



An
Bord
Pleanála

Inspector's Report ABP.302418-18

Development	Business and enterprise building.
Location	Mountkennedy Demense, Newtownmountkennedy, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	17/1134
Applicant(s)	Harvieston Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	As above
Observer(s)	None
Date of Site Inspection	12 th December 2018
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The appeal site is located on the northern edge of Newtownmountkenndy situated adjacent to the M11 slip road and the regional road R765.
- 1.2. The site is situated to the immediate north of an existing filling station and effectively sandwiched between the M11 sliproad and the R765.
- 1.3. The size of the appeal site is approximately 2.065 ha (5.1 acres) and the shape of the appeal site is irregular.
- 1.4. The site itself is a vacant site and there is a notable depression, although small in size, on the site situated to the south of the site. This depression is currently filled with pooling water.
- 1.5. There is a large pylon situated adjacent to the pooling water and overhead power lines transverses the site.
- 1.6. The appeal site also includes established mature vegetation along the southern and eastern boundary. There is low-level fencing situated along the boundary with the filling station.
- 1.7. The gradient of the site falls slightly from the public road towards the south of the site adjoining the pylon.
- 1.8. There is a vehicular entrance onto the main regional road from the site and there is a second entrance to the appeal site off the forecourt of the adjoining filling station.
- 1.9. There is one existing single storey building situated on the appeal site.

2.0 Proposed Development

- 2.1.1. The proposed development provides for a business and enterprise building comprising of the following;
 - a. Indoor country market
 - b. Own door starter employment units
 - c. Enterprise units
 - d. Childcare facility

- e. Food hall / kitchen
- f. New food business development unit
- g. Toilet facilities

- 2.1.2. The overall floor area of the proposed building is 4,254 sq. metres. The country market and starter employment units are situated at ground floor level.
- 2.1.3. The childcare facility is primarily located at first floor level and the food hall is located at first floor level.
- 2.1.4. The maximum height of the proposed building is 11.2 metres. The height of the proposed building would be higher than the existing filling station situated to the immediate south and the proposed motor show rooms located to the immediate north. The proposed elevation comprises of a mix of glazing and selected wall cladding.
- 2.1.5. The overall car parking provision is 135 no. spaces and these spaces are mainly located along the perimeter of the site.
- 2.1.6. The proposed loading bays are located to the immediate east of the proposed building.

Additional information was sought for the following (a) a planning report demonstrating how the proposed development complies with the stated objectives in the LAP, national guidelines and the County Development Plan, (b) a detailed breakdown of the floor area, (c) roads and access, (d) submit a Traffic and Transport Assessment, (e) clarification in relation to the footpath east of the petrol station, (f) a landscape plan, and (g) assessment on impacts on adjoining residential amenities, (h) demonstrate that the proposal does not interfere with existing rights of way / wayleaves, (i) surface water details, (j) design details for the proposed pumping station, (k) clarification in relation to the creche, (l) clarification whether the set back distance from the ESB pylon is compliant with requirements, (j) address the design of the eastern elevation of the proposed building.

3.0 Planning Authority Decision

3.1. Wicklow County Council decided to **refuse** planning permission for the following reasons;

1. Having regard to;
 - a. the location of the proposed development on lands zoned for Employment use and within Action Area 4 of the Newtownmountkennedy Local Area Plan 2008-2018, on a site which adjoins / is reliant on a concurrent application within the overall Action Area 4 lands,
 - b. Action Area 4 plan agreed 6th January 2011 including the agreed indicative site layout plans,
 - c. the proposed layout and development strategy for the overall action area lands which the Planning Authority considers is not satisfactory, and
 - d. the fact that the development is reliant and interlinked with roads, parking, water services and landscaping infrastructure that is not within the site boundary, and which does not exist and for which no permission is in place,

it is considered that the proposed development would be contrary to the zoning objective and overall vision for this action area which is designated for comprehensive and high quality designed development, and would result in the creation of a standalone, haphazard and piecemeal development which would fail to integrate with existing and future developments on the site and which would compromise the sustainable and co-ordinated development of the site and which would be injurious to the visual amenity of the site. It is considered that the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Insufficient information is submitted to properly assess the proposed development. Having regard to the information provided, the Planning Authority is unable to properly assess the proposed development and to determine;

