



An
Bord
Pleanála

Inspector's Report

ABP-322131-25

Development	Retention of a townhouse with connections to existing public services.
Location	Rear of 39 South Green, Arklow, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	24116
Applicant(s)	William Kavanagh
Type of Application	Retention
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant	William Kavanagh
Observer(s)	None
Date of Site Inspection	27 th May 2025
Inspector	Matthew O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is 0.007ha and situated in the rear garden area of No. 39 South Green, an established row of two-storey terraced houses in the settlement of Arklow, Co. Wicklow. The subject site comprises a single storey, mono-pitched/flat roof 1-bed dwelling unit which fronts onto the rear access lane serving the residences of South Green. The character of the surrounding locality is primarily residential with the subject site being the only dwelling unit along this access lane.
- 1.2. There are no Protected Structures or National Monuments within or immediately adjoining the appeal site. The site is located within an Area of Archaeological Potential. The appeal site is located within an area defined as being Flood Zone 'A' and Flood Zone 'B'.

2.0 Proposed Development

- 2.1. The subject development comprises the following:
- Retention of a single storey town house (40.2sq.m); and,
 - Connections to existing public services.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 The Planning Authority recommended refusal for the subject development for the following reason:

- 1. Having regard to the location of the development in an area which is at risk of flooding, the lack of a justification test, and the need for flood resistance measures, it is considered that insufficient information has been submitted to show that the proposed development would comply with the requirements of the Planning System and Flood Risk Management: Guidelines for Planning Authorities 2009. Therefore, to permit the proposed development in the absence of such information would set a precedent for similar vulnerable development in flood zones, and would be contrary to proper planning and sustainable development.*

3.2. Planning Authority Reports

3.2.1. Planning Report(s)

- The first Planner's Report had regard to the submitted documentation, locational context of the site, policy framework of relevant development plans and inter departmental/referral reports.
- The principle of development considered to be acceptable. The design and layout of the unit to be retained considered acceptable given town centre location. No concerns were raised with visual impacts or neighbouring amenity.
- No car parking spaces are provided for the dwelling but there is on street parking in the area and the unit is in proximity to town centre.
- The site is located in an Area of Archaeological Potential however, given that development has already been carried out in this location, any archaeological remains would already have been impacted upon.
- The site is in Flood Zone B and the development is a 'Highly Vulnerable' development which requires a justification test.
- No concerns raised in respect on AA or EIA.
- Further Information was sought in relation to 1 no. item which stated:

Item 1 Given the subject dwelling unit within an existing floodplain (Flood Zone B) and having regard to the Flood Risk Management Guidelines (2009), it is noted that the proposed residential use on the site is classified as a highly vulnerable use and there the applicant is required to submit:

(a) A Justification Test prepared by a qualified professional for the proposed development demonstrating that the proposed development on a flood plain is appropriate.
- The second Planner's Report provides an analysis of the applicant's Further Information response.
- The Planning Authority noted the submission of a Site Specific Flood Risk Assessment (SSFRA) which concluded that the given the in situ and minor nature of the proposed development, the justification test does not apply. With respect to management of possible future flooding events, the SSFRA recommends a number of measures which can be conditioned in the event of a grant of permission.

- The Case Planner considered the response to be acceptable and recommended that retention be granted, subject to conditions. However, a decision to refuse permission was issued by the Planning Authority.

3.2.2. Other Technical Reports

Arklow M.D Engineer: No objection. Noted that there is no vehicle access. No issues with access or drainage.

Environmental Health Officer: No objection. Connection to public sewer and public water supply available for development.

3.3. **Prescribed Bodies**

Uisce Eireann: Two reports received dated 08/04/2025 and 11/04/2025 respectively.

- The first report requests Further Information regarding the assessment of feasibility of building over and / or diversion of assets; or, submission of revised plans clearly indicating separation distances have been achieved to accommodate the existing infrastructure within the site.
- The second report indicates 'No Objection in Principle'.

