



An
Bord
Pleanála

Inspector's Report ABP-317747-23

Development	Change of use from 2 No. vacant commercial units to 2 No. residential studio apartments along with all associated site development works.
Location	12B & 12D Upper Main Street, Arklow, Co. Wicklow.
Planning Authority	Wicklow County Council.
Planning Authority Reg. Ref.	23/480.
Applicant(s)	Mr Niall O'Toole.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party v Decision
Appellant(s)	Mr Niall O'Toole.
Date of Site Inspection	29 December 2023.
Inspector	L. Gough.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
4.0 Planning History.....	5
5.0 Policy and Context.....	5
5.1. Local Area and Development Plan.....	5
5.2. Regional Planning Context.....	10
5.3. National Planning Context.....	10
5.4. Natural Heritage Designations	12
5.5. EIA Screening	12
6.0 The Appeal	13
6.1. Grounds of Appeal	13
6.2. Planning Authority Response	18
6.3. Observations	18
7.0 Assessment	18
8.0 Recommendation.....	23
9.0 Reasons and Considerations.....	23
10.0 Conditions	23

1.0 Site Location and Description

- 1.1. The subject units form part of a terrace of buildings incorporating traditional shopfronts on the southern side of the street in the centre of the town. No 12B and 12D comprise the inner two of three ground floor units within 12 Upper Main Street, all three of which are currently vacant. It is noted that within this section and side of Upper Main Street the majority of the properties are either vacant or in residential use - particularly between the railway bridge to the east and the junction with Wexford Road to the west. The other side of the street is in mixed retail, commercial and residential use.
- 1.2. The building in which the units are situated is a two-storey building with the upper floor being accessed via a separate entrance off Upper Main Street. The rear extent of the units extends southwards and is accessible from Martin's Lane, with this lane provides access to the rear of a number of properties fronting onto Upper Main Street, as well as to a small residential cul-de-sac and other residential houses. Martin's Lane also connects Upper Main Street with the Mayfair Court cul-de-sac residential housing development.
- 1.3. The site is located approx. 38m to the west of the existing railway track and 69m from the Wexford Road (R772)/ Vale Road (R747)/ Coolgreaney Road and Upper Main Street intersection (also to the west), within an area currently zoned 'Town Centre' in the Arklow and Environs Local Area Plan 2018-2024. An area situated roughly 56m to the east on the opposite side of Upper Main Street and running parallel to the railway line and incorporating frontage on Upper Main and Main Street, is known as the 'Alps' and comprises a large, c.7 Acres landholding zoned 'Town Centre' with full planning permission for a mixed-use scheme. The Avoca River is approx. 225m to the north and north-west of 12B and 12D and forms the boundary of the 'Alps' site.
- 1.4. A large Tesco Extra and Lidl supermarket, accessed via the Wexford Road, are situated approximately 200m south of the units. Other surrounding/ nearby facilities and land uses include residential, commercial, community (churches, schools, library, and sporting facilities (Arklow Tennis Club and St Kevin's Sports Ground)).
- 1.5. On-street paid public car parking is available to the front of the site.

2.0 Proposed Development

2.1. The proposed development consists of the following:

- Change of use of 2No. commercial units to 2No residential studio apartment on the ground floor
- Associated site development works.

3.0 Planning Authority Decision

3.1. Decision

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

Having regard to the site location within the Arklow Town Core Retail Area and Objective CPO 10.9 of the Wicklow County Development Plan 2022-2028 which promotes the core retail area as first priority for new retail development and states that where an application is made for a new development with street frontage within the defined retail core area of a town centre, retail or commercial use will normally be required at street level, it is considered that the applicant has not demonstrated a justification for studio apartments at street level. The proposed development is therefore considered to be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report

- The planning report considered the proposed development in terms of the planning history of the subject appeal site and surrounds and compliance with the Arklow and Environs Local Area Plan 2018-2024 and Wicklow County Development Plan 2022-2028. The planning report also notes that whilst the site is located within the Arklow Area of Archaeological Potential, having regard to the fact that no new construction/ excavation works are proposed, it is considered that any archaeological remains within the site would not be impacted upon.
- The planning report provides a table which lists the town centre applications, highlighted by the appellant for change of use from commercial to residential

within recent years. The table provides an indication of whether the change of use relates to street level, upper floor, or the rear of associated properties, and whether they are within or outside the retail core area.

