

# Conor McCarthy & Associates Ltd

Consulting Engineers and Project Managers

Unit A8  
Kish Business Park  
Arklow  
Co. Wicklow  
Y14 X258

Phone: 0402 24660  
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An Bord Pleanála  
64 Marlborough Street,  
Dublin 1  
D01 V902

24<sup>th</sup> June 2019  
our ref. 19.911

For the attention of the Secretary

Re: **First Party Appeal of**  
**Section 5 declaration by Wicklow County Council**

On behalf of:

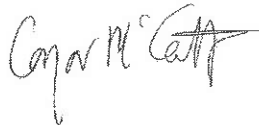
Conor McCarthy  
11 Woodbine Avenue  
Mountain Bay  
Arklow  
Co Wicklow

<b>AN BORD PLEANÁLA</b>	
LDG-	016946-19
ABP-	
25 JUN 2019	
Fee: €	220 Type: <i>Change</i>
Time: 10 25	By: <i>Reg Port.</i>

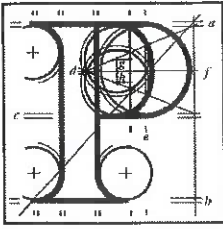
We wish to lodge the appeal as attached.

For the avoidance of confusion we wish to clarify that the applicant and the Principal of Conor McCarthy & Associates Ltd are the same person.

Yours sincerely,



Conor McCarthy  
Chartered Engineer



An  
Bord  
Pleanála

## Planning Appeal Check List

(Please read notes overleaf before completing)

1. The appeal must be in writing (e.g. not made by electronic means).

2. State the

name of the appellant  
(not care of agent)

Conor McCarthy

address of the  
appellant  
(not care of agent)

11 Woodbine Avenue  
Mountain Bay  
Arklow  
Co Wicklow

3. If an agent is involved, state the

name of the agent

Conor McCarthy & Associates Ltd

address of the agent

Unit A8  
Kish Business Park  
Arklow  
Co. Wicklow  
Y14 X258  
Mobile: 087 6876120  
Email: cmcagroup@gmail.com  
Phone: 0402 24660

**AN BORD PLEANÁLA**

**25 JUN 2019**

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ABP- \_\_\_\_\_

4. State the Subject Matter of the Appeal\*

Brief description of the development

**First party appeal of a Section 5 Declaration issued by Wicklow County Council in relation to the proposed development of 2 residential units in a single storey retail unit in Arklow town.**

Location of the development

2 South Quay, Arklow, Co. Wicklow

Name of planning authority

**Wicklow County Council**

Planning authority register reference number

Exemption ref no. 39/19

\* Alternatively, enclose a copy of the decision of the planning authority as the statement of the Subject Matter of the Appeal.

5. Attach, in full, the grounds of appeal and the reasons, considerations and arguments on which they are based.
6. Attach the acknowledgement by the planning authority of receipt of your submission or observations to that authority in respect of the planning application, the subject of this appeal. (Not applicable where the appellant is the applicant).
7. Enclose / Pay the correct fee for the appeal and, if requesting an oral hearing of same, the fee for that request see "[Guide to Fees Payable](#)" under heading of Making an Appeal on Home Page of this website for current fees.
8. Ensure that the appeal is received by the Board in the correct manner and in time.

**AN BORD PLEANÁLA**

**25 JUN 2019**

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ABP- \_\_\_\_\_



# Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol  
Planning Development and Environment

Áras An Chontae / County Buildings  
Cill Mhantáin / Wicklow  
Guthán / Tel: (0404) 20148  
Faics / Fax: (0404) 69462  
Rphost / Email: [plandev@wicklowcoco.ie](mailto:plandev@wicklowcoco.ie)  
Suíomh / Website: [www.wicklow.ie](http://www.wicklow.ie)

29<sup>th</sup> May 2019

Conor McCarthy & Associates Ltd,  
Unit A 8 Kish Business Park  
Arklow,  
Co Wickow.

RE: Declaration in accordance with Section 5  
of the Planning & Development Acts 2000 - 2011

I enclose herewith Declaration in accordance with Article 5 (2) (A) of the Planning & Development Act 2000 in respect of the following:

Exemption Ref. No: 39/19  
Applicant: Conor McCarthy  
Nature of Application: conversion of an existing retail unit to 2 no one bedroom apartments  
Location: NO 2 South Quay Arklow

Where a Declaration is used under this Section any person issued with a Declaration under subsection (2) (a) may, on payment to An Bord Pleanála of such fee as may be prescribed, refer a declaration for review by the Board within four weeks of the date of the issuing of the declaration by the Local Authority.

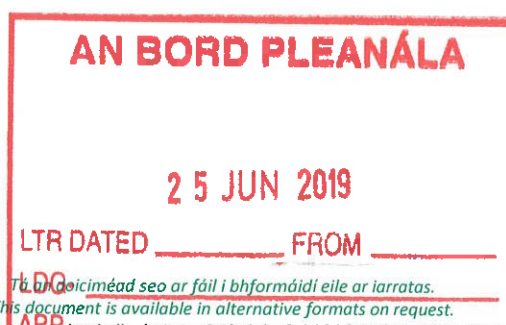
Is mise, le meas,



ADMINISTRATIVE OFFICER  
PLANNING DEVELOPMENT & ENVIRONMENT

Encl.

REG POST



Tá an doiciméad seo ar fáil i bhformáidí eile ar iarratas.  
This document is available in alternative formats on request.

Ba chóir gach comhfhreagras a sheoladh chuig an Stiúrthóir Seirbhísí, Forbairt Pleanála agus Comhshaol.  
All correspondence should be addressed to the Director of Services, Planning Development & Environment.





