



An
Bord
Pleanála

Inspector's Report ABP.303588-19

Development	10-year permission for 16,489 sq. m. mixed development comprising creche building, neighbourhood centre building, nursing home building and four office buildings, infrastructure works, car and cycle parking and ancillary site works.
Location	Ballybeg, Rathnew, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	18/53
Applicant(s)	Cannockway Ltd. O'Connor, Keliher, Tracy Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	Third Party
Appellant(s)	Eileen & Roy Byrne
Observer(s)	None

Date of Site Inspection

31st May 2019

Inspector

Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The appeal site is a sizable greenfield site located to the south of Rathnew, Co. Wicklow. The eastern boundary of the appeal site adjoins the former N11 which is now a regional road.
- 1.2. The appeal site is located in a semi-rural location and is situated between the Village Mill Enterprise Park and the M11. The Village Mill Enterprise Park is located on the opposite side of the regional road to the appeal site and the M11 is located to the immediate west of the appeal site.
- 1.3. There are no one-off residential properties located within the immediate location of the appeal site.
- 1.4. The overall size of the appeal site is 4.88 ha (12 acres) and the shape of the appeal site is irregular.
- 1.5. The roadside boundary along the regional road comprises of mature hedgerow and the appeal site is not visible from the regional road.
- 1.6. There is a small rural road located to the immediate south of the appeal site. This road provides access to an underpass for the M11.
- 1.7. A significant feature of the appeal site are the falling levels. The gradient of the site falls from the regional road initially gently and then steadily towards the centre of the site where a water course traverses the site. The site slopes upwards from the watercourse towards the M11 motorway.
- 1.8. The appeal site was not in use for agricultural purposes or any other uses at the time of my site inspection.

2.0 Proposed Development

- 2.1. The proposed development provides for a mixed development with an overall floor area of 16,498 sq. m. The proposal comprises as follows;
 - a. Creche
 - b. Neighbourhood centre building
 - c. One nursing home

d. 4 no. office buildings

- 2.2. The proposed office 4 no. office blocks are located to the south-east of the appeal site and 3 no. office blocks are located adjacent to the southern boundary of the appeal site.
- 2.3. The proposed nursing home is situated to the rear (west) of the subject site. The proposed neighbouring centre and creche building are located to the north of the site.
- 2.4. The site will be served by access from the regional road and the proposed development provides for access to the adjoining lands which are zoned residential.

Additional information was sought requesting the following;

- a. Review the quantum of office provision. The scheme could be designed to accommodate alternative forms of enterprise and development.
- b. Justification for the need and scale of the nursing home is required.
- c. Justification required for the need of the proposed neighbourhood centre.
- d. The layout of the proposed scheme shall be revised.
- e. The location of the neighbourhood centre / creche away from the main body of the development is considered inappropriate. The location of the proposed office Block D1 is not considered appropriate. The applicant shall address.
- f. Detailed design statement required supporting the proposed development.
- g. Demonstrate that the proposed Block A is suitable for use as a purpose built creche facility.
- h. Footpath provision and public lighting provision.

Subsequent to the additional information request the proposal was revised as follows.

- a. The proposed office development is located to the front of the site facing onto the regional road.
- b. The proposed nursing home and childcare facility are located to the rear of the site.
- c. The overall development is accessed from the regional road and the proposed development provides for access from the site to an adjoining site.

3.0 **Planning Authority Decision**

3.1. Wicklow County Council decided to issue a **split decision** as follows;

1. **Granting** permission R & D Office Block 1, nursing home and creche.
2. **Refusing** permission for R & D office Blocks 2, 3 and 5 and associated internal roads, parking and site ancillary works.

The grant of permission was subject to 19 conditions and these conditions are standard for the nature of development.

Permission refused for R & D office Blocks 2, 3 and 5 for the following reason;

1. Having regard to the location of the development and the E2 zoning objective for this site as set out in the Wicklow / Rathnew Development Plan, 2013 – 2019, it is considered that the quantum of office space proposed as part of this development in combination with the proposed nursing home and creche, would result in an employment scheme of a nature and intensity that would be contrary to the zoning objectives of the Wicklow-Rathnew Development Plan, 2013 – 2019, for the site. The proposed development would therefore be contrary to proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

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

Area Planner

- The subject site is zoned for the provision of enterprise and employment development.
- An access road through an industrial estate to serve a residential area is not ideal.
- The Planning Authority did not agree to the provision of a nursing home.
- The proposed office use would be suitable on the site.
- It is considered that the quantum of office proposed is excessive.
- Further information is required for the nursing home including justification that the need and scale and location is suitable.
- The neighbourhood centre as proposed is considered unnecessary and would detract from Rathnew.
- E2 zoning allows for the provision of a creche.
- The relatively low plot ratio / site coverage is not considered a significant issue of concern comparable to the importance of achieving an appropriate mix.
- There are a number of concerns
 - The overall development is disjointed.
 - None of the blocks adequately address the public roads
 - The quantum of land designated to hard surface is excessive.
 - A more considered car parking layout would allow for a better internal road layout.
- There are concerns in relation to layout as follows;
 - The location of the creche and neighbourhood centre is inappropriate.
 - The creche would be better located to the west of the stream / watercourse near to the nursing home.