3.2.2. Other Technical Reports

- Area Engineer: No comment to make.

3.2.3. Prescribed Bodies

- Irish Water (now Uisce Éireann): No objection subject to compliance with conditions.

4.0 Planning History

Subject site:

LA Ref. 23/165 – Permission refused for the proposed change of use from 2no. commercial units to 2no. residential studio apartments along with all associated site development works. The reason for refusal was the same as that for the subject units being appealed.

Immediate vicinity:

No. 13, attached and immediately adjacent (ABP Ref. 315278-22) – recently refurbished double-fronted house (former shop): widening of existing pedestrian gate to provide vehicular entrance to two parking spaces.

No.14A (LA Ref. 22/680) – Permission granted for change of use from retail to residential studio apartment to the ground floor along with minor alterations and revisions to the elevations, internal layout and associated site development works.

5.0 Policy and Context

5.1. Local Area and Development Plan

Arklow and Environs Local Area Plan 2018-2024

- It is noted that Wicklow County Council have commenced a pre-draft public consultation process for a new Arklow Local Area Plan (LAP), with submissions or

observations on the review of the existing LAP having been invited up until 2nd April.

- Within the current LAP, the site is located within the designated Arklow 'Retail Core Area' and the Town Centre zoned area of the Arklow and Environs Local Area Plan 2018-2024.
- Town Centre zoning objective: To provide for the development and improvement of appropriate town centre uses including retail, commercial, office and civic uses, and to provide for 'Living Over the Shop' residential accommodation, or other ancillary residential accommodation.
- Description: 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.
- Retail Core Area - In order for the town centre to remain vibrant, it will be necessary to ensure an appropriate mix of uses. In particular, ground floors, especially within the 'retail core area' (see map 6.1) will be encouraged to incorporate commercial uses, particularly uses with active frontage such as shops and restaurants / cafes. Furthermore, in order to ensure activity at night, specific encouragement will be given to residential use of upper floors.
- Objective RT1 – To direct new retail development in the first instance into the retail core of Arklow Town in particular to derelict or under-utilised sites.
- Chapter 3 – Residential: It is an aim of this plan to focus new residential development into the existing built envelope of the settlement; however this area is not sufficient in size and scope to accommodate all of the future housing growth

of Arklow. The 'Town Centre' (TC zone) and 'Existing Residential' areas (RE zone) have potential development opportunities with redevelopment, backland and infill developments.

Wicklow County Development Plan, 2022-2028

- Wicklow Town is identified, in accordance with Table 10.1 Retail Hierarchy and Strategy for County Wicklow, as a Level 3 Town and/ or District Centre and Sub-County Town Centre (Key Service Centre). In this regard, it is noted that *'Addressing vacancy on Main Streets, increasing vibrancy and footfall is a key concern for many of these towns. There is potential to increase the range of independent retailers within the retail core areas'*.
- With specific reference to Arklow, it is identified that Arklow is the main centre located in the south of the County, with its traditional status as a strong market town being reinforced by the development of the Bridgewater Centre, and it providing for a large geographical catchment. It is the stated vision of the Development Plan that Arklow would be the principal shopping and service destination for this wide catchment area. *'It is a priority of the Planning Authority to facilitate new mixed use/retail developments particularly within the 'old' town centre / traditional Main Street area, which has suffered decline since the development of the Bridgewater Centre and concentration of convenience based supermarkets on the Wexford Road. The regeneration of vacant town centre sites is likely to improve the vitality and viability of the traditional town centre. In particular, the regeneration of the 'Alps' site and the strip including 'Kitty's Pub', 'Morgan Doyle' and 'Marine Hotel' sites, provide particular opportunities to improve the vitality of the main street'*.
- Chapter 5 Placemaking and Regeneration: The introduction to this chapter identifies the fact that *'Town and village centres have experienced significant challenges to retain vibrancy and vitality'*, and that *'towns and villages are continually evolving'*, with this being essential for their survival. In this regard it is stated that Wicklow's planning policy *'is flexible to allow town centres to evolve and diversify,'* with section 5.1 restating that town and village centres need to be able to adapt and evolve to remain vibrant and relevant, with the challenges facing

them being evident in the number of vacant units and underutilised sites in some towns and villages, and that it is no longer sustainable to rely on retail as the only use in town and village centres.