# Comhairle Contae Chill Mhantáin Wicklow County Council

Forbairt Pleanála agus Comhshaol  
Planning Development and Environment

Áras An Chontae / County Buildings  
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Rphost / Email: plandev@wicklowcoco.ie  
Suíomh / Website: www.wicklow.ie

## DECLARATION IN ACCORDANCE WITH ARTICLE 5 (2) (A) OF THE PLANNING & DEVELOPMENT ACT 2000.

Applicant: Conor McCarthy  
Location: No 2 South Quay Arklow

DIRECTOR OF SERVICES ORDER NO. 851/19

A question has arisen as to whether or not conversion of an existing retail unit to 2 no one bedroom apartments is or is not exempted development.

### Having regard to:

- The details submitted with the Section 5 Declaration on the 22<sup>nd</sup> May 2019
- Sections 2, 3 and 4 of the Planning and Development Act 2000 (as amended)
- Article 9 & 10 (6) of the Planning and Development Regulations 2001 (as amended).
- "Sustainable Urban Housing: Design Standards for New Apartments — Guidelines for Planning Authorities – March 2018".
- Arklow and Environs Local Area Plan 2018 -2024

### Main Reasons with respect to Section 5 Declaration:

- The conversion of the existing unit to use as 2 one bedroom apartments would be contrary to the provisions of Article 10(6)(d)(iv) of the Planning and Development Regulations 2001(as amended). Article 10(6)(d)(iv) provides that -  
*No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned.*

The proposal provides for the conversion of a ground floor from Class 1 : shop to residential usage. The shop is located in an area zoned Town Centre in the Arklow and Environs Local Area Plan 2018-2024. This zoning objective provides for :

*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.*

**AN BORD PLEANALA**

25 JUN 2019

DATE: \_\_\_\_\_ FROM: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
DIRECTOR OF SERVICES

ABP-

Tá an doiciméad seo ar fáil i bhformáidí eile ar iarratas.  
This document is available in alternative formats on request.

Ba chóir gach comhfhreagras a sheoladh chuig an Stiúrthóir Seirbhís Forbairt Pleanála agus Comhshaol.  
All correspondence should be addressed to the Director of Services, Planning Development & Environment.



The conversion from ground floor retail would therefore be contrary to the zoning objective which clearly seeks to provide for town centre uses on the ground floor .

- ii. The referrer has not demonstrated that the unit has sufficient storage space to accord with the provisions of the "Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities – March 2018", as required by Article 10(6)(d)(iii) of the Planning and Development Regulations 2001 (as amended).
- iii. Insufficient evidence has been submitted to confirm that the rooms for use, or intended for use, as habitable rooms have adequate natural lighting, as required by Article 10(6)(d)(vii) Planning and Development Regulations 2001 (as amended).

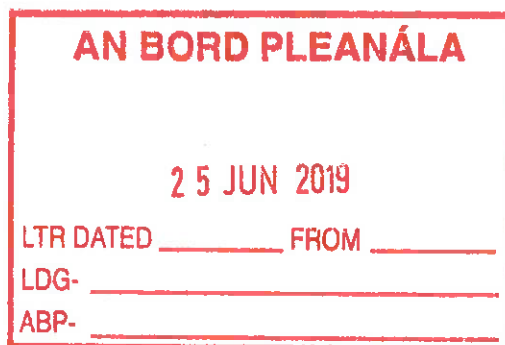
The Planning Authority considers that conversion of an existing retail unit to 2 no one bedroom apartments is development but is NOT exempted development.

Signed: Siddhan O'Brien

ADMINISTRATIVE OFFICER

PLANNING DEVELOPMENT & ENVIRONMENT

Dated 29<sup>th</sup> day of May 2019



# CONOR MC CARTHY & ASSOCIATES Ltd

## Consulting Engineers and Project managers

Unit A8, Kish Business Park  
Arklow  
Co Wicklow

Phone: 0402 24660  
Mobile : 0876 876120  
Email: [cmcagroup@gmail.com](mailto:cmcagroup@gmail.com)

**Planning Appeal**

**for**

**Development at No. 2 South Quay**

**Arklow Co. Wicklow**

**Project Reference: 19.911**

**June 2019**

<b>AN BORD PLEANÁLA</b>	
2 5 JUN 2019	
LTR DATED _____	FROM _____
LDG- _____	
ABP- _____	

## 1.0 Introduction

This first party appeal relates to a Section 5 Declaration issued by Wicklow County Council in relation to the proposed development of 2 residential units in a single storey retail unit in Arklow town.

## 2.0 Details of Section 5 Declaration

**Applicant:** Mr Conor McCarthy

**Proposed development:** 2 Ground floor residential units

**Zoning of Site:** Town Centre

**Relevant LAP:** Arklow and Environs Local Area Plan 2018 – 2024

**Previous use:** Retail

**Date of Determination:** Wednesday 29<sup>th</sup> May 2019

**Determination:** Is development and is not exempt development

## 3.0 Reasons for Decision

3 principal reasons are given

1. Contravention of local area plan
2. Storage space
3. Natural light

## 4.0 Basis of appeal

In summary the basis of appeal is as follows:

The proposed development is not in contravention of the Local Area Plan.

**AN BORD PLEANÁLA**

**25 JUN 2019**

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ABP- \_\_\_\_\_



The relevant legislation is targeted specifically at Urban Areas.

Adequate storage space within the development can be provided.

The proposed scheme has adequate natural light.