- a. Whether the proposed development would be an acceptable use having regard to 'Employment' zoning objective for the lands as set out under the Newtownmountkennedy LAP, 2008 – 2018 with an objective "to provide for economic development, enterprise, industry, distribution, warehousing and employment".
- b. Whether the proposed development would integrate with the existing development and future planned development of Action Area 4,
- c. The impact of the development on the surrounding area and residential properties, and
- d. The adequacy of roads, parking and water services infrastructure to serve the development.

To permit the development in the absence of this information would result in substantial development which would contravene the zoning objective for the area and which would be injurious to the amenities of the area.

3. The Planning Authority is not satisfied that the creche is suitably located and designed, within the context of the overall development. The proposed creche would represent a substandard, haphazard development and would be contrary to the Creche Facilities guidelines for Planning Authorities (2001).
4. Having regard to the proposals regarding the design and layout of the roads infrastructure on the site, including the entrance, routeways, car parking areas, footpaths, junctions, markings, signage, etc; the applicant has failed to demonstrate that;
 - a. a safe access to the site can be provided,
 - b. traffic and pedestrian movements within the site are safe and do not conflict,
 - c. adequate provision is made for future access to the overall lands including lands to the south that are located within Action Area 4,
 - d. adequate provision is made for access to the weighbridge, and

e. the parking arrangements are satisfactory.

The proposed development would therefore result in a roads layout comprising a complicated design of multiple routeways, junctions and parking areas and results in a layout that lacks legibility for future users and would result in a serious traffic hazard. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

5. It is considered that the applicant has failed to demonstrate that the development would not have an adverse impact on the safety and the carrying capacity of the local and national road network and the associated junctions. The proposed development would therefore adversely affect the use of public roads by traffic and would endanger public safety by reason of traffic hazard. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

6. Insufficient evidence is submitted to demonstrate that the proposed relocation of the existing pumping station is suitably designed and located, that the surface water disposal measures are acceptable and that the building would not interfere with the Arklow-Carrickmines 220kv Transmission Line. Permitting the development in the absence of the evidence would be prejudicial to public health and would be contrary to proper planning and sustainable development.

3.2. Planning Authority Reports

- 3.2.1. The main issues raised in the planner's report are as follows;

Area Planner

- Of the proposed uses retail and restaurant are normally not permitted.
- There are concerns with the impact of the retail proposal on the viability and vitality of the town centre.
- Height and adverse visual impact.
- The location of a creche in an employment zoned site is questionable.
- TTA required.
- The upgrade of the Ballyronan junction is an issue for the LAP review.
- The proposed internal layout and entrance is not satisfactory.
- Car parking provision that meets development plan standards would need to be demonstrated.
- Eastern elevation would need redesigned proposals.
- The proposal is located within close proximity to an existing ESB pylon.
- The proposal may have impacts on adjoining residential amenities.
- No AA issues.
- There are issues in relation to rights of way / wayleaves.

3.3. Internal Reports;

- Area Engineer; - Roads Section shall be consulted.
- Roads; - A number of significant issues have been outlined as such additional information sought.
- Water Services; - Several issues required for clarification.

3.4. **Third Party Observations**

There was one third party submission and the issues raised are noted and considered.

3.5. **Submissions**

There is a submission from Irish Water who have no objections. There is also a submission from TII which is summarised as follows;

- The proposal is at variance with official policy in relation to control of development on/affecting national roads.
- The proposed development or the precedent it would create would adversely affect the operation and safety of the national road network for the following reasons;
 - Insufficient data has been submitted to demonstrate that the proposal would not have a detrimental impact on capacity, safety or operational efficiency.
 - A TTA is required to assess the impact on adjoining roads and cumulative impact.
 - There is a need to undertake a junction upgrade strategy for the Ballyronan junction having regard to the extent of landuse zoning objectives.
 - The proposed development would be at variance with Section 2.7 of the provisions of DoECLG Spatial Planning and National Roads Guidelines (2012).