- The section continues by highlighting and outlining matters associated with the vitality and viability of town and village centres, with it being noted that the predominance of one particular use along a street or in an area can limit the potential for activity and have a negative impact on the streetscape, and that the quality and vitality of the street can be undermined by the concentration or clustering of uses that fail to interact with the streetscape...*'Active street frontage provides for passive surveillance and promotes pedestrian activity. Within the town and village centres, ground floor units should be occupied by uses that promote a high level of activity and animation, including residential use'*.
- Section 6.4 Housing Objectives:
 - CPO 6.34 - Support the change of use of vacant commercial premises in town/ village centres to residential purposes outside of the retail core areas as identified in Chapter 10, subject to CPO 10.9.
 - CPO 6.35 - In many settlements in the County, there are sites and areas in need of development and renewal, in order to prevent:
 - a. adverse effects on existing amenities in such areas, in particular as a result of the ruinous or neglected condition of any land,
 - b. urban blight and decay,
 - c. anti-social behaviour, or
 - d. a shortage of habitable houses or of land suitable for residential use or a mixture of residential and other uses.

It is an objective of this plan to encourage and facilitate the appropriate development of such sites / lands and all available tools and mechanisms, including the Vacant Site Levy, may be utilised to stimulate such development.

- Section 10.2.2 Future Retail Requirements
This section of the Development Plan notes that *'there is a high level of uncertainty with regard to future retail requirements having regard to the changing nature of retail and ... the continual rise in online shopping combined with the*

impact of Covid-19 on shopping patterns makes it difficult to determine with accuracy what the County's retail requirements will be.'

- Section 10.2.3 (Retail Strategy Strategic Objectives) identifies a number of key objectives which inform the County's retail strategy, including:
 - *To strengthen the retail core areas by addressing vacancy and capitalising on the opportunities presented by derelict sites and underutilised sites*
 - *To promote the expansion of retail floorspace first and foremost within the core retail areas/ existing town and village centres and thereafter in accordance with the sequential approach to retail development.*
- Section 10.2.6 Edge of Centre Retailing, highlights that '*with regard to proposed retail development, the local context must be given due consideration particularly in terms of any potential barriers to connectivity, for example a railway line or river...in addition to the physical linkage, the degree of functionality between the site and the town centre will also form part of the assessment...people may be more willing to walk between an edge of centre site and the town centre if there are strong complementary attractions and the route itself provides focus and interest*'.
- Objective 10.9: *To promote developments which reinforce the role and function of the 'core retail area' as the prime shopping area of town centres. The 'core retail area' shall be promoted as the area of first priority for new retail development. Where an application is made for a new development with street frontage within the defined retail core area of a town centre, retail or commercial use will normally be required at street level. In settlements where no 'core retail area' is defined, new retail development shall be directed into the 'town or village centre' area, the location of the traditional/historical centre and the location of other retail units. Outside of the 'core retail area' of larger settlements and in smaller settlements where no 'core retail area' is defined, other uses including residential will be permitted including at street level; any such development should provide a strong street frontage and respect the traditional structure of town and village centres*
- Objective CPO 10.11: *To promote the revitalisation of vacant / derelict properties / shop units. Where no viable retail use can be sustained, alternative uses will be assessed on their own merits against the requirements of the proper planning and sustainable development of the areas within which they are located. This objective*

will be used to ensure that all proposals for the reuse of existing retail floorspace can be evaluated against the proportion of overall vacancy and to reduce the possibility of dereliction.

- Objective CPO 10.12: *To manage the provision of non retail uses at ground floor level within the retail core area of town centres in order to protect the retail viability of centres and to maintain the visual character of streets. This objective aims to prevent the proliferation of ‘dead frontages’ on key streets. In particular, active use of corner sites, particularly within larger centres, is considered pivotal in creating a sense of vibrancy.*
- Appendix 1: Development & Design Standards
 - Bicycle Parking – Table 2.4: 1 space per bedroom + 1 visitor space per 5 units (covered and lockable bicycle stands in private communal areas)

5.2. Regional Planning Context

- Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES), 2019-2031

5.3. National Planning Context

- Project Ireland 2040: National Planning Framework
- Housing for All – A New Housing Plan for Ireland, 2021
- Sustainable Urban Housing: Design Standards for New Apartments (July 2023)

The purpose of these Section 28 guidelines is to balance the achievement of high-quality apartment development with a significant increase in the overall level of apartment output. They provide guidance on matters such as locational considerations, mix of units, internal space standards, dual aspect, floor-to-ceiling heights, apartments to stair/lift core ratios, storage space, room dimensions, amenity spaces and car parking. Considerations applicable to the subject appeal include:

- Sufficient communal storage area to satisfy the three-bin system for the collection of mixed dry recyclables, organic waste and residual waste.

