south are residential. There is a large Lidl supermarket to the west and across the road. The site backs onto a public car park for a Tesco Extra supermarket with adjoining petrol station. There is an unrestricted, public laneway to the immediate west of the site which connects Wexford Road with the Tesco car park via a pedestrian ramp beside the rear wall of the site.
- 1.3. The house has been subdivided into two apartments and the entrance to one of the apartments is from the laneway. Two additional doors on the lane provide access to the private open space for the existing apartments to the rear of the property.

2.0 Proposed Development

- 2.1. Planning permission is sought for a two-bedroom duplex apartment to the rear of a two-storey house which is subdivided into two apartments. The works would involve the conversion of an existing single storey shed and the construction of a first-floor extension to provide a combined living and kitchen area. Private open space for the unit would be provided by way of a first-floor balcony of 8.78 sq. m. which would have a west facing orientation and would face towards the rear of the existing house.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused by the PA for the following reason:

Having regard to;

(i) The design of the proposed apartment which includes a first-floor balcony and additional storey over above the private open space of apartment 21A and 21b,

(ii) The overbearing impact of the proposed structure,

(iii) The perception of overlooking from the proposed first floor balcony,

The proposed development would be excessive in scale, have a significant and overbearing impact on the private amenity space of the adjoining dwelling to the east, and would result in a loss of sunlight. In addition, the development would result in a sense of potential overlooking into the private open spaces the existing apartment 21A and 21b. The development would therefore seriously injure the quality of amenities of properties in the vicinity, would set a precedent for similar substandard development, and would be contrary to the objectives for the area as set out in the Arklow town plan which seeks to protect existing residential amenity. Therefore, the development would be contrary to proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer, (PO), dated the 12th of July 2022 informed the decision of the PA and includes the following:

- The principle of the development within the TC – Town Centre zoning objective is acceptable.
- The proposed unit meets the required standards for a 2-bedroom apartment as set out in the Design Standards for New Apartments Guidelines.
- The quality of the development and its impact on adjoining properties is of concern to the PA.
- In particular, the PA is concerned about the impact of the proposed first-floor balcony, and the overall bulk and height of the development on the private open space for apartment 21A.
- It would set an unfavourable precedent for similar development.

- The lack of a car parking space would be acceptable given the town centre location of the site.

3.2.2. Other Technical Reports

- Water & Environmental Services – No objection. The new WWTP in Arklow will need to be in operation before the connection of this dwelling can be facilitated.

3.3. Prescribed Bodies

Uisce Éireann – No objection. The WWTP in Arklow will need to be in operation before the connection of this dwelling can be facilitated.

3.4. Third Party Observations

No observations.

4.0 Planning History

PA Ref 20/1080 – Planning permission refused by the PA on the 21st of December 2020 for a one-bedroom apartment at first floor level and above an existing storage shed for the following reason:

Having regard to;

(i) The design of the proposed apartment which includes an external staircase and additional storey on an existing shed,

(ii) The loss of private amenity space for Apartment 21A and overbearing impact of the proposed structure,

The proposed development would be excessive in scale, have a significant and overbearing impact on the private amenity space of the adjoining dwelling to the east, and may result in a significant loss of sunlight. In addition, the development would result in the loss of private amenity space and potential loss of light for the existing apartment 21A. The development would therefore seriously injure the amenities of properties in the vicinity, would set a precedent for similar substandard development, and would be contrary to the

objectives for the area as set out in the Arklow town plan which seeks to protect existing residential amenity. Therefore, the development would be contrary to proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Wicklow County Development Plan 2022-2028, (WCDP) is the operative Development Plan for the site. The site is within the settlement boundary of Arklow which is designated as a 'Level 3 – Self-Sustaining Growth Town' within the settlement strategy for the County, (Section 4.2).
- 5.1.2. The site is zoned objective 'TC – Town Centre', 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*'.
- 5.1.3. The following sections of the Development Plan are relevant to the proposal:

Arklow Town Plan

Chapter 3 – Residential Development -

Objective H6 - To encourage in-fill housing developments, the use of under-utilised and vacant sites and vacant upper floors for accommodation purposes and facilitate higher residential densities at appropriate locations, subject to a high standard of design, layout and finish.

Appendix 1 – Development & Design Standards

Section 3.0 – Mixed Use & Housing Developments

3.1.3 – Privacy –

Windows and balconies shall be positioned and designed such that direct intrusion into private living areas from other dwelling units or from the public realm is avoided. In this regard, the design of ground level units with little or no separation from

footpaths or other public areas shall be carefully considered and mitigation measures applied.

3.1.6 Infill / backlands development in existing housing areas –

Standards require that,

- The site is capable of being developed in accordance with the requirements for the area,
- The design of the house compliments the area,
- Existing privacy is protected,
- A minimum separation distance of 0.9m is required between the house gable and the side wall of the plot,
- Access and car parking should be detailed with sufficient space for turning vehicles,
- Development on surrounding sties should not be prejudiced.