4.0 **Concurrent Planning**

- Appeal ref. 302418 (L.A. Ref. 17/1134) – Permission sought for car showrooms. Wicklow County Council refused permission for the following reasons (a) contrary to zoning objective, (b) insufficient information available

to properly assess proposal in relation to roads and access, (c), insufficient information in relation to disposal of surface water.

5.0 Planning History

- L.A. Ref. 17/40; - Wicklow County Council refused permission for a building (floor area 1436 sq. metres) comprising of country market (1044 sq. metres) and with subdivision (277 sq. metres) along with car parking. Reasons for refusal include (a) materially contravene zoning objective, (b) failure to demonstrate that the proposed retail use would not contravene the Retail Planning Guidelines for Planning Authorities (2012), (c) inadequate proposals in relation to roads and access.
- L.A. Ref. 16/1350 – Permission refused by Wicklow County Council for motor car showrooms including workshop, office space, toilet facilities, parts department and reception area, canteen along with display forecourt and ancillary site development works. Reasons for refusal included (a) proposal contrary to the zoning objective and the overall vision for this for this action area, and (b) inadequate proposals in relation to roads and access.
- Appeal ref. 247384 (L.A. Ref. 16/822) – Permission sought for retention of a petrol filling station including forecourt shop with toilet facilities, café and seating area. Proposal also involves retention of forecourt canopy, underground storage tanks, storm water drainage and attenuation, foul sewer, site entrance and car parking. Retention is sought for southern boundary and permission for car wash facility, an off-licence in the shop, permission for new sewage pumping station and permission for signage and landscaping. Wicklow County Council granted permission and An Bord Pleanála upheld the decision to grant permission.

There are also several other planning applications on the appeal site and in brief include the following;

- L.A. Ref. 16/78 – Permission refused for off-licence to filling station
- L.A. Ref. 15/1286 – extension to duration of permission for L.A. Ref. 10/2205.
- L.A. Ref. 10/3056 – Permission granted for revisions to permitted filling station (L.A. Ref. 10/2205).
- L.A. Ref. 10/2205 – Permission granted for filling station.
- L.A. Ref. 05/256 – Permission granted alterations to truck parking and 90-bedroom hotel.

6.0 Policy Context

6.1. Local Area Plan

- 6.1.1. The operational Development Plan is the Newtownmountkennedy Local Area Plan, 2008 – 2014 (extended to 2018).
- The appeal site is zoned 'Employment'.
 - The lands of the appeal site and adjoining lands are designated 'AA4'

The main provisions of 'AA4' include;

- Vehicular access via R772
- Office based use with high architectural design
- Light industrial to a high architectural design will only be considered
- Warehousing / retail warehousing will not be permitted
- Development proposals shall have regard to adjoining residential amenities
- Proposals shall include pedestrian access to nearest retail provision.

6.2. County Development Plan

The operational development plan is the Wicklow County Development Plan, 2016 – 2022.

Chapter 5 relates to Economic Development and the following policies are relevant;

- Policy EMP1 – Support all forms of employment creation
- Policy EMP2 – Locate new employment uses on suitably zoned land
- Policy EMP3 – Protect employment zoned land from inappropriate development
- Policy EMP4 – Permit employment generating development that complies with relevant development standards.

7.0 The Appeal

7.1. A first party appeal was submitted and the following is the summary of a submission;

Refusal Reason no. 1

- New road layout is safe and suitable.
- Adequate sightline provision provided.
- Adjoining lands are under separate ownership. No rights of way through adjoining lands.
- Unreasonable in wanting concurrent planning application.
- Local Area Plan has no obligation to provide services to adjoining lands.
- Proposal is compliant with zoning objective.

Refusal reasons no. 2

- The subject lands are zoned employment use
- The revised uses as per the additional information response are all permitted under the LAP.

- It is submitted that the design of the enterprise building is a high standard for employment type building and compliments the adjoining proposal.

Refusal reason no. 3

- The proposed creche facility is redesigned having consulted with Wicklow County Childcare Committee, childcare regulations and Disability regulations.
- A creche is permitted in principle in accordance with the zoning objectives.