- Waste storage areas should not be on the public street, and should not be visible to or accessible by the general public. Appropriate visual screening should be provided, particularly in the vicinity of apartment buildings.
 - Communal amenity space may be provided as a garden within the courtyard of a perimeter block or adjoining a linear apartment block. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year.
 - For studio units, at least 1 cycle storage space shall be provided. Visitor cycle parking shall also be provided at a standard of 1 space per 2 residential units. Any deviation from these standards shall be at the discretion of the planning authority.
 - Planning authorities should have regard to quantitative performance approaches to daylight provision e.g. Daylighting European Standard EN 17037. This includes addressing aspects such as daylighting, views, access and glare. The views provision requires that building occupants have exterior views which are clear, unobstructed, and naturally coloured. Building users should have an acceptably large, clear view of the outside.
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

These guidelines, issued under Section 28 of the Planning and Development Act 2000, as amended, came into effect in January 2024 and replaced the Sustainable Residential Development in Urban Areas Guidelines (2009). The guidelines “*promote a move away from segregated land use areas (residential, commercial and employment)...in favour of mixed-use neighbourhoods*”. The Board is required to have regard to any relevant Specific Planning Policy Requirements (SPPRs) contained in the guidelines.

- SPPR 4 - Cycle Parking and Storage: (ii) Design – cycle storage facilities should be provided in a dedicated facility of permanent construction, within the building footprint or, where not feasible, within an adjacent or adjoining

purpose-built structure of permanent construction. Cycle parking areas shall be designed so that cyclists feel safe. It is best practice that either secure cycle cage/compound or preferably locker facilities are provided.

5.4. Natural Heritage Designations

The appeal site is not located within any Natura 2000 site. The nearest designated site is the Buckroney-Brittas Dunes and Fen Special Area of Conservation (SAC) (Site Code: 000729), c. 5.45km to the north-east of the site. The 'Proposed Natural Heritage Areas (pnHA), 'Arklow Town Marsh' (Site Code 001931) and 'Arklow Sand Dunes' (Site Code 001746), are also located c. 166m and 2.65km to the north and north-east of the units respectively, with the 'Avoca River Valley' pnHA (Site Code 001748) being located c.2.4km to the north west. Taking into consideration the nature, extent and scope of the proposed development and to the nature of the receiving environment, 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.

5.5. EIA Screening

- 5.5.1. The proposed development is not of a nature or scale which would fall within the fifth schedule of the P&D Regulations, 2001, (as amended), such as would necessitate the carrying out of an EIAR.
- 5.5.2. Having regard to the nature and scale of the development, which consists of the proposed change of use from commercial to residential use of 2No existing ground floor units within an existing building 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 following is a summary of the main grounds of the first party appeal, submitted by the applicant's agent, OTE Solutions.

- No 12 Upper Main Street was originally a residential building and was in use as 3No. retail shops for many years. These commercial units have been vacant for over 10 years and the building was falling into a state of disrepair.
- Current national and regional policy clearly provide for residential development at this key town centre site to address vacancy, efficient use of building stock, and improve town centres as vibrant and attractive locations for people to live eg through initiatives and policy such as 'Housing for All', 'Town Centre First', 'Rebuilding Ireland' and the Planning and Development (Amendment)(No.2) Regulations 2018.
- Chapter 5 of the Arklow LAP highlights the decline of the town centre and the decline in many of the traditional town centre uses. Comprehensive evidence and justification has been submitted to address prior refusal (Pl. Ref. 23/165) and recent planning precedent for the exact same type of development within the retail core area at 14 and 17 Upper Main Street. Supportive planning policies have been ignored with a focus solely on one policy that suits the planning authority narrative.
- The building is bounded by residential buildings to the west and south, with a mix of commercial and residential buildings to the east and across the road to the north. The majority of properties on the same side of Upper Main Street on either side of the subject appeal site are residential.
- Unit 12A is being retained as commercial and significant improvements have already been undertaken to the entire building to improve its appearance and that of the streetscape. Retention of the shopfront character will maintain the visual character of the street and promote and active street frontage.
- At a time when a large percentage of commercial buildings are vacant and there is a serious shortfall of residential properties, the proposal represents a