3.4. **Third Party Observations**

- None.

4.0 **Planning History**

- None.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1 The Wicklow County Development Plan 2022-2028 is the relevant Development Plan for the appeal site.

5.1.2. Chapter 4 relates to 'Settlement Strategy'. Arklow is designated as a Level 3: Self Sustaining Growth Town settlement. The following objectives are considered relevant:

CPO 4.2 To secure compact growth through the delivery of at least 30% of all new homes within the built-up footprint of existing settlements by prioritising

development on infill, brownfield and regeneration sites and redeveloping underutilised land in preference to greenfield sites.

CPO 4.3 Increase the density in existing settlements through a range of measures including bringing vacant properties back into use, reusing existing buildings, infill development schemes, brownfield regeneration, increased building height where appropriate, encouraging living over the shop and securing higher densities for new development.

CPO 4.6 To require new housing development to locate on designated housing land within the boundaries of settlements, in accordance with the development policies for the settlement.

5.1.3. Chapter 6 relates to 'Housing' with Section 6.4 setting out a number of general housing objectives. The following are considered relevant:

CPO 6.3 New housing development shall enhance and improve the residential amenity of any location, shall provide for the highest possible standard of living of occupants and in particular, shall not reduce to an unacceptable degree the level of amenity enjoyed by existing residents in the area.

CPO 6.4 All new housing developments (including single and rural houses) shall achieve the highest quality of layout and design, in accordance with the standards set out in the Development and Design Standards (Appendix 1) and the Wicklow Single Rural House Design Guide (Appendix 2).

CPO 6.5 To require that new development be of the highest quality design and layout and contributes to the development of a coherent urban form and attractive built environment in accordance with the following key principles of urban design:

- Strengthening the character and urban fabric of the area;*
- Reinforcing local identity and sense of place;*
- Optimise the opportunities afforded by the historical and natural assets of a site / area;*
- Providing a coherent, legible and permeable urban structure;*
- Promoting an efficient use of land;*
- Improving and enhancing the public realm;*
- Conserving and respecting local heritage;*

- *Providing ease of movement and resolving conflict between pedestrians/cyclists and traffic;*
- *Promoting accessibility for all; and,*
- *Cognisance of the impact on climate change and the reduction targets for carbon emissions set out by the Government.*

CPO 6.14 To densify existing built-up areas subject to the adequate protection of existing residential amenities.

CPO 6.16 To encourage and facilitate high quality well-designed infill and brownfield development that is sensitive to context, enables consolidation of the built environment and enhances the streetscape. Where necessary, performance criteria should be prioritised provided that the layout achieves well-designed high quality outcomes and public safety is not compromised and the environment is suitably protected.

CPO 6.21 In areas zoned ‘Existing Residential’ house improvements, alterations and extensions and appropriate infill residential development in accordance with principles of good design and protection of existing residential amenity will normally be permitted (other than on lands permitted or designated as open space, see CPO 6.25 below). While new developments shall have regard to the protection of the residential and architectural amenities of houses in the immediate environs, alternative and contemporary designs shall be encouraged (including alternative materials, heights and building forms), to provide for visual diversity.

CPO 6.22 In existing residential areas, small scale infill development shall generally be at a density that respects the established character of the area in which it is located, subject to the protection of the residential amenity of adjoining properties. However, on large sites or in areas where previously unserviced, low-density housing becomes served by mains water services, consideration will be given to densities above the prevailing density, subject to adherence to normal siting and design criteria.

CPO 6.23 To facilitate mews lane housing in suitable locations, subject to high quality design that respects the existing character and heritage of the area and provides for a high standard of residential amenity for existing and future occupants.

CPO 6.28 Apartments generally will only be permitted in settlements Levels 1 to 6 and in accordance with the location requirements set out in Section 2.4 of the Design Standards for New Apartments, Guidelines for Planning Authorities (2020). All apartment development should be served by high quality usable open space.