- The creche and the nursing home are considered complimentary uses and a suitable transition from employment to residential and the said uses could share car parking.
- The neighbourhood centre is considered inappropriate.
- The location of the nursing home adjacent to the residentially zoned lands is considered acceptable. However, the amenity space around the nursing home would appear insufficient and the proximity of the nursing home to the adjoining office space is considered inappropriate.
- There is an excessive use of red brick and there is a lack of design features within the scheme. The design has the potential to create a monotonous block.
- The appropriateness of a two-storey creche is questioned.
- The proposed entrance to the residential scheme is considered acceptable in principle.
- The pedestrian facility along the boundary of the site adjoining the regional road is considered acceptable.
- Landscaping is acceptable.
- No AA issues.

3.3. Internal Reports;

- Area Engineer; - No objections.
- Water Services; - No objections.

3.4. Third Party Observations

- 3.4.1. There was one third party submission and the issues raised are noted and considered. The issues raised are similar to those raised in the submitted third party appeal.

3.5. Submissions

- There is a submission from Irish Water who have no objections.
 - TII made a submission outlining that they had no observations to make.
 - The Department of Culture, Heritage and the Gaeltacht made a submission requesting that an Archaeological Impact Statement is sought as additional information.
 - The National Transport Authority submission raises concerns that the proposed development does not contain any uses for which the land is zoned and the proximity of the site to the N11 and its remoteness from Wicklow and Rathnew may render it a sub-optimal location for intensive development in the form of offices.
- Iarnrod Eireann Infrastructure made a submission outlining the following;
 - There is an obligation on all workers that carry out works on or near railway to ensure that there is no risk to the railway.
 - It should be noted that there is an Irish Rail bridge located in close proximity to the site and this should be considered in the construction management plan.

4.0 Planning History

- Appeal ref. 233755 (L.A. Ref. 08/1375); - The proposed development related to permission for 23361 sq. metres of light industrial / office and retail warehousing development. The development is to comprise of 7 no. light industrial blocks, 1 retail warehousing block and 1 office block.

Permission was **refused** as notwithstanding the zoning objective of the appeal site it was considered that the proposed development is removed from other areas of consolidated employment and the development would represent overdevelopment of the site and would not be in accordance with the orderly expansion of the town. The overall development would be premature without the determination of the road layout for the area.

5.0 Policy Context

5.1. Local Area Plan

5.1.1. The operational Local Area Plan is the 'Wicklow Town – Rathnew Development Plan 2013 – 2019'.

- The appeal site is zoned 'E-E Warehousing – (E2)'.

The zoning objective is 'Enterprise and Employment' and the zoning objective states '*to provide for enterprise and employment development in the form of light industry, warehousing and logistics development*'.

The purpose of the zoning objective is '*to facilitate the further development and improvement of existing employment areas and to facilitate the development of new high-quality light industrial, warehousing and logistics developments / units*'.

5.2. 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.

6.0 The Appeal

6.1. A third-party appeal was submitted by Eileen and Roy Byrne, who are the owners of the land situated to the immediate north of the appeal site. The appeal submission is lengthy and includes commentary on details of the decision by Wicklow County Council, a description of the site, zoning provisions for the site, details of the proposed development, planning history of the site and the grounds of the appeal. The following is a summary of the relevant issues raised in the grounds of appeal.

- The proposed development in the absence of a joint development with land to the north of the site is premature.
- The proposal has failed to address the fundamental concerns of the previous refusal reason and as such fails to address the planning history.
- The proposal fails to address the Boards concern to provide for a co-ordination of accesses to the site.
- The excessive floor area proposed would not comply with Table 5.2 of the Wicklow Town – Rathnew Development Plan, 2013 – 2019. The floor area for the proposed development is 16,498 sq. m. which exceeds the maximum allowable floor area of 12,357 sq. m.
- The scale of the creche raises questions whether there is demand for such size.
- The location of the creche is questioned given that this a non-residential development.
- Given the location of the site any creche drop-offs will be difficult.
- The road layout around the creche is unsafe for children.
- It is contended that the proposed nursing home is inconsistent with County Development Plan objectives NH1 and NH3.
- The location is poorly served by footpath provision and is a remote location
- The scale of the office use would appear visually incongruous on this isolated site.