positive opportunity to reuse an existing vacant property without additional burden on town services, in close walking distance to all town amenities including medical services and public transport, making the proposed development highly suitable for single occupant residents, elderly or ambulant persons.

- Vacant commercial units, of varying size, storage and standard, within the town, are identified and photographs of these submitted, with these including:
 - Over 10No in Upper Main St and Wexford Road
 - Over 30No on Lower Main Street to the Church on Main Street
 - 7No units (23% vacancy rate) in Bridgewater shopping centre.
- Both Arklow (population of 13,000) and Greystones (population of 18,000) are designated level 3 towns, although Arklow's retail core is approx. 1km long, whilst Greystone's is half the size and only approx. 500m long. Bray is a level 2 town with a population of 32,000, yet its retail core map is similar in size to Arklow's at 1km long.
- The proposed development will assist to alleviate the detrimental impact of vacant shops to the town centre; in accordance with objective CPO 10.12 it would assist in improving the vitality and viability of Upper Main Street.
- Letters from both Peter Mills Property and Town & Country Residential and Commercial have been submitted which confirm the lack of commercial interest in Upper Main Street and the subject appeal premises, notwithstanding it being available and vacant for a substantive duration of time.
- On the basis of the above, the need to undertake significant structural construction works to a 150-year old stone building, to increase its size and improve its commercial viability, is not technically, functionally, nor economically feasible.
- Of 34 properties on Upper Main Street between the railway line and the roundabout to the Wexford Road, nearly 40% are residential.
- The new reduced (in size) retail core map has excluded Lower Main Street despite the fact it has a higher proportion of commercial street level units than Upper Main Street and is a far busier and active commercial part of town. The

appellant's agent has also submitted a residential and commercial/ retail survey and tables to illustrate the percentage ratio of uses within the different parts of the wider Arklow town centre area. This information indicates a higher percentage ratio of residential properties and uses and lower percentage ratio of commercial uses in Upper Main Street.

- The refusal reason refers to objective CPO 10.9 as its basis for refusal, however this objective relates to proposals for new retail development, with retail or commercial use normally being required at street level. This wording reflects that retail or commercial uses are not exclusive at street level and other uses are not ruled out.

Principle

- The site is zoned 'Town Centre' where '*other ancillary residential accommodation*' is promoted and having regard to the peripheral location of the site, just 20m inside the retail core zone, immediately adjacent other permitted change of use (from commercial to residential) properties, the principle of residential development should be deemed acceptable.
- In relation to the Arklow LAP there is no stated policy for existing ground floor shop uses within the Town Centre to remain in retail use; this is reflected in the wording of the Town Centre zoning objective for the site, where typical uses for the zoning also including residential development, with the stated vision for the LAP being: "*to maintain and enhance the viability and vibrancy of Arklow town centre, to ensure that the core town centre remains at the heart of the community and provides a wide range of uses including retail...commercial...and residential*".
- A number of change of use from commercial/ retail to residential use applications, permitted within the retail core area over the past six years, are highlighted. It is argued that the Council's planning report which states that "*all the other referenced applications are either outside the retail core area or inside the retail core area with approval for upper floor or rear apartments only*", is factually wrong, and that 5No permissions in the retail core area have been permitted, and not 1No as per the planner's report. In this regard, the appellant's agent also points out that these decisions related to the Arklow Local Environs 2018 Retail Core Area Map wherein the core retail area was

more extensive (at the time of the decisions relating to these applications) and has been subsequently amended and reduced in the Wicklow County Development Plan 2022-2028.

- The new retail core map for Arklow is flawed and not reflective of the actual retail core and commercial activity of Arklow Town Centre; e.g. the Bridgewater shopping centre should be included in the retail core zone map, however it is detached from the historic town centre and has had a significant detrimental impact on the town centre retail activities; this is acknowledged in chapter 10 of the County Development Plan; also, existing properties within the 'Alps' development site have been omitted from the core retail area designation.