5.1.4. Chapter 14 relates to 'Flood Risk Management' and the following objectives are considered to be relevant:

CPO 14.06 To implement the 'Guidelines on the Planning System and Flood Risk Management' (DoEHLG/OPW, 2009).

CPO 14.08 The zoning of land that has been identified as being at a high or moderate probability of flooding (flood zones A or B) shall be in accordance with the requirements of the Flood Risk Management Guidelines and in particular the 'Justification Test for Development Plans' (as set out in Section 4.23 and Box 4.1 of the Guidelines).

CPO 14.09 Applications for new developments or significant alterations/extension to existing developments in an area at risk of flooding shall comply with the following:

- Follow the 'sequential approach' as set out in the Flood Risk Management Guidelines;*
- An appropriately detailed flood risk / drainage impact assessment will be required with all planning applications, to ensure that the development itself is not at risk of flooding and the development does not increase the flood risk in the relevant catchment (both up and down stream of the application site), taking into account all sources of flooding;*
- Restrict the types of development permitted in Flood Zone A and Flood Zone B to that which are 'appropriate' to each flood zone, as set out in Tables 3.1 and 3.2 of the Flood Risk Management Guidelines unless the 'plan making justification test' has been applied and passed;*
- Where a site has been subject to and satisfied the 'Plan Making Justification Test' development will only be permitted where a*

proposal complies with the 'Justification Test for Development Management', as set out in Box 5.1 of the Guidelines.

- *Flood Risk Assessments shall be in accordance with the requirements set out in the Guidelines and the SFRA.*

Where flood zone mapping does not indicate a risk of flooding but the Planning Authority is of the opinion that flood risk may arise or new information has come to light that may alter the flood designation of the land, an appropriate flood risk assessment will be required to be submitted by an applicant for planning permission and the sequential approach shall be applied as the 'Plan Making Justification Test' will not be satisfied.

5.1.5. Volume 3 of the Development Plan contains a number of Appendices of which Appendix 1: 'Development and Design Standards' is of particular relevance to the subject development in terms of Section 3.1.6 relating to Infill/backlands development in existing housing areas. Appendix: 'Strategic Flood Risk Assessment' is also relevant and provides an assessment of all types of flood risk to inform land-use planning decisions in the Development Plan.

5.2. Arklow and Environs Local Area Plan 2018 – 2024

5.2.1. It shall be noted the Arklow and Environs Local Area Plan 2018 – 2024 (LAP) is no longer in force having expired in 2024. That said, for context, I note that the appeal site was zoned 'RE- Existing Residential' with an objective '*to protect, provide and improve residential amenities of existing residential areas*'. Appendix C of the LAP contains the Strategic Flood Risk Assessment.

5.3. National Guidance

5.3.1. The following national planning guidance are relevant:

- *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).*
- *Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities (2023).*

5.4. Natural Heritage Designations

5.4.1. The appeal site is not located on or within any designated Natura 2000 sites, with the nearest designated sites being the Buckroneys-Brittass Dunes and Fen Special Area of

Conservation (Site Code: 000729) which is located approximately 5.11km to the northeast of the site and the Kilpatrick Sandhills Special Area of Conservation (Site Code: 001742) which is located approximately 6.52km to the southeast of the site. The Arklow Town Marsh pNHA (Site Code 001931) is located approximately 0.27km to the northwest and the Arklow Sand Dunes pNHA (Site Code 001746) and Arklow Rock-Askintinny pNHA (Site Code 001745) are located approximately 1.87km to the northeast and 2.08km to the southeast respectively.

5.5. EIA Screening

5.5.1. The subject development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the subject development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The subject development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The First Party appeal has been prepared and submitted on behalf of the applicant against the Planning Authority's decision to refuse permission. The grounds of appeal are summarised as follows:

- The Board is asked to consider the Site Specific Flood Risk Assessment prepared in response to the request for Further Information and the response/assessment of the Case Planner.
- No clarification of the reason why the Planning Authority did not accept the Planner's Report was provided nor was the decision letter sent by registered post.