## 5.0 Contravention of the Local Area Plan (LAP)

The relevant legislation is:

**S.I. No. 30 of 2018**

**PLANNING AND DEVELOPMENT (AMENDMENT) (NO. 2)**

**REGULATIONS 2018**

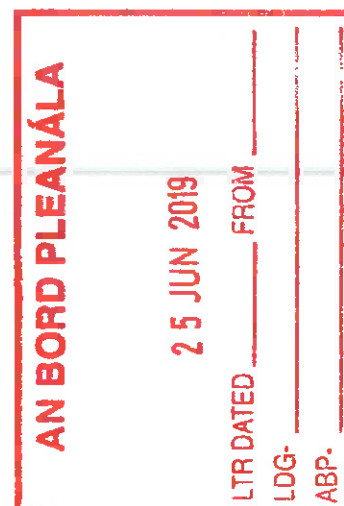
In summary, this allows for conversion of former retail to residential to be exempt development subject to certain conditions, the relevant one being

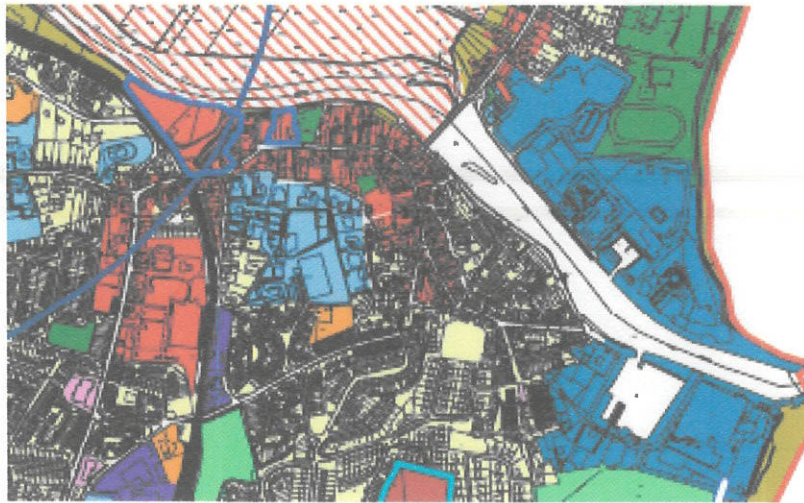
*'(d) (iv) No development shall consist of or comprise the carrying out of works to the ground floor area of any structure which conflicts with any objective of the relevant local authority development plan or local area plan, pursuant to the Part 1 of the First Schedule to the Act, for such to remain in retail use, with the exception of any works the purpose of which is to solely provide on street access to the upper floors of the structure concerned'*

The relevant phrase here is 'any objective'.

Under the LAP, the site is zoned Town Centre, shaded red below.

This covers a significant portion of the town centre but not the Bridgewater Shopping Centre to the North of the river.



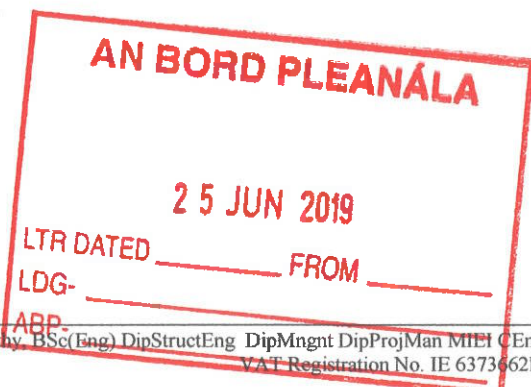


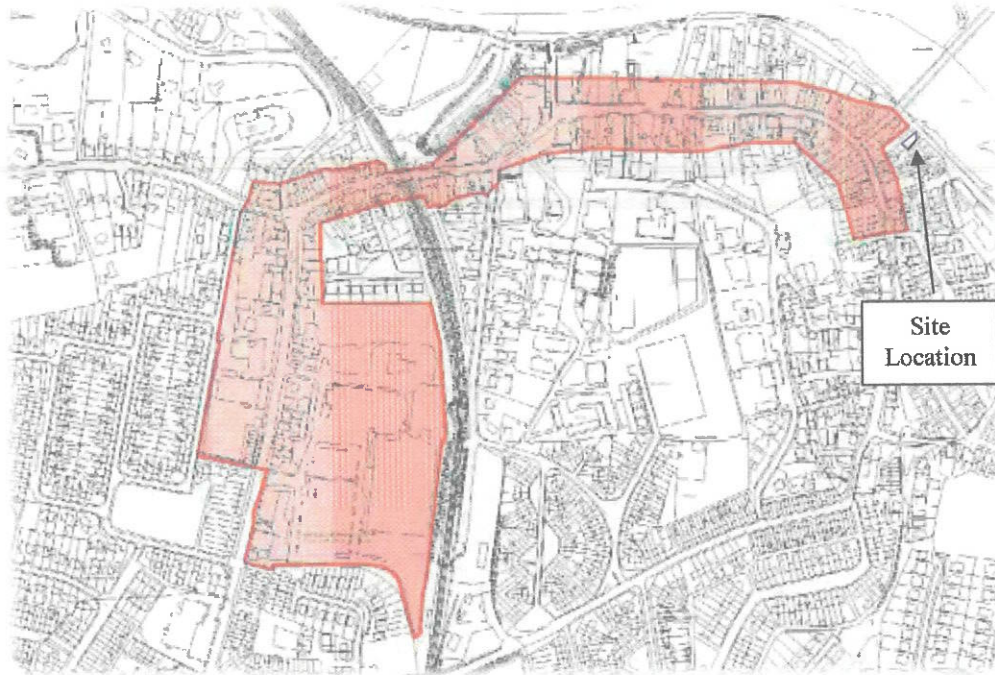
From Chapter 11 of the LAP 'Zoning, land use & action area plans' the stated objective for Town Centre (TC) zoning is

*'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'*

Under the general TC zoning there is no stated objective in the LAP to retain retail use at ground floor.

To consider this point further and to provide an example of where it is the stated objective to maintain / promote retail at ground floor, Chapter 6 of the LAP does provide clarification of its intended objectives by identifying a 'retail core area' within the town centre.