Refusal reasons no. 4

- Reports by Martin Rodgers Consulting and RSA demonstrate the design and layout are satisfactory for the proposed development.
- Revised autotrack details are submitted in relation to pedestrian access, vehicular movements and parking.
- Future access to adjoining lands is provided for.
- The weightbridge in question is owned by Wicklow County Council which are located within lands owned by Harvieston Ltd. and accessed by a right of way.
- The owners of the land have facilitated Wicklow County Council in the opening of the weightbridge.
- The new proposed aligned road provides for continued and safe operation of the weightbridge which is currently used by An Garda Siochana and the RSA and operated on a good will nature.
- The lands of the weightbridge are to be left out of the proposed new development.

Refusal reason no. 5

- The upgraded TTA demonstrates that the proposal will have no adverse impacts on the road capacity.

Refusal reason no. 6

- The pumping station will remain in its current location.
- Drainage calculations demonstrate that the proposed development is acceptable.
- A letter attached confirms that the proposed development is acceptable having regard to the pylon and transmission lines.

8.0 Responses

Second Party Response

The following is the summary of a response submitted by the Local Authority;

- It is submitted that the proposed development is dependent on infrastructure which has no grant of permission in place. As such the proposed development cannot proceed unless permission is granted for other development on adjoining lands. Refusal reason no. 1 remains and therefore is not addressed.
- The copy of the agreement between the applicant and WCC is not a legally enforceable agreement.
- The issue raised in refusal reason no. 4 (item d) has not been addressed.
- The submitted drawings do not show how the proposed development would impact on the access to weightbridge, having regard to the legal Rights of Way.

9.0 Assessment

- Principle of Development
- Design / Architectural Character
- Traffic Safety / Access
- Impact on Residential Amenities
- Childcare provision

- Surface Water and Services
- Appropriate Assessment Screening
- EIA Screening
- Other Issues

9.1. **Principle of Development**

- 9.1.1. There are site specific objectives for the appeal site in accordance with the provisions of the Newtownmountkennedy Local Area Plan, 2008 – 2014 (extended to 2018).
- 9.1.2. The appeal site is zoned ‘employment’ in accordance with the provisions of the LAP. The objective of this land-use is *‘to provide for economic development, enterprise, industry, distribution, warehousing and employment’*.
- 9.1.3. The proposed development is a business and enterprise centre and breakdown of uses includes;
- Larger starter units (1,185 sq. metres)
 - Office (932 sq. metres)
 - Inhouse eating area (125 sq. metres)
 - Creche (700 sq. metres)
 - Conference (275 sq. metres)
- 9.1.4. The LAP sets out a Land Use Matrix and creche and office uses are permitted uses. The inhouse eating area would be an ancillary use relative to the primary uses. I would note that a conference use is not listed in the Land Use Matrix and neither is starter employment units however these units would be employment focussed.

- 9.1.5. The appeal site is also designated 'Action Area 4' (AA4) in accordance with the provisions of the LAP. Section 11 of the Local Area Plan outlines that all action areas are subject to comprehensive integrated schemes of development (not piecemeal). It is further outlined that separate sections of each action area will not be considered until an overall action plan has been agreed in writing with the Planning Authority. The main objectives for AA4 are set out in the Local Area Plan and I have summarised them in Section 6.0 above. The AA4 designation required development in accordance with the employment zone and consistent with criteria set out in the Local Area Plan. One of the criteria is that development shall be comprised of office based business and enterprise units.
- 9.1.6. The proposed development would not be consistent with the designation Action Area 4 which pertains as the development is a piecemeal development.
- 9.1.7. Overall I would conclude that the level of detail to determine whether the proposed uses are consistent with the zoning objectives is unclear and the question arises whether the proposed development is a singular development or would comprise of a multiple of small business / enterprise users. The range of potential uses within the starter employment units are also unclear. The absence of detail would also relate to whether the proposed conference centre is for external users or internal users and the type of events intended for the conference centre. The scale of the creche (700 sq. m.) is sizable and given this scale the question arises would the childcare facility primarily attract external users.
- 9.1.8. Although the uses proposed are generally consistent with the Land-use zoning matrix the nature of the uses are unclear and their implications are therefore unknown. In such a scenario the impacts of the proposed development has the potential to compromise the overall objectives for the lands designated AA4 in accordance with the provisions for the LAP as the proposed development would compromise the delivery of a comprehensive integrated scheme.