6.2. Planning Authority Response

6.2.1. A response to the appeal was received from the Planning Authority and states:

"I refer to appeal as above and wish to confirm that the Notification of Decision to Refuse Permission was issued by the Planning Authority and sent by certified post on the 28th February 2025".

6.3. Observations

- None.

7.0 Assessment

Having examined the application details, the appeal and all other documentation on file, the reports of the Planning Authority, having conducted an inspection of the site, and having reviewed relevant planning policies and guidance, I am satisfied that the main issues to be considered are those raised by the First Party. I am satisfied that no other substantive issues arise. This appeal can be addressed under the following relevant headings:

- Principle of Development
- Flood Risk
- Other Matters
- Appropriate Assessment (Screening)

7.1. Principle of Development

7.1.1. The subject development seeks retention permission for a single storey 1-bed 'town house'. The unit has a stated floor area of 40.20sq.m and comprises a kitchen, lounge area, bathroom and bedroom. There are no windows on the side elevations and there is a single window serving the bedroom (facing onto the access lane); a window serving the bathroom to the rear; and French doors to the patio from the lounge area. At the time of my inspection, I did not access the development however, from my external observations, I am of the opinion that the interior of this building is likely to be consistent with the submitted drawings.

7.1.2. In considering the subject development, I note the Planning Authority were satisfied with the design and setting of the unit to be retained and raised no amenity concerns. I consider that the residential unit would achieve a reasonable standard of living accommodation which would be compliant in terms of acceptable floor areas, storage and private amenity space with the standards of the Sustainable Urban Housing Design Standards for New Apartments - Guidelines for Planning Authorities (2023). In terms of vehicle parking, the development does not provide for a parking space however, I note there is adequate street parking in the vicinity and the appeal site is located a short distance from the town centre.

7.1.3. Overall, I consider the subject development complies with the overarching objectives of the Development Plan in terms of compact growth within existing settlements; increased densities and reuse of existing buildings; provision of high standards of living and quality design/layout. I also consider that the development would be in accordance with the 'Development and Design Standards' as contained in Appendix 1 of the Development Plan. To this end, I am satisfied that the principle of residential development is acceptable and that the provision of an infill unit would not be out of character within this urban location – subject to complying with other planning requirements as addressed in the following sections.

7.2. Flood Risk

7.2.1. The Planning Authority's refusal reason is based on the lack of a justification test being provided and the need for flood resistance measures given the location of the development in a flood risk area. The refusal reason states that insufficient information was provided to show that the development would comply with the requirements of the Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009) and therefore permitting the development in the absence of such information would set a precedent for similar vulnerable development in flood zones. The applicant's grounds of appeal have asked that An Bord Pleanála consider the Site Specific Flood Risk Assessment (SSFRA) submitted on foot of a request for Further Information and the assessment of the Case Planner who deemed the response as acceptable.

7.2.2. In considering the subject development, I have regard to Chapter 14 of the Development Plan which relates to Flood Risk Management and contains several objectives in terms of assessing development to address, prevent and avoid flood risk to property (see Section 5.1.4 of this report). I have also referred to Wicklow County Council's Strategic Flood Risk Assessment in Appendix 8 of the Development Plan. The Assessment notes that the Arklow Town and Environs Local Area Plan 2018 was subject to a detailed SFRA in accordance with the Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009) and that upon review of this Plan post-adoption of the Development Plan, the SFRA will be reviewed and updated as necessary.

7.2.3. I note that the Arklow and Environs Local Area Plan 2018-2024 has expired, however, Appendix C contains a Strategic Flood Risk Assessment for the settlement and

includes Flood Risk Zones and a Justification Test of land uses on sites falling within Flood Zone A and B. The subject site identified as being within a Flood Zone in the South Quay and zoned 'Existing Residential'. The conclusion for this area states that the Justification Test failed but recommended the 'RE' zoning objective be retained as the lands are already developed. It further noted that applications for minor development (e.g. extensions) are unlikely to raise significant flooding issues and flood mitigation measures are required should the expansion of existing uses be proposed.