Map 6.1 Arklow Retail Core Area

This 'sub zoning' ties back to the County Development Plan which under RT11 states inter alia

*'RT11: To promote developments which reinforce the role and function of the 'core retail area' as the prime shopping area of town centres....In settlements where no 'core retail area' is defined, regard shall be paid to the designated 'town centre' area, the location of the traditional/historical centre and the location of other retail units. Where an application is made for a new development with street frontage either in the defined retail core of a larger settlement or on the 'main street' of a smaller town, retail or commercial use will normally be required at street level.'*

For Arklow, a retail core area is clearly defined in the LAP.

As the subject site is outside the defined 'Retail Core Area' for Arklow the application of RT11 is not appropriate in this case.

**AN BORD PLEANÁLA**

25 JUN 2019

LTR DATED \_\_\_\_\_ FROM \_\_\_\_\_

LDG- \_\_\_\_\_

ABP- \_\_\_\_\_

An examination of the legislation and its supporting documentation might also shed some light on what the proposed intention of the legislation is.

The Department issued a circular Letter, PL 01/2018, to outline the changes and their proposed intention. It states

*'Specifically, Action 5.9 of Rebuilding Ireland commits to reviewing planning legislation to allow the change of use of vacant commercial units in urban areas, including vacant or under-utilised areas over ground-floor premises, into residential units without having to go through the planning process..... The main objectives of the exemption are to facilitate the provision of increased and much needed housing supply, to maximise the use of vacant underutilised spaces and assist in the rejuvenation of inner-core urban areas'*

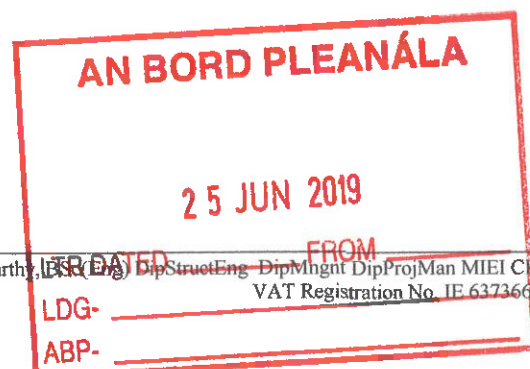
The legislation specifically targets 'urban areas' and furthermore 'inner-core urban areas' which by their very nature will be zoned 'Town Centre'.

The logic proposed by the Planning Authority is that this legislation cannot apply to any ground floor non-residential unit anywhere in the zoned Town Centre region.

The current legislation clearly targets ground floor conversions as previous urban regeneration schemes were explicitly 'living over the shop' ie not ground floor.

A safeguard has been provided with respect to Core Retail Areas which does not apply in this case.

It is contended that the proposed development, by virtue of its location outside the core retail area, as defined within the local area plan, does not conflict with any objective of a local area plan for ground floor to remain in retail use.



## 6.0 Inadequate Storage space provided

The legislation requires that the minimum storage space of the '2015 Design Standards for New Apartments' be complied with.

This requires a storage area of 3sqm to be provided.

The proposed units are 48sqm with generous external private open space to the rear. In accordance with section 3.23 of the Apartment Standards, 1.5sqm of storage will be provided outside with the balance being provided inside.

The drawing has been modified to reflect explicit storage requirements.

## 7.0 Inadequate Daylight

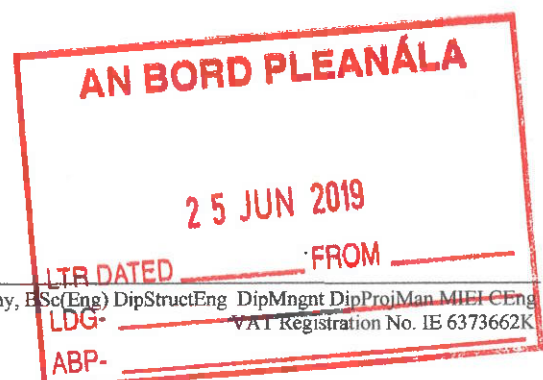
The units are dual aspect with generous open space to the rear giving plenty of natural light to the bedrooms. The front elevation of the units is open to the river again giving adequate natural light. Further lighting could be provided, if deemed appropriate, with roof lights as the building is only single story but we would contend that adequate natural light is available.

## Conclusion

The proposed development, by virtue of its location, does not contravene an Objective of the LAP for ground floor units to remain in retail use.

The minimum storage areas required are complied with.

Adequate natural light is provided.



