



An
Bord
Pleanála

Inspector's Report ABP.302419-18

Development	Motor car showrooms including parts department and reception area, canteen along with display forecourt.
Location	Mountkennedy Demesne, Newtownmountkennedy, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	17/1135
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 entire site is situated to the immediate north of an existing filling station and effectively sandwiched between the M11 slip road and the R765.
- 1.3. The size of the appeal site is approximately 1.05 ha (2.6 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 motor car showrooms including workshops, office space, toilet facilities, parts department.
- 2.1.2. The proposed car showroom building has an overall floor area of 1,567 sq. metres comprising of 1,377 sq. metres at ground floor level and 190 sq. metres at first floor level.
- 2.1.3. The overall height of the proposed car showroom building is 8.7 metres above ground floor level.

- 2.1.4. The west facing elevation is primarily glazed and the design includes a cantilevered roof.
- 2.1.5. The proposed development includes 59 no. external car parking spaces which are mainly situated to the rear of the proposed car showrooms building.

Additional information was sought for the following (a) roads design and layout, (b) submit a Traffic and Transport Assessment, (c) landscape plan, (d) demonstrate that the proposed layout does not interfere with the wayleaves, (e) further details in relation to surface water disposal, (f) the eastern elevation would benefit from improved design / finish as such applicant shall address.

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 con-curent 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. 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.

3. Insufficient evidence is submitted to demonstrate that the surface water disposal measures are acceptable. In the absence of this information to permit the proposed development 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

- A previous development (L.A. Ref. 16/1350) for motor showrooms was refused permission.
- Motor sales is not normally permitted under the zoning objective for the site.
- The current proposal is substantially the same as L.A. Ref. 16/1350.
- Roads and transportation has not been adequately addressed.
- Concerns in relation to design / finish of eastern elevation.

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 summarised as follows;

- Adverse impact on adjoining amenities.
- Height and adverse visual impact.
- Light pollution.
- Objection to existing pylon.
- Non-compliance of existing permission.

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 land use 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 business and enterprise centre. Wicklow County Council **refused** permission for the following reasons (a) contrary to zoning objective, (b) insufficient information available to properly assess the proposal, (c) substandard creche, (d) inadequate access, (e) adverse impact on carrying capacity of adjoining road, (f) insufficient information submitted to demonstrate surface water disposal measures are acceptable.

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 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 Pleanala 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 the 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

- 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 weighbridge in question is owned by WCC 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 weighbridge.
- The new proposed aligned road provides for continued and safe operation of the weighbridge which is currently used by An Garda Siochana and the RSA and operated on a good will nature.
- The lands of the weighbridge are to be left out of the proposed new development.

Refusal reason no. 3

- Revised submitted water disposal drawings and calculations are submitted.

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 Wicklow County Council is not a legally enforceable agreement.
- The issue raised in refusal reason no. 2 (item C) has not been addressed.
- The submitted drawings do not show how the proposed development would impact on the access to weighbridge, having regard to the legal Rights of Way.

9.0 **Assessment**

- Principle of Development
- Design / Architectural Character
- Traffic Safety / Access
- Surface Water
- Appropriate Assessment Screening
- EIA Screening

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’*. The proposed use, i.e. car showrooms is economic development and would generate employment, although limited in numbers.

- 9.1.3. The LAP sets out a Land Use Matrix and accordingly a 'motor sales outlet' is not 'normally permitted' in lands zoned employment. The Local Area Plan clarifies that effectively 'motor sales' is not acceptable in principle within the employment zone and will only be permitted in special cases in scenarios where the use would not conflict with the general objective for the zone.
- 9.1.4. 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.
- 9.1.5. Overall, I would conclude that the proposed car showrooms development which is not normally permitted within 'employment' zoned land is contrary to the zoning objective of the Newtownmountkennedy Local Area Plan, 2008 – 2014 (extended to 2018). Furthermore, the proposed development would not be consistent with the designation Action Area 4 which pertains to the appeal site in accordance with the provisions of the Local Area Plan as the development is a piecemeal development and furthermore the proposed development would not represent an office based business and enterprise unit.
- 9.1.6. I therefore would concur with the Local Authority's first reason for refusal as the proposed development would contravene an objective indicated in a local area plan for the area and would prejudice the comprehensive and sustainable development of the overall site that is designated Action Area 4 in accordance with the provisions of the Newtownmountkennedy Local Area Plan, 2008 – 2014 (extended to 2018).

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. As such I would consider that the design of any proposed development on the appeal site should effectively make an architectural statement as a gateway to Newtownmountkennedy. The proposed west and south facing elevations would be the most visible for traffic / pedestrians approaching the town. The relatively low-rise and wide elevations of the proposed car showrooms would not, in my view, allow for an architectural gateway building
- 9.2.3. The proposed car showrooms, although the materials would offer a high-quality finish, would not, in my view, fulfil the criteria for a landmark gateway building on the edge of Newtownmountkennedy in accordance with Action Area 4.
- 9.2.4. The design and architectural character of the proposed building would be contrary to a design objective 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 have duly noted. 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 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-handing 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 in relation to appeal ref. 302418 (L.A. Ref. 17/1134). 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 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. **Surface Water**

- 9.4.1. 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.
- 9.4.2. The Planner's report concluded, notwithstanding the response to the additional information, that clarification of a number of issues remained outstanding. These issues included issues such as 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.
- 9.4.3. 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 condition should the Board favour granting permission.

9.5. **Appropriate Assessment Screening**

- 9.5.1. The appeal site is located approximately 3.5 km to the east of a Natura 2000 site, namely the Carriggower Bog SAC (site code 000716).
- 9.5.2. The qualifying interests for the Carriggower Bog SAC are as follows;
- Transition mires and quaking bogs
- 9.5.3. The proposed development is a fully serviced site. I noted from my site inspection that the contours of the land generally fall eastwards and essentially away from the SAC. Furthermore, the local topography rises gradually upwards in a western direction. As such any surface water flow or water flow from the proposed development is likely to gravitate eastwards away from the SAC.

9.5.4. 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.

9.6. **EIA Screening**

9.6.1. 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.

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 Local Area 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 of the proposed car showrooms 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’*. In this land-use zoning objective ‘motor sales’ is not normally permitted and will only be permitted in special cases in scenarios where the use would not conflict with the general objective of the zone. The proposed motor sales development 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.

2. 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 and therefore would be contrary to the proper planning and sustainable development of the area.

3. 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 an objective of this Action Area that *'the development of these lands shall ... designed to the highest standards and including a landmark gateway building at the northern end of the site'*. Having regard to the scale and massing of the proposed development on a site in a prominent location which offers a gateway to Newtownmountkennedy it is considered that the proposed development would be highly obtrusive, would seriously injure the visual amenities of the area and fails to adequately respond to its context or integrate successfully with the objective as set out in Action Area 4 of the Local Area Plan, 2008 – 2018. Furthermore, the proposed development would set an undesirable precedent for similar developments in the vicinity. The proposed development would, therefore, seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Planning Inspector
21st December 2018