7.2.4. I also have regard to Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009). The definitions of flood zones contained in the Guidelines which are directly relevant to the subject development are as follows: Flood Zone A – where the probability of flooding from rivers and the sea is highest (greater than 1% or 1 in 100 for river flooding or 0.5% or 1 in 200 for coastal flooding) and Zone B – where the probability of flooding from rivers and the sea is moderate (between 0.1% or 1 in 1000 and 1% or 1 in 100 for river flooding and between 0.1% or 1 in 1000 year and 0.5% or 1 in 200 for coastal flooding). Table 3.1 of the Guidelines provides a classification of vulnerability of different types of development. It is noted that 'Highly vulnerable development' includes dwelling houses. Section 3.5 of the Guidelines note the planning implications for each of the flood zones and this regard, Flood Zone A (High probability of flooding) indicates that most types of development would be considered inappropriate in this zone and Flood Zone B (Moderate probability of flooding) indicates that highly vulnerable development, such as a dwelling house, would generally be considered inappropriate in this zone, unless the requirements of the Justification Test can be met. To further emphasise this point, Table 3.2 provides a matrix of vulnerability versus flood zone whereby there is a need for a Justification Test to be met in both Flood Zone A and Flood Zone B for a highly vulnerable development.

7.2.5. The SSFRA submitted on behalf of the applicant refers to OPW maps, Geological Survey of Ireland maps, the Avoca River (Arklow) Flood Relief Scheme and other available data for Arklow in terms of flooding. According to the submitted SSFRA, the existing ground level at the site location is approximately 1.032m OD (Malin) with the development's finished ground floor level stated as 1.132 m OD (Malin). The SSFRA identifies a number past flood events in the area according to the OPW which include pluvial/surcharging of the stormwater drainage network on Arklow's Main Street (1986); insufficient drainage capacity and backing up of high tides at The

Brooke/Lower Main Street (twice in 2005); recurring coastal flooding at South Quay; and, recurring fluvial flooding originating from the Avoca at an approximate location to The Gardens. It is noted in the SSFRA that there is no available information to indicate if any of these flood events directly impacted on the site.

7.2.6. The SSFRA states that the appeal site falls within the areas delineated as Flood Zone A and Flood Zone B. Potential sources of flooding are outlined and it is claimed the site is not at risk of pluvial or groundwater flooding but that the primary potential risk to flooding can be attributed to an extreme fluvial and/or tidal/coastal flood event in the Avoca River Estuary/Arklow Harbour which is 43 metres to the north-eastern boundary of the site. The estimated extreme 1% AEP (1 in 100 year) flood level at the site is 1.39m OD (Malin) and the 0.1% AEP (1 in 1000 year) flood level at the site is 1.83m OD (Malin). I note that it is unclear from the submitted information if the assessment has included an estimation of flood levels for both fluvial and tidal flood events adjusted for climate change.

7.2.7. The SSFRA indicates that the single storey dwelling to be retained has an additional floor area of 28sq.m to a previous garage building on the site and considers the proposal to be a minor development in an area of potential flood risk and that the Justification Test does not apply as set out in Section 5.28 of the Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009). It is also contended that as the proposal is a minor development, it is unlikely to raise any significant or quantifiable flooding issues in terms of potential flood water volume displacement and is not expected to result in an adverse impact to the existing hydrological regime of the area or increase flood risk elsewhere. Section 7.1 of the SSFRA contains a series of Flood Risk Management and Mitigation Measures to be implemented for the subject development which include slotted moveable/demountable flood gates or sandbags to be constructable to a height of at least 2.08m (1.83m OD + 0.25m); any pipes or cables protruding through external walls at 2.08m OD be adequately sealed and waterproofed; and, non-return valves or anti-flood valves be fitted to drainage network connecting the house to the sewer system.