**CENTRE COORDINATES:**  
 ITM 724667,673423

**PUBLISHED:** 13/06/2018  
**ORDER NO.:** 50011512\_1

**MAP SERIES:** 1:1,000  
**MAP SHEETS:** 4428-11  
 1:1,000 4428-12

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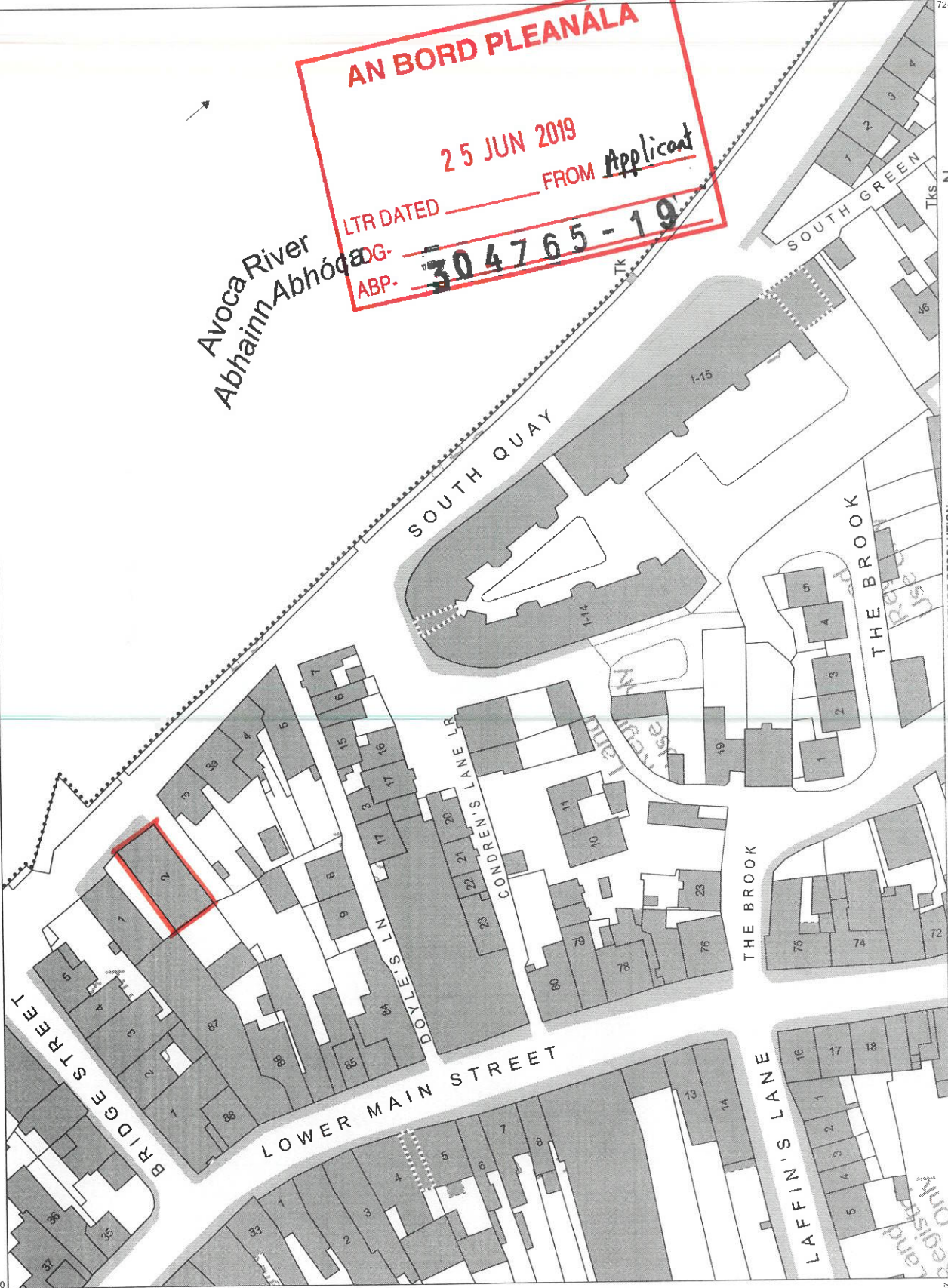
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**LEGEND:**  
<http://www.osi.ie>;  
 search 'Large Scale Legend'

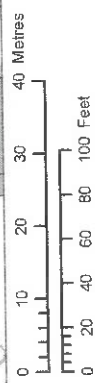
**Land Registry Compliant Map**



**SITE LOCATION: 2 SOUTH QUAY, ARKLOW**

**CAPTURE RESOLUTION:**  
 The map objects are only accurate to the  
 resolution at which they were captured.  
 Output scale is not indicative of data capture scale.  
 Further information is available at:  
<http://www.osi.ie> search 'Capture Resolution'

**OUTPUT SCALE: 1:1,000**



724783

724783

724550

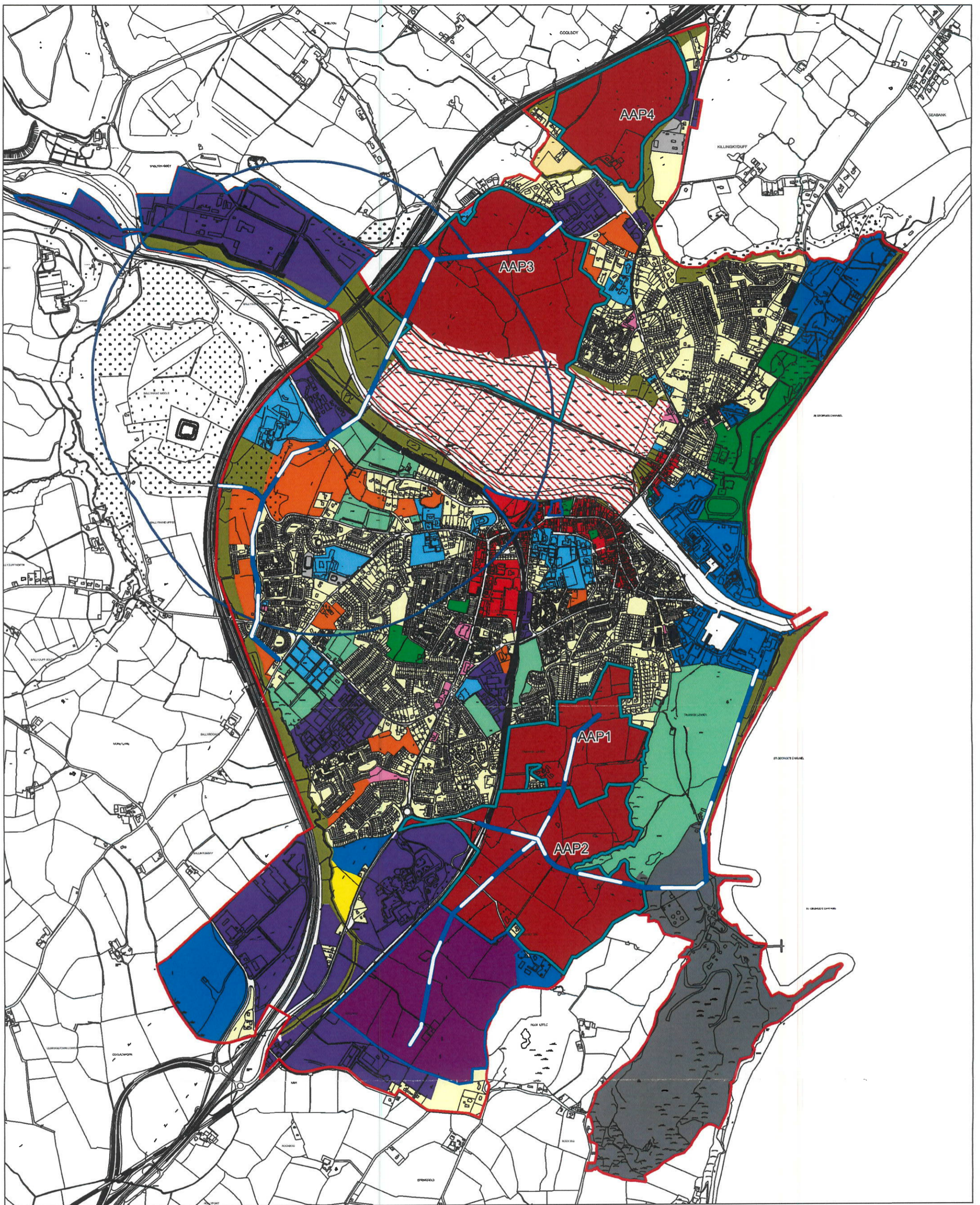
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673337