Design Standards

- The proposed apartment floor areas achieve the minimum standard requirements of the '*Sustainable Urban Housing: Design Standards for New Apartments*'.
- Units have been designed in accordance with the Housing Agency/ Urban Agency's '*Quality Apartments and Urban Housing*' guidelines for studio apartments.
- The proposal relates to the refurbishment of an existing building, is already connected to services and is not a new build. Guidelines suggest that planning authorities apply the general requirements of the guidelines practically and flexibly in relation to refurbishment schemes.

Design

- Design proposal includes removing old lighting and clutter from the front of the building but retain the shopfronts to improve the attractiveness of the streetscape and allow for additional natural light.
- Skylights to the rear will assist in providing dual aspect lighting.
- The mechanical ventilation units with heat recovery will provide ventilation, optimise air quality and eradicate moisture build up.
- A fire safety certificate has been approved for the development and confirms that the layout meets all fire safety standards.

Private open space

- Private open space for the proposal comprises 14sqm communal amenity space. Seven other permitted planning applications are highlighted with similar narrow or no open space in the town centre location.

Parking

- Given the town centre location there is no allowance for off-street parking with public transport facilities in close proximity. The town centre location ensures that there are adequate car parking spaces in the vicinity of the development. This approach has been followed by the planning authority in similar town centre applications over the past few years.

Services

- Development in Arklow is at a standstill pending the provision of a new wastewater treatment plant. The proposed development is already serviced and can therefore be occupied immediately without comprising an additional burden to the town's existing services.

Planning History/ Precedent

- At the time of the refusal decision under Planning Ref. 23/265, there were 5No approved precedent permissions in the retail core area and of Arklow and in the immediate vicinity of the subject appeal proposal, for similar change of use at street level.
- A similar application which was refused (Ref. 22/1080), differs significantly to the subject appeal application, in respect of surrounding/ nearby land use context, and geographic position relative to the town centre.
- Significant additional supporting evidence and justification has been submitted to address the previous reason for refusal under Ref. 23/165, and the proposal is the exact same type of development within the retail core, as proposed and permitted at 14 and 17 Upper Main Street. At the time that change of use was permitted for these units, they were also situated within the core retail area, as was.
- A number of other similar such development proposals are identified, with this confirming that the proposed development is in accordance with the proposed planning and sustainable development of the area.

- There are conflicting objectives in the Wicklow Development Plan and Arklow Local Area Plan, or the objectives are not clearly stated, insofar as the proposed development is concerned.
- The subject proposed development's retention and improvement of the existing shopfronts will enhance the visual amenity, vibrancy and appearance of the street without diminishing the character of the town centre. Neighbouring properties provide perfect examples of where retaining such appearance provides a superior finish and town centre streetscape and provide examples of where a change of use from commercial to residential can work while retaining the shopfront features.
- Neither the planning authority, nor An Bord Pleanála (PA Ref. 22/619; ABP-315278-22) raised any concerns on the nature and extent of works to 13 Upper Main Street (immediately adjacent and attached) and its original and current use. No 13, 14 and 17 Upper Main Street have all been converted from commercial to residential use in recent times and the majority of properties comprising this streetscape, are residential – with only one active commercial unit within the streetscape.

6.2. Planning Authority Response

- None on file.

6.3. Observations

- None on file.

7.0 Assessment

Having examined the application details and all other documentation on file, including the submission received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues for consideration before the board relate chiefly to:

- Principle of Development

- Compliance with policy
- Development and Design Standards
- Other

7.1. Principle of Development

- 7.1.1. The current operative Development Plans are the Arklow Town Local Area Plan 2018-2024 and Wicklow County Development Plan 2022-2028. The site is zoned 'Town Centre', where the stated vision for the LAP is "*to maintain and enhance the viability and vibrancy of Arklow town centre, to ensure that the core town centre remains at the heart of the community and provides a wide range of uses including retail...commercial...and residential*". Chapter 3 of the Arklow Local Area Plan furthermore notes that the existing built envelope of Arklow Town is not 'sufficient in size and scope' to accommodate all of the future housing growth of Arklow, and the 'Town Centre' (TC) zone is thus regarded as having potential to accommodate redevelopment opportunities. Residential use is thus deemed to be acceptable and permitted in principle, within this area.
- 7.1.2. On the basis of the above, I am satisfied that the principle of the proposed residential use at this site, is acceptable, and as indicated in the planning authority planner's assessment report, complies with the development plan standards with respect to apartment size, and car parking considerations.
- 7.1.3. In terms of the character of the development itself, I acknowledge the previous uses of both the subject site and building, and those within the vicinity and area of the subject appeal property. Having regard to same, and the proposal to retain the shop frontages to the building which would enable a reversion back to retail use in the event a retail use was deemed viable in the future, it is not considered that the proposed development would undermine the character of the area or pattern of development that exists.

7.2. Compliance with Policy

- 7.2.1. Whilst the planning authority's reason for refusal is based on the provisions of objective CPO 10.9 of the Wicklow County Development Plan 2022-2028, the provisions of both objectives CPO 10.11 and CPO 10.12 are also noted, as is the acknowledgment of uncertainty with regards to the changing nature of retail patterns

in the Development Plan at Section 10.2.2 (Future Retail Requirements), and the direction at Section 10.2.6 (Edge of Centre Retailing), relating to local context, barriers to connectivity (eg railway line) and degree of functionality.

- 7.2.2. In this regard, it would appear that objective CPO 10.11 relates directly and specifically to the context of the subject appeal property, comprising units which have remained vacant for an extended period of time, and where the proportion of retail unit vacancy within the area is high.
- 7.2.3. Having regard to the nature and character of the building, within the context of its surrounds and what I have observed to be the case within the area, wherein there is a greater percentage and occurrence of residential properties specifically on this side (south) of Upper Main Street, particularly to the west of the railway line, within a designated core retail area where the overall vacancy rate appears to be high, I would be of the opinion that the proposed change of use from retail to residential may be favourably considered and in compliance with objective CPO 10.11. The peripheral location of this building and subject appeal units within the Arklow retail core area, where the other buildings to the west and on the same side of Upper Main Street would also appear to be in residential use, has also informed this opinion.
- 7.2.4. Additionally, in regard to the sites location, removed from the main element of the core retail area, the lack of take up in occupancy as documented by the applicant's agent, together with the nature and scale of adjoining and surrounding land uses, I do not consider that the loss of these two small retail/ commercial units would undermine the wider core retail area designation nor the zoning objectives for the area, particularly where residential use is permitted in principle..
- 7.2.5. Further to the above, it is recognised that the corner unit within the building is being retained in commercial use, and that the shop frontage character and appearance of the units is being retained, thus maintaining the visual character of the street, in accordance with the provisions of objective CPO 10.12. Furthermore, given the prolonged nature of vacancy of the existing units, it is considered that the proposed 2 no. apartments would generate increased levels of activity and visitors, compared to the current situation.
- 7.2.6. Overall and on balance, in terms of compliance with the overall policy framework (as described above and summarised in 5.0 above), and given the planning history,

established and existing uses on the ground surrounding the subject site, I see no objection to the change of use of the 2no. ground floor units, at this location.

7.3. Development and Design Standards

- 7.3.1. Notwithstanding the 'in principle' acceptability and appropriateness of the proposed change of use of the 2no. retail units in accordance with development plan zoning objectives and policy provisions, the proposed development must also have regard to development and design standards as outlined within the County Development Plan, the Sustainable Urban Housing: Design Standards for New Apartments (July 2023) and the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).
- 7.3.2. The planning authority has noted that the proposed residential units, are acceptable as regards the requirements of size and accommodation of national guidance on such units and their context, particularly having regard to their very central and convenient location in the centre of the town, just a short walk from public transport provision and facilities. The Development Plan policies seeks to minimise parking provision, particularly in areas such as this one, which are well served by public transport and are generally accessible to a range of amenities.
- 7.3.3. Notwithstanding, the proposed communal 'amenity' space is not directly accessible from the rear of any of the units which back onto it and can only be accessed from walking around from Upper Main Street via Martin's Lane. This space is thus not functionally linked to either of the two residential units proposed.
- 7.3.4. It is noted that Appendix 1 of the Development and Design Standards has a bicycle parking requirement of 1 space per bedroom + 1 visitor space per 5 units (covered and lockable bicycle stands in private communal areas), with this being replicated in national standards, including at SPPR4 (Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)), which supplements this, by specifying that cycle storage facilities should be provided in a dedicated facility of permanent construction, within the building footprint or, where not feasible, within an adjacent or adjoining purpose-built structure of permanent construction. It is best practice that either a secure cycle cage/compound or preferably locker facilities are provided.