7.2.8. Having regard to the above and in considering whether the subject development can be considered a minor development, I refer to Circular PL 2/2014 which revised Section 5.28 of Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009) to state: *'applications for minor development, such as*

small scale infill, small extensions to houses or the rebuilding of houses.... are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas.... Since such applications concern existing buildings or developed areas, the sequential approach cannot be used to locate them in lower-risk areas and the Justification Test will not apply. However, a commensurate assessment of the risks of flooding should accompany such applications to demonstrate that they would not have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities. These proposals should follow best practice in the management of health and safety for users and residents of the proposal’.

- 7.2.9. Under the above classification, I consider the proposal before the Board to represent a minor development as it is a ‘small scale infill’ development and I acknowledge the contention of the SSFRA that there was no requirement to conduct a Justification Test. Notwithstanding, I also note in terms of ‘minor development’ within Flood Zones A or B as referred in the Strategic Flood Risk Assessment of the Wicklow County Development Plan 2022-2030 which states that Wicklow County Council do not consider infill development of any scale as being “minor development” and should be assessed under ‘Highly Vulnerable Development’ and ‘Less Vulnerable Development’. I consider it appropriate to have regard to this Assessment given the expiration of the Arklow and Environs Local Area Plan 2018-2024 and noting the Strategic Flood Risk Assessment of the Development Plan has included specific reference to Circular PL 2/2014 which provides greater clarity on the need to apply the Justification Test to existing development in settlements.
- 7.2.10. The subject development, as described, seeks retention of a single storey town house, and therefore is a dwelling which constitutes a highly vulnerable development under the Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009). The Strategic Flood Risk Assessment of the Development Plan refers to Circular PL 2/2014, indicates the need for Justification Tests and notes the prime importance of the requirement to manage risk to the development site and not to increase flood risk elsewhere. With respect to the subject development, I am satisfied that it relates to a small-scale infill development in a residentially zoned urban location. Moreover, I consider that the development, on its own, would be unlikely to raise significant flooding issues either by way of impacting existing drainage

characteristics or obstructing flow paths which may exacerbate flooding elsewhere in the vicinity on account of its scale and setting.

7.2.11. However, I am not satisfied that the applicant has sufficiently demonstrated that there would be appropriate flood protection for the occupants of the property. In this regard, I note that the SSFRA makes a significant omission in its reference to section 5.28 of the Guidelines whereby the concluding sentence states that 'these proposals should follow best practice in the management of health and safety for users and residents of the proposal'. This statement is emphasised in the Strategic Flood Risk Assessment of the Development Plan in relation to 'minor development' and it is also stated that for residential buildings within Flood Zone A or B, bedroom accommodation shall not be permitted at basement or ground floor. The subject development is single storey and contains a ground floor level bedroom which therefore is not in accordance with the Strategic Flood Risk Assessment and I am of the view that the dwelling would hinder occupants from sheltering during a flood event. In addition, the finished floor level of the dwelling unit to be retained, as constructed, is not above the estimated extreme levels for fluvial events (1% AEP (1 in 100 year) and 0.1% AEP (1 in 1000 year)) and so is fully dependent on the mitigation measures as outlined in the SSFRA which include the installation of a flood gate or having a supply of sandbags available. Furthermore, I do consider that it has not been demonstrated that the access laneway serving the site would facilitate adequate emergency access in the event of flooding.

7.2.12. Having regard to submitted information and having conducted an inspection of the site, I am not satisfied that the single storey dwelling unit would be appropriately protected in extreme flood events as much as practically possible to reduce risk to the occupants and the property in this vulnerable area. I am of the view that the development to be retained does not comply with the Wicklow Conty Council's Strategic Flood Risk Assessment or the Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009) in relation to minor development and I consider that a Justification Test should have been conducted for the subject development. Therefore, I consider that retention should be refused.