3.1.8 – House extensions

The construction of extensions to existing houses will be encouraged. The following principles will be applied,

- The extension should be sensitive to the existing dwelling and should not adversely distort the scale or mass of the structure.
- The extension shall not provide for new overlooking.
- The new extension must not significantly increase overlooking possibilities.
- New extensions should not overshadow adjacent dwellings to the degree that a significant decrease in day or sunlight entering into the house comes about.
- While the form, size and appearance of an extension should complement the area, unless the area has an established unique or valuable character worthy of preservation, a flexible approach will be taken to the assessment of alternative design concepts.

5.2. National Policy

- **National Planning Framework.**

The NPF 2040 was adopted in 2018 with the overarching policy objective to renew and develop existing settlements rather than the continual sprawl of cities and towns out into the countryside. The NPF sets a target of at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites. It also seeks to tailor the scale and nature of future housing provision to the size and type of settlement.

- **Section 28 Guidelines – Sustainable Urban Housing - Design Standards for New Apartments (Guidelines for Planning Authorities), 2022.**

Appendix 1 – Required Minimum Floor Areas and Standards.

5.3. Natural Heritage Designations

- No designations apply.

5.4. EIA Screening

- 5.4.1. Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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 grounds of appeal include the following:

- The first-floor element would be fitted with a frosted glass screen and would not result in any overlooking of adjoining properties.
- The applicant submitted photographs of a temporary structure which he constructed on top of the shed to demonstrate that the proposal would not have an overbearing impact or would be excessive in scale.

- The development would not result in loss of sunlight or overshadowing, and the apartment would be in accordance with standards set out in the Design Standards for New Apartments Guidelines.
- The development would provide a badly needed housing unit.

6.2. Planning Authority Response

- No comments.

6.3. Observations

- No observations.

7.0 Assessment

7.1. I consider the main issues of the appeal can be addressed under the following headings:

- Principle of Development
- Impact on Residential Amenity
- Appropriate Assessment

7.2. Principle of Development.

7.2.1. The subject site is located in the town of Arklow and is zoned objective TC – Town Centre, 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'*.

7.2.2. The proposed development is in accordance with the zoning for the site and is acceptable in principle subject to the policies and objectives of the Wicklow County Development Plan.

7.3. Impact on Residential Amenity

- 7.3.1. The proposed duplex apartment would comply with the development standards for apartments as set out in Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments, (2022). The duplex unit would have the required minimum floor area for a two-bedroom, four-person unit and the private open, space, storage and aggregate floor areas would all be in accordance.
- 7.3.2. Whilst the development standards can be met, I have concerns regarding the scale of the proposal within the context of the two storey houses, and also the quality of the design and how it would deliver adequate amenity for future and existing residents.
- 7.3.3. The site backs onto a public footpath and ramp which leads to a large car park to serve the Tesco supermarket. The planning drawings show two bedrooms at ground floor level with windows on the external wall facing directly onto the public car park which appears to have unrestricted access at nighttime. This could lead to additional security measures being required or at the very least, measures to ensure privacy such as keeping the curtains closed. In a situation where there is no 'defensible space' outside the main sleeping areas, I am not convinced that this would present a satisfactory level of amenity for future residents.
- 7.3.4. One of the reasons for refusal relates to the impact of the proposal on the private amenity areas for the existing two apartments, units 21A and 21B. The existing layout presents a convoluted approach to providing amenity space to the apartments in the original house. The rear garden has been divided into two sections with one area directly adjoining the rear of Unit 21B. The second area for Unit 21A is behind this and between the existing shed. It is completely separated from the apartment and accessed from the laneway which impacts on the amenity of the space for residents. The construction of a screened terrace at first floor level would further impact on this area by enclosing a constrained space even more.
- 7.3.5. The applicant has stated that the first floor balcony would be screened with opaque glass to prevent overlooking. Whilst this approach would prevent overlooking, I would agree with the PO that the proposal would result in an overbearing impact on the private amenity space for unit 21A and would have a detrimental impact on the

amenity of this space. I note that that the grounds of appeal included submissions from the tenants in the apartments stating that they had no objection to the proposal.

- 7.3.6. I would also have a concern regarding the impact of the proposal on the adjoining residential development to the south, at No. 20 Wexford Road. This house has a rear garden of approximately 5m in width and has a single storey extension to the rear. The extent of private open space for this house is quite constrained and a two-storey dwelling of 5m in depth with a first-floor balcony would result in an overbearing impact on this space.
- 7.3.7. Whilst the proposal would meet the development standards for a two-bedroom apartment, I am not satisfied that the unit itself would provide a satisfactory level of amenity for future residents by virtue of the lack of defensible space in front of the windows opening onto the public space to the rear of the unit. Furthermore, the proposal would result in a significant, overbearing impact on the private amenity space for unit 2A and for the adjoining property at No. 20. This would result in a negative impact on the residential amenity for these units.

8.0 Recommendation

- 8.1. I recommend that planning permission is refused for the development.

9.0 Reasons and Considerations

- 9.1. It is considered that the proposed development, by reason of its height and scale would be an inappropriate form of development at this location and would represent significant overdevelopment of this constrained site. The proposed development would have an overbearing impact on the private amenity space for adjoining properties and would result in a significant negative impact on existing residential amenity. It would, therefore, seriously injure the amenities of the area and of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Elaine Sullivan
Planning Inspector

24th of July 2023