WICKLOW COUNTY DEVELOPMENT PLAN 2016-2022

**Arklow and Environs Local Area Plan  
2018 - 2024**

**Title: Land Use Zoning Objectives  
Map No. : 1**



Wicklow County Council  
Planning Department  
Maps are not to scale

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Licence Number 2018/35/CCMA/Wicklow County Council

	Settlement boundary		CE Community & Education		PU Public Utility
	RE Existing Residential		WZ Waterfront		EX Extractive Industry
	R28 New Residential		E1 Employment		T Tourism
	R20 New Residential		E Special Employment		Action Area Plan boundary
	R10 New Residential		OS1 Open Space		Opportunity Site boundary
	R Special New Residential		OS2 Open Space		Indicative road route option
	LSS Local Shops and Services		AOS Active Open Space		Arklow Town Marsh pNHA
	TC Town Centre		MU Mixed Use		1,000m SEVESO buffer

# Wicklow County Council

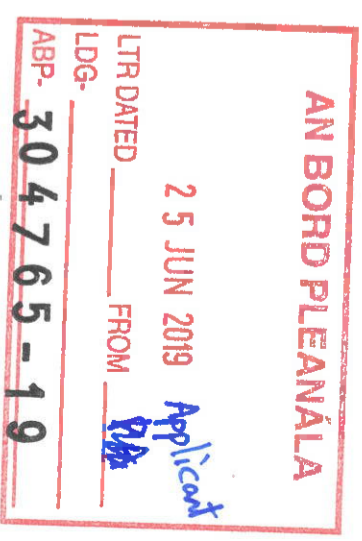
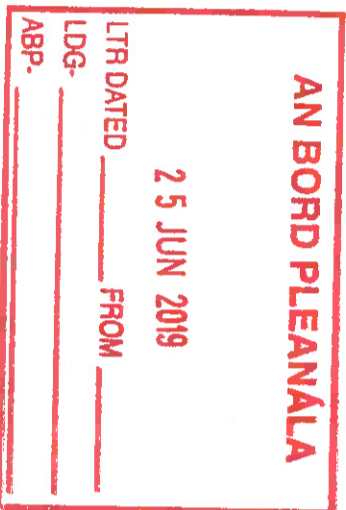
## Section 5 Declaration Request

Conversion of existing vacant  
retail unit to 2 self contained  
One bedroom apartments

2 South Quay, Arklow

Date: May 2019

Rev A : Appeal to ABP June 2019





Lower Main Street

BRIDGE STREET

Hotel

Bridge

South Quay

Avoca River



UNION LANE

**AN BORD PLEANÁLA**

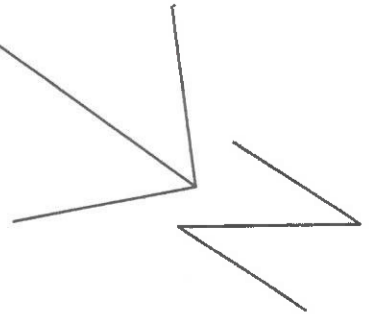
25 JUN 2019

FROM Applicant

LTR DATED

LDG- 304765-19

ABP-



Site Plan 1:250

**Conor McCarthy & Associates**  
 Consulting Engineers and Project Managers  
 Unit A8  
 Kesh Business Park  
 Arklow  
 Co. Wicklow

Tel: 0402 24660  
 Fax: 0402 24661  
 cmc@conor.ie  
 conor@conor.ie

CLIENT

2 South Quay, Arklow

Section 5 Dec.

TITLE

Site Plan

DRAWING STATUS

For Planning

DATE	NOV 17	DRAWN
SCALE	1:400 AT A3	ORIENT DRAWING FILE
DRAWN BY	584 * 641 - A1	
DATE	19.911/02	REV
		0

Proposed Site Plan 1:250

Conor McCarthy & Associates  
Consulting Engineers and Project Managers  
Unit A8  
Kesh Business Park  
Arklow  
Co. Wicklow  
Tel: 0402 24660  
Fax: 0402 24661  
cmagroup@gmail.com

CLIENT  
2 South Quay, Arklow

Section 5 Dec.