9.2. **Design / Architectural Character**

- 9.2.1. In accordance with the provisions of the LAP, 2008 – 2014, it is an objective that lands designated AA4 will contain a building of high architectural quality. It is an objective of AA4 that *'the development of these lands shall comprise office based business and enterprise units, designed to the highest architectural standards and including a landmark gateway building at the northern end of the site'*.
- 9.2.2. The site of the proposed business and enterprise building is situated to the south of the overall site designated AA4. The proposed business and enterprise building is effectively located behind (east) an established filling station.
- 9.2.3. Although the proposed building would be partially visible from the adjacent regional road and the M11 it would be more sheltered from public view than a proposed building further north on the AA4 site. As such a landmark feature building, in my view, would not be as relevant as a proposal further north on the AA4 site.
- 9.2.4. I would note that the applicant has adequately addressed concerns of the Local Authority in relation to the eastern elevation. Overall I would consider that the applicant has provided an adequate solution to the proposed eastern elevation.
- 9.2.5. I would consider, based on the submitted drawings, that the design of the proposed building would be acceptable and in accordance with the design objective as set out in AA4 of the Local Area Plan.

9.3. **Traffic Safety / Access**

- 9.3.1. There are a number of significant issues in relation to roads and access for the proposed development and these include;
- Impact on national road network

- Junction upgrade strategy for Ballyronan junction
- Internal road layout / design and entrance
- Parking

9.3.2. The Local Authority issued a comprehensive additional information request in relation to roads and access issues. This additional information request largely related to design issues (item no. 1) and capacity issues (item no. 2).

9.3.3. In relation to design issues the Local Authority is not satisfied with a multiple of these design issues. In summary the design issues relate to the following;

- Design for right-turning lane
- Stage 2 Road Safety Audit
- Visibility splays
- Clear internal road layout
- Autrotrack analysis
- Signage / Road Marking
- Junction widths with pedestrian facilities
- Car parking to the front of the proposed car showroom.
- Size of the internal display area
- Car parking provision
- Vulnerable road users

9.3.4. I would note the submitted drawings that accompanied the appeal submission and I would acknowledge that the submission also includes a Stage 2 Road Safety Audit which I would consider acceptable. I would also note that the Local Authority have accepted that the parking provision is consistent with development plan standards.

- 9.3.5. I would accept that the proposed development provides a large internal circulation route and the proposal also amalgamates with the established vehicular entrance to the filling station situated to the immediate south and west of the appeal site. However, the applicant has provided an adequate level of detail in relation to the internal vehicular circulation of the proposed development. This includes layout details in relation to street lighting, vehicle routes (including one-way systems), pedestrian routes, HGV routes, access to future development lands, signage and auto-track analysis.
- 9.3.6. The design details of the proposed development also include a ghost island on the adjacent regional road. This ghost island will allow for right-hand turning movements without adversely impacting on the traffic flow of the regional road.
- 9.3.7. I would also note that the submitted drawings that accompanied the planning application and additional information response demonstrates a sightline provision of 120m in both directions from setback distance of 2.4m from the edge of the road carriageway. The submitted Engineering Report, prepared by Dr. Martin Rodgers, Transport Planning Professional, demonstrates in accordance with DMURS the required sightline provision along a road with a design speed of 60kph is at least 59m. The Engineering Report also demonstrates that the setback distance of 2.4m is sufficient.
- 9.3.8. Overall in design terms I would conclude that the proposed development adequately addresses the concerns of the Local Authority additional information request and outstanding issues are of a minor scale such that they can be addressed by a condition should the Board favour granting permission. It is my view based on the information available, that the proposed development would not result in a serious traffic hazard. I therefore would not concur with the Local Authority refusal reason no. 2.