- The proposed retail units are not permitted under the subject sites zoning objective.
- The proposed retail units would create traffic generation and the proposed retail use would detract from the town centre of Rathnew.
- A sequential approach should be applied to the proposed development.
- The proposal represents a leapfrogging of alternative zoned land.
- The proposal fails to provide for the future access to the neighbouring site which is zoned residential.
- Given the inadequate footpath and cycle provision to the site the proposed development is premature.
- The proposed development is inadequately linked with Rathnew.
- The location of the proposed development would fail to consolidate employment uses in the town.
- The proposed uses including creche, retail and nursing home ensure that the proposed development is contrary to Section 5.2 'Strategic Objective of the Development Plan'.
- It is not appropriate to use infrastructure to support isolated development.
- The proposed creche, retail and nursing home uses are contrary to Objective EMP1 of the Development Plan.
- The principle of the proposed uses creche, retail and nursing home uses are not in accordance with Objective EMP2 of the Development Plan.
- The proposed development fails to comply with Objective EMP4 of the Development Plan as the proposal fails to provide 'product' intensive industries with good sustainable transportation objectives.
- Given the location of the proposed office use it fails to comply with Policy Objective EMP5.
- Having regard to the scale of the proposed office use it is contrary to Policy Objective EMP7 of the Development Plan.
- The proposed development would be contrary to the ongoing development of the two existing / planned major employment nodes in Rathnew, i.e. Rathnew

Business Park and the planned R&D hub at Clermont Campus. As such the proposal is contrary to Policy objective EMP8.

- The proposal is contrary to policy objective EMP9, 10, 11 and 12 of the Development Plan.
- The scale of the proposal would ensure that there is reduced demand for office use in other locations of Rathnew.
- The proposed development is premature as it fails to provide for an integrated development and there would be significant traffic generation on the R772 which is not developed to provide cycle / footpath provision.
- The proposed development is excessively dependent on unsustainable car-based trips and car parking spaces.
- The proposal is premature pending infrastructure delivery to the site.
- Surface water proposals are premature pending agreement with landowners.
- The proposal will result in a loss of hedgerows and vegetation.

7.0 Responses

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

- The Local Authority decision is vires and correct.
- The nursing home is an employment generating use.
- The nursing home is not a residential institution.
- The proposed nursing home would provide support to a growth area of Rathnew / Wicklow.
- O'Grianna V ABP is not relevant to this case and this case law relates to EIA.
- A lot has changed since the Board decision in 2010
 - A new LAP was adopted in 2013
 - AA10 lands, referred to in ABP refusal reason, no longer exist.
 - The adjoining lands have changed from mixed use to residential
 - 155 dwellings and creche have been constructed 5 mins walk from site.

- A total of 137 dwellings including 1600 sq. m. of retail space.
- ABP recently granted permission (301261) for 271 dwellings.
- Employment uses are needed to support these residential uses.
- The Local Authority did not concur with the NTA submission that the site was remote from Wicklow / Rathnew.
- Condition no. 7 is reasonable and vires having regard to the statutory functions of a Local Authority.
- The appellant's lands are already landlocked. The only access to these lands is onto a minor road which is unsatisfactory for a residential development.
- The Planning Authority or ABP can not require access to be provided through third party lands.
- The Planning Authority or ABP can consider when a development would prohibit access to landlocked zoned land and can require modifications to the development via conditions such that provision is made for access. This is not the same as requiring access to be provided.

7.2. The following is the summary of a response submitted by the applicant;

The scheme should be a joint scheme with neighbouring zoned land

- There have been on-going negotiations with the landowner to the north over a 10-year period.
- The location of the proposed nursing home and creche was determined having regard to the location of the adjoining residential zoned land.
- Road provision within the submitted development provides for the future development of the adjoining site to the north.
- The layout of the proposed link road is not dissimilar to the development of employment land to the east of the regional road. A through road in that case provides for access to both employment land and residential land.

- The appeal site is the next available employment land in terms of sequential approach from the town centre.
- The subject site is located within a short walk to Rathnew and 10-15 min cycle to Wicklow train station.

Principle of Development / Sequential Approach

- The site is zoned and located within a short walk of the centre.
- The site is part of an area identified for consolidation of employment uses.
- The development of the subject site will support the vitality and viability of the Village Enterprise Park.
- New residential development is under construction opposite appeal site.
- Table 5.2 of the Development Plan does not set an upper limit on development.
- Condition no. 1 has reduced the scale of the proposed development significantly.
- There are no objections from Wicklow County Council Road's Department.
- Transport Infrastructure Ireland have no observations.
- The further information response addresses the objection from the NTA.
- Irish Water have no objection to the proposed development.

Contrary to Wicklow County Development Plan

- The site is zoned for employment use.
- The proposed office use will suit a range of end users. Intended end users include either office or high tech light industries in line with planning policy.
- The nursing home and creche are separated from the office development by a centralised landscape area.