7.3. Other Matters

7.3.1. The applicant also states in their grounds of appeal that no clarification was provided as to why the Planning Authority did not accept the Planner's Report and that the decision letter was not sent by registered post.

7.3.2. In respect of the decision contrasting the recommendation of the Case Officer, I note that section 34(10)(b) of the Planning and Development Acts 2000 (as amended) requires that where the Planning Authority's final decision on a planning application is different from the recommendation of the final planning report, the decision must indicate clearly the main reasons for not accepting the recommendation. From my review of the appeal file, there is no written statement setting out the main reasons for not accepting the Case Officer's recommendation to grant retention. That said, having considered the stated refusal reason, I note that regard was had to the location of the proposal in a flood risk area, lack of justification test and need for flood resistance measures which deemed that insufficient information had been submitted to demonstrate compliance with relevant Section 28 guidelines. The refusal reason also indicated that permitting the development in the absence of such information would set a precedent for similar vulnerable development in flood zones and be contrary to proper planning and sustainable development. On balance, I consider that the refusal reason contains sufficient reasoning and basis for the Planning Authority's decision to differ from the Case Officer's recommendation.

7.3.3. In terms of the applicant's claim that the decision letter was not sent by registered post, I note that correspondence received from Wicklow County Council dated 7th April 2025 states that the Notification of Decision to Refuse Permission was issued by the Planning Authority and sent by certified post. A copy of the Notification of Decision to Refuse is included with the appeal file. I consider that the Planning Authority has demonstrated that the notification of the decision was issued and I am also satisfied that associated particulars were made available online for information purposes and in line with best practice.

8.0 Appropriate Assessment (Screening)

8.1. Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

9.0 Recommendation

9.1. I recommend that retention be REFUSED for the reason and consideration set out below.

10.0 Reasons and Considerations

1. The nature of the development to be retained is a 'highly vulnerable use' and the location of the site is within Flood Zone A and Flood Zone B with respect to fluvial and tidal/coastal flood risk. On the basis of the submitted documentation, the Board is not satisfied that the applicant has provided sufficient information to demonstrate compliance with the Strategic Flood Risk Assessment of the Wicklow County Development Plan 2022-2030 in respect of minor development and the need to apply a Justification Test for such a proposal. It is also considered that the applicant has not demonstrated how the proposal follows best practice in the management of health and safety for residents of the proposal as set out in the Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009) having regard to the ground floor bedroom, dependence on flood mitigation measures and absence of information regarding emergency vehicle access. The development to be retained would therefore represent an inappropriate form of development 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.

Matthew O Connor
Planning Inspector

5th June 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-322131-25
Proposed Development Summary	Retention of a townhouse with connections to existing public services.
Development Address	Rear of 39 South Green, Arklow, Co. Wicklow
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input checked="" type="checkbox"/> Yes, it is a Class specified in Part 1.	Class 10(b)(i)(iv) - Infrastructure Projects
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	

<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2)	Class 10 (b)(i) Construction of more than 500 dwelling units - The proposed development is subthreshold as it relates to 1 no. dwelling.
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4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____

Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP-322131-25
Proposed Development Summary	Retention of a townhouse with connections to existing public services.
Development Address	Rear of 39 South Green, Arklow, Co. Wicklow
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The proposal comprises retention permission for 1 no. dwelling in an urban settlement. The size of the development would not be described as exceptional in the context of the existing environment. The proposal will not produce significant waste, emissions or pollutants. By virtue of its development type, it does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The proposed development is situated within the settlement boundary of a town. There are no significant environmental sensitivities in the vicinity – potential impacts on Natura 2000 sites is addressed under Appropriate Assessment (Screening).
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the limited nature and scale of the proposed development (i.e. 1 no. dwelling on residential zoned lands), there is no potential for significant effects on the environmental factors listed in section 171A of the Act.

Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)