- 9.3.9. In terms of capacity issues, I would consider that the report that accompanied the appeal submission, i.e. the report prepared by Dr. Martin Rodgers, would largely address concerns in relation to road capacity. This traffic report demonstrates that there is sufficient capacity to accommodate the proposed development. This report outlines that the total 2-way traffic along the regional road on the N11 / Ballyronan Road intersection is presently 9,130 passenger car unit's vehicles and that the proposed development would add 1097 (approximately 12%). As such the proposed development is anticipated to have a relatively small impact on Junction 12 (N11 / Ballyronan Road intersection). It is also estimated that the impact of the proposed development on both ramps on the Junction 12 would be 25% as such there would be 75% capacity.
- 9.3.10. I would also note the conclusions in the TTA which sets out a modelling capacity study. It is estimated, based on modelling, that in the year of opening with development in place (2019) that there will be 71% spare capacity on all movement over peak times. This is estimated to be 67% in the design year (2034) when development is in place. Queuing is also predicted to be minimal generally not exceeding 1 vehicle.
- 9.3.11. Finally, an issue arose whether the new development mix will alter the traffic predictions. The proposed development was revised having regard to an additional information request. However, as outlined in the report from Dr. Martin Rodgers, the omission of retail allows for a decrease in traffic generation. This assumption is based on the consideration that retail development results in far greater all-day trip volumes than office / enterprise which is very concentrated around morning / evening peak. It is concluded that the development mix will result in a decrease in daily 2-way traffic of 535 vehicles.
- 9.3.12. Overall, I would conclude that the road and access design issues that relate to the proposed development are acceptable. Furthermore, I would consider that the traffic

expert, on behalf of the applicant has adequately demonstrated that there is sufficient capacity to accommodate the proposed development.

9.4. **Impact on Residential Amenities**

- 9.4.1. The proposed business and enterprise building is set back approximately 13 metres from the common boundary to the south of the appeal site. There are some residential properties located further south of this common boundary line. In particular there is one residential property which is located approximately 30m south of the common boundary line.
- 9.4.2. The applicant has revised the southern elevation of the proposed business and enterprise building following a request by the Local Authority to revise the same elevation in the interest of protecting residential amenities.
- 9.4.3. In response the applicant submitted revised drawings, i.e. drawing no. 16/162/003. This drawing illustrates that the first floor windows of the proposed southern elevation have been omitted. This therefore would reduce the potential of overlooking towards established residential amenities.
- 9.4.4. The site layout plan, as illustrated in drawing no. 16/162/010A, includes landscaping along the southern boundary. This landscaping, following maturity, would further protect residential amenities.
- 9.4.5. The height of the southern elevation is 8 metres above ground level and the southern elevation is separated from the southern boundary by an access route.
- 9.4.6. I note that there is no cross-section drawing which would be useful in assessing the impact of the proposed development on the adjoining residential amenities. However, it is my view, based on the omission of the first floor windows, the separation distance between the proposed building and the existing residential

property that the proposed development would not unduly impact on residential residential amenities.

9.5. **Childcare Provision**

- 9.5.1. The Planning Authority had a number of concerns with the proposed creche facility and requested that the applicant address concerns in an additional information response. There were fundamental concerns and these included issues in relation to the floor plan of the proposed creche, the type of childcare provision and the ages of the children, the opening hours, number of staff to be employed and whether the proposed facility will be restricted to employees of the business and enterprise centre or whether the facility will be used by the general public.
- 9.5.2. The applicant clarified that the creche facility will be open to both members of the public and staff of the proposed business and enterprise centre and also confirmed that the proposed childcare facility would be consistent with the childcare regulations. However the local authority considered that the information available was inadequate to make an assessment and as such the Local Authority refusal reason no. 3 related to the creche.
- 9.5.3. In the appeal submission the applicant has submitted ground floor plans for the proposed development. The ground floor plans indicate an overall floor area of 700 sq. metres for the proposed childcare facility. This is a considerable scale for a creche. I would also note that the floor plan for the proposed creche subdivides the proposed facility into different rooms, i.e. toddlers 1-2 years and 3-4 years, babies, and pre-school 2–4 years. The proposal also includes an outdoor play area. The creche proposal also includes other facilities such as kitchen, toilets, staff room, and office.
- 9.5.4. The childcare regulations would determine the number of child places within the proposed facility based on floor area. I note that there is no information available in relation to the staff numbers and opening hours however I would consider that these