TITLE  
Site Plan

DRAWING STATUS  
For Planning

DATE	NOV 17	SCALE	1:400 at A3	ORIGINATING DRAWING SIZE	94 X 64 - A1
DRAWN BY		CHECKED BY		DATE	19.911/03
REV	0				

Lower Main Street

BRIDGE STREET

Bridge

South Quay

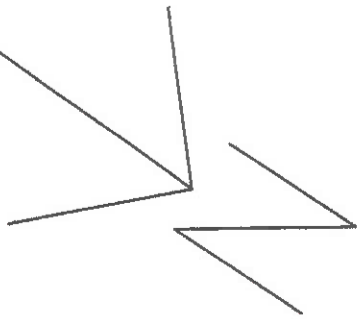
Avoca River

UNION LANE

NO. 86



**AN BORD PLEANÁLA**  
 LTR DATED 25 JUN 2019  
 LDG. FROM Applicant  
 ABP. 304765-19



17997

8463

Retail shop  
138 sqm GIFA

UNION LANE

# GROUND FLOOR EXISTING PLAN

PUBLIC FOOTPATH

**AN BORD PLEANÁLA**

25 JUN 2019

LTR DATED

FROM *Applicant*

LDG. **304765-19**

ABP.

Existing Ground Floor 1:50

**Conor McCarthy & Associates**  
Consulting Engineers and Project Managers  
Unit 26  
Kesh Business Park  
Arklow  
Co. Wicklow  
Tel: 0402 24660  
Fax: 0402 24661  
cmcagroup@gmail.com

CLIENT

2 South Quay, Arklow

Section 5 Dec.

TITLE

Existing Ground Floor Plan

DRAWING STATUS

For Planning

DATE

Nov 17

SCALE

1:400 at A3

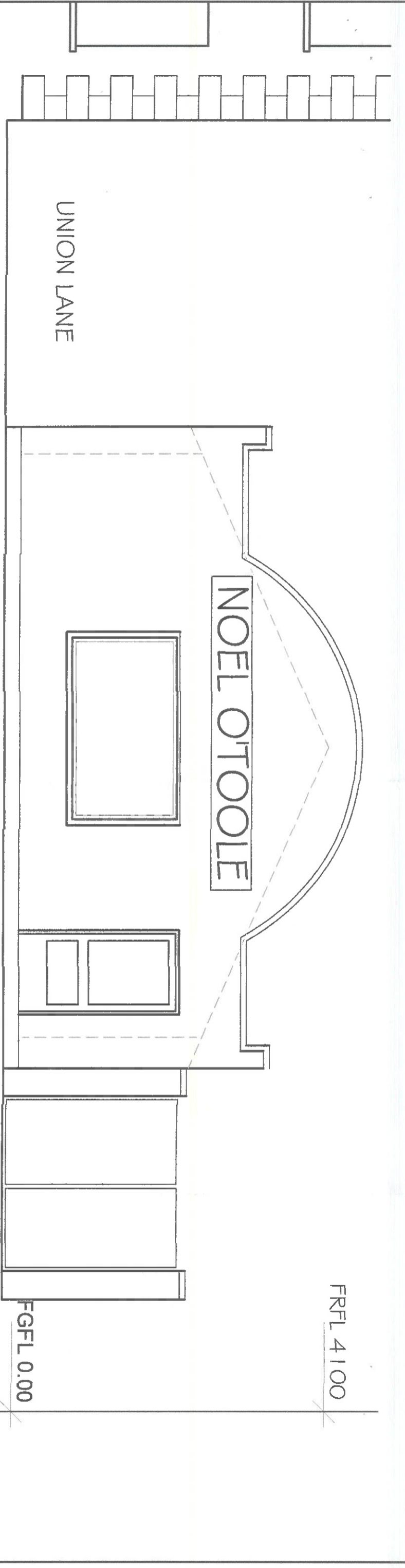
PROJECT REF

584 x 841 - A1

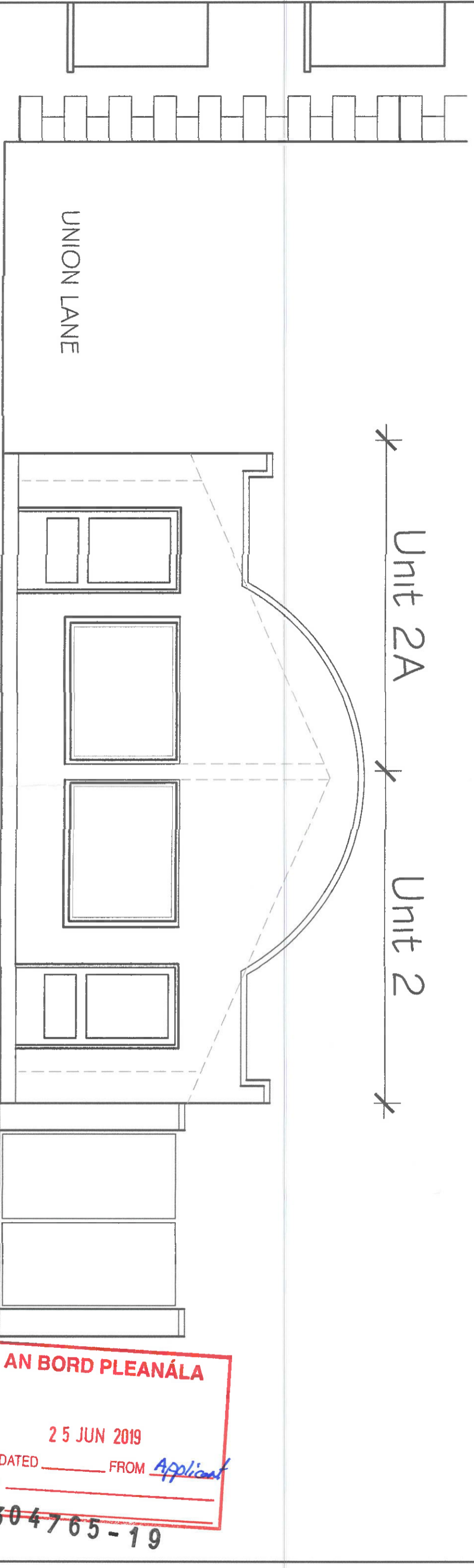
REV

0

19.911/04



EXISTING FRONT ELEVATION (NORTH)