- 7.3.5. Whilst secure, covered bicycle storage facilities have not been provided, it is nonetheless considered that the communal amenity area has scope to accommodate such provision, and this can be dealt with by condition, should a grant of permission be recommended.
- 7.3.6. The Sustainable Urban Housing: Design Standards for New Apartments (July 2023) also requires that sufficient communal storage area is provided to satisfy the three-bin system for the collection of mixed dry recyclables, organic waste and residual waste. It is required that in this regard, such areas should not be on the public street, and should not be visible to or accessible by the general public. Appropriate visual screening should be provided. Again, it is considered that this can be dealt with by condition, should a grant of permission be recommended.
- 7.3.7. Having fully considered and reviewed the proposal, my main concern relates to the potential lack of amenity and daylight provision off potential occupants with regard to the main street-facing windows on the front elevation of the units. Whilst these will undoubtedly provide daylight to the unit to some degree, this is likely to be compromised by the fact that views into the residential units would be available to all passers-by and the wider public, unless screened by blinds which would have to be maintained in a partially closed position – thus compromising the clear, unobstructed and naturally coloured views of any future occupants. Notwithstanding, this can also be resolved by the provision of one-way glazing/ fenestration treatment to these windows, which would facilitate clear and unobstructed views out of the windows and uncompromised daylight access into the units, whilst protecting the privacy amenity of the occupants of the studio apartments.

7.4. Other

- 7.4.1. Wicklow County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 5th October 2015 and updated as of 16th February 2021. I refer to Section 4.10 where it states that “*Development contributions shall not be charged on a change of use permission, where such change of use does not result in a significant intensification of demand on public infrastructure*”.

- 7.4.2. I am satisfied that the proposed change of use would not result in a significant intensification on demand on public infrastructure and it is therefore recommended that no payment of a Section 48 Development Contribution is required.
- 7.4.3. I do not consider that the proposed development would have any other planning issues. The works are minor and will not have implications for archaeological heritage, or traffic or utility services. It is accepted by the planning authority that given the proposed development's close proximity to existing public car parking and its town centre location, there is no need for car parking provision.

8.0 Recommendation

- 8.1. It is recommended that permission be granted subject to the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the Town Centre (TC) zoning designation of the area it is considered that the proposed change of use to allow for a single studio apartment is in accordance with the objectives of the Wicklow County Development Plan 2016-2022

site's location on serviced urban lands and the policy and objective provisions in the Dun Laoghaire Rathdown County Development Plan 2016-2022 in respect of residential development, to the pattern of existing and permitted development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.
----	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>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>The proposed studio apartment shall not be used for short-term letting (that is, let for any period less than one month's duration) without a separate grant of planning permission for change of use.</p> <p>Reason: In the interest of residential amenity and to permit the planning authority to assess the impact of any short-term letting through the statutory planning process.</p>
3.	<p>Prior to commencement of work on site, the applicant shall submit revised plans indicating the following for written agreement with the Planning Authority:</p> <p>a) Proposed measures for secure and screened provision of the required refuse bins for the 2No studio apartments within the proposed communal amenity area</p> <p>d) Provision of 3No secure, covered bicycle stands within the communal amenity area</p> <p>Reason: In the interest of visual amenity, public health and sustainable development.</p>
4.	<p>Details of the materials, colours and textures of the proposed fenestration treatment, which shall include the application of one-way glazing/ fenestration treatment out of the residential studio apartments, 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 and residential amenity.</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>
----	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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.

.L. Gough
Planning Inspector

05 May 2024

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-317747-23	
Proposed Development Summary	Change of use from 2 No. vacant commercial units to 2 No. residential studio apartments along with all associated site development works	
Development Address	12B & 12D Upper Main Street, Arklow, Co. Wicklow	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>		<p>No</p> <p>No</p>
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having</p>		<p>No</p> <p>No</p>