issues can be dealt with by conditions, should the Board favour granting permission. I would conclude that on balance that the proposed creche facility would be generally be consistent with the Childcare Facilities, Guidelines for Planning Authorities, 2001. As such I would not support the Local Authority refusal reason no. 3. However as I have assessed in Section 8.1 above the scale of the proposed creche facility is the is sizeable and its implication on the 'E' zoning objective of the appeal site and questionable in terms of the site delivering on the objectives of the AA4 designation.

9.6. **Surface Water and Services**

- 9.6.1. The report from the Water Services and Environment Section, dated 3rd November 2017, concluded that there was insufficient information and therefore required clarification on a number of issues. As such the Local Authority sought additional information in relation to these issues.
- 9.6.2. The Planner's report concluded, notwithstanding the applicant's response to the additional information, that clarification of a number of issues remained outstanding. These issues included that the proposed layout will result in ponding in several locations due to poor location of gullies and also that there is a potential for a backfall into manhole SMH3. Proposals in relation to the discharge of the attenuation tank are also unclear.
- 9.6.3. The appeal submission included revised calculations for foul, storm and attenuation.
- 9.6.4. The Local Authority's refusal reason no. 3 cited insufficient information available to demonstrate that surface water measures are acceptable. I would consider that this is an issue that can be dealt with by condition should the Board favour granting permission.

9.7. **Appropriate Assessment Screening**

9.7.1. The appeal site is located approximately 3km to the north-east of two Natura 2000 sites, namely the Carriggower Bog SAC (site code 000716).

9.7.2. The qualifying interests for the Carriggower Bog SAC are as follows;

- Transition mires and quaking bogs

9.7.3. I noted from my site inspection that the contours of the land fall eastwards away from the appeal site and essentially away from the SAC. As such any ground water flow from the proposed treatment plant and any surface water from the proposed development would flow away from the SAC.

9.7.4. Having regard to the nature and scale of the development proposed, to the nature of the receiving environment and the likely effluents arising from the proposed development I recommend that no appropriate assessment issues arise.

9.8. **EIA Screening**

9.8.1. Based on the information on the file, which I consider adequate to issue a screening determination, it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.

9.9. **Other Issues**

9.9.1. I would consider that drawing no. 16/162/010 adequately demonstrates the right of way access to adjoining land, i.e. the site of the weighbridge. This site has a vehicular access onto the adjacent regional road and also has access onto the appeal site for which there is a right of way.

9.9.2. The site map, scale 1:2500, indicates that this site is outside the red line boundary of the appeal site. I would consider that further legal interests, other than that which is demonstrated in this planning application, can only be determined outside the remit of this planning application.

10.0 Recommendation

10.1. I have read the submissions on the file, visited the site, had due regard to the County Development Plan, and all other matters arising. I recommend that planning permission be refused for the reasons set out below.

11.0 Reasons and Considerations

1. The site is located within an area designated Action Area 4 in accordance with the provisions of the Newtownmountkennedy Local Area Plan, 2008 – 2018. It is considered that the proposed development would be contrary to the overall vision for this action area which is designated for comprehensive and high quality designed development, as the proposed development would result in the creation of a standalone and piecemeal development and which would compromise the sustainable and co-ordinated development of the site. It is considered that the proposed development would set an undesirable development for other such development, would contravene an objective indicated in a local area plan for the area and therefore would be contrary to the proper planning and sustainable development of the area.
2. The site of the proposed business and enterprise building is zoned E (Employment) in the Newtownmountkennedy Local Area Plan, 2008 – 2018, where the objective is *'to provide for economic development, enterprise, industry, distribution, warehousing and employment'*. The proposed development includes a mix of business / enterprise uses and non business / enterprise uses. The proposed development mix would prejudice the development of the appeal site for employment uses and therefore would contravene Zoning Objective 'E' of the Newtownmountkennedy Local Area

Plan, 2008 – 2018, and would be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Planning Inspector
11th January 2019