PROPOSED FRONT ELEVATION (NORTH)

**AN BORD PLEANÁLA**  
 25 JUN 2019  
 LTR DATED \_\_\_\_\_ FROM *Applicant*  
 LDG- \_\_\_\_\_  
 ABP- \_\_\_\_\_  
 304765-19

ELEVATIONS 1:50

Conor McCarthy & Associates  
 Consulting Engineers and Project Managers  
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 Co. Wicklow  
 Tel: 0402 24860  
 Fax: 0402 24861  
 cmc@conor.ie

CUJHR  
 2 South Quay, Arklow

Section 5 Dec.

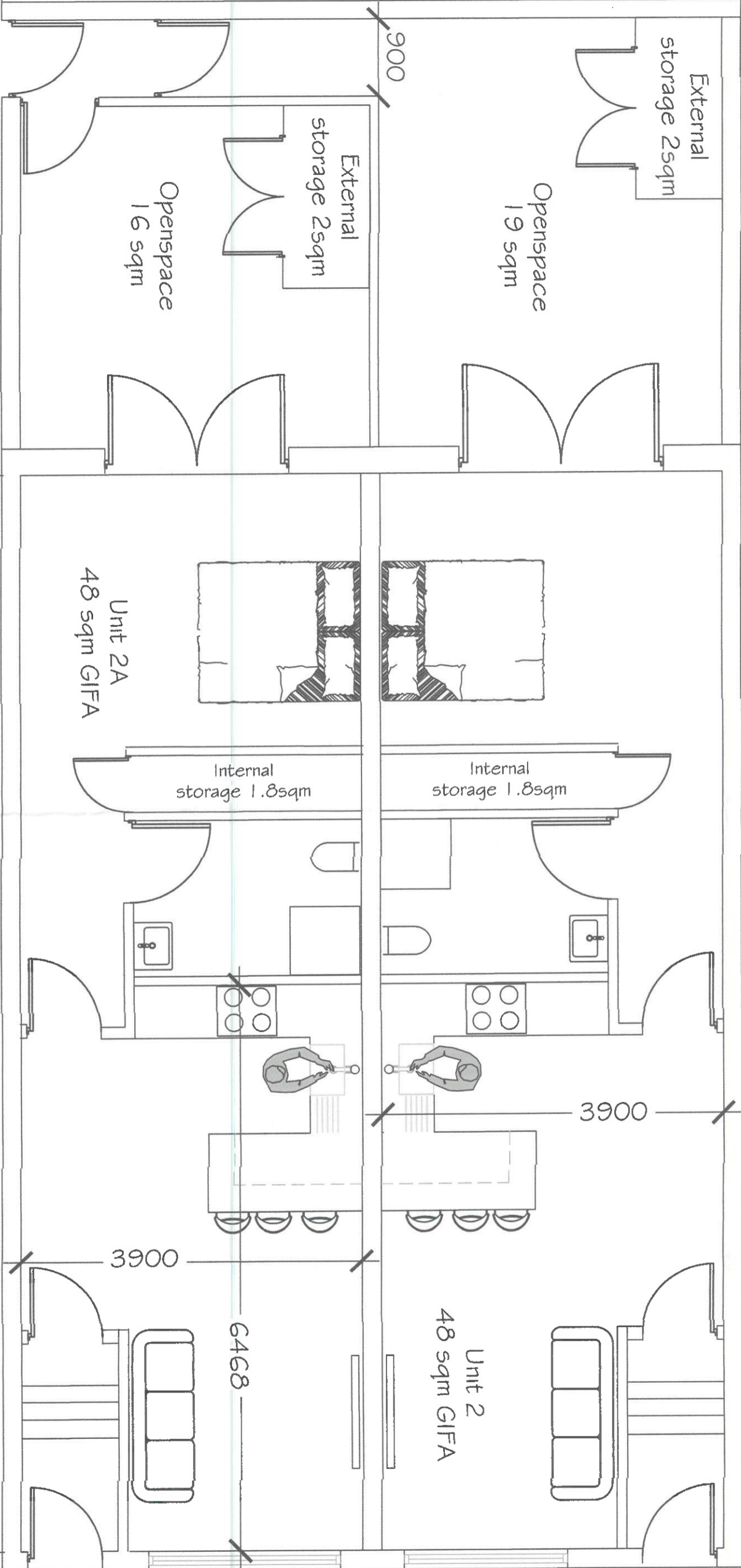
TITLE  
 Elevations

DRAWING STATUS  
 For Planning

DATE	NO.	BY
19.9.11/06	0	

17997

Roof to be removed



# PROPOSED GROUND FLOOR PLAN

UNION LANE

PUBLIC FOOTPATH

Proposed Ground Floor 1:50

Conor McCarthy & Associates  
 Consulting Engineers and Project Managers  
 Unit 2A  
 KSM Business Park  
 Arlow  
 Co. Wicklow  
 Tel: 0402 24660  
 Fax: 0402 24661  
 cmc@conor.ie

CLIENT  
 2 South Quay, Arlow

Section 5 Dec.

TITLE  
 Proposed Floor Plan

DRAWING STATUS  
 For Planning

SCALE  
 19.911/05

0

**AN BORD PLEANÁLA**

25 JUN 2019

LTR DATED FROM *Applied*

LDG-304765-19

APP