- Wicklow County Council Childcare Committee have no objections to the proposed creche.
- The scale of the proposed creche will serve the employment lands and the residential lands. The creche will also serve the residential zoned lands located to the east of the subject site currently under construction.
- The nursing home will provide employment between 100 and 110 full time jobs.
- The proposed nursing home will support the employment zoning and not undermine it.
- The proposed nursing home is consistent with Policy Objective NH1.
- Wicklow Town has experienced a shift in employment growth from traditional manufacturing to professional services, public administration and commerce.
- Rathnew has been identified as a focus for employment growth.
- Employment growth is required in Rathnew / Wicklow town to facilitate future residential growth.
- The proposal is consistent with the aims of the Development Plan to increase the ratio for Wicklow Town - Rathnew to around 72% by 2028.
- The proposed development is consistent with EMP5 and EMP14.
- The proposal is also in line with policy objectives EMP1, EMP2 and EMP4.

Landscaping and Trees

- Existing landscaping on the site forms a key feature of the site.
- The proposed landscaping minimises the impact of the proposed development.

O'Grianna Case V ABP 2014

- The principle of condition no. 1 is not project splitting.

- In appeal ref. 239332 the Board omitted 2 no. residential blocks by condition and required the applicant to submit revised plans.

8.0 Assessment

I would consider that the main issues for consideration are as follows;

- Principle of Development
- Planning History
- Traffic Safety / Access
- Visual Impact
- Appropriate Assessment Screening
- EIA Screening

8.1. Principle of Development

8.1.1. The appeal site is zoned E2 'Enterprise and Employment'¹, in accordance with the provisions of the Wicklow Town – Rathnew Development Plan, 2013 – 2019, and the zoning objective states '*to provide for enterprise and employment development in the form of light industry, warehousing and logistics development*'.

8.1.2. The proposed uses on the appeal site, as per the original application, included

- Offices
- Nursing home
- Neighbourhood centre
- Creche

¹ Note; There is a small discrepancy between the written plan and the zoning map. Zoning objective E2 in the plan is 'Enterprise and Employment' whereas in the zoning map E2 is 'Enterprise and Employment' – Warehousing.

8.1.3. Table 13.2 'Land Use Table' of the Development Plan sets out uses that are 'typically permitted' and 'typically not permitted'. In accordance with Table 13.2 of the Development Plan the following would be relevant;

- Offices are typically permitted
- Creche is typically permitted

8.1.4. Table 13.2 does not refer to retail or nursing home uses and whether these uses are typically permitted or typically not permitted.

8.1.5. However, I would note that in accordance with the provisions of the Development Plan that 'residential institution' is typically not permitted within lands zoned E2 'Enterprise and Employment'. I would consider that a nursing home would be a typical use within the category 'residential institution'. As such the proposed nursing home would not be a typically permitted use within lands zoned E2 'Enterprise and Employment'. It is stated in the Development Plan that uses that are typically not permitted would require a material contravention of the plan.

8.1.6. I would note that the applicant submits that the nursing home would provide a transitional use from the office-based proposal to the residential zoned lands located to the immediate north of the appeal site. I also acknowledge that the Local Authority sought additional information requesting the applicant to justify the nursing home in terms of need, scale, implications for the zoning objective and whether the location of the proposed use is appropriate. Although the applicant was not specifically requested the submitted additional information response does not adequately address, in my view, whether the proposed nursing home is compatible with the zoning objective.

8.1.7. The neighbourhood centre is not itemised as a use in Table 13 'Zoning Use Table'.

- 8.1.8. The proposed development was revised following a request for additional information. The neighbourhood centre is now omitted and the childcare facility and the nursing home are located adjacent to one another and both situated to the west of the site.
- 8.1.9. The proposed office uses originally provided for 10,000 sq. metres of office space as per the submitted drawings with the application. However, following an additional information request which outlined concerns in relation to scale, the proposed office use was revised. The Local Authority were concerned that the office use proposed would be excessive having regard to the zoning objective which requires *'employment development in the form of light industry, warehousing and logistics development'*.
- 8.1.10. The revised office development, as per the additional information response, provides for 6554 sq. metres which is a 25% reduction. The applicant considers that the revised employment space would accommodate approximately 150 – 300 full time jobs depending on the end user. The applicant considers that this would accommodate potential uses such as call centres, offices, R & D or logistics development.
- 8.1.11. However, it is notable in the final grant of permission that the Local Authority included condition no. 1 (c) which omits R&D office blocks 2, 3 and 4. The split decision issued by Wicklow County Council refers to the refusal of R&D office blocks 2, 3 and 4 and café in Block no. 1.
- 8.1.12. I would agree with the Local Authority rational omitting R&D office blocks 2, 3 and 4 as office use would become the primary use on the site with the proposed development. Whereas the E2 'Enterprise-Employment' zoning objective envisages light industry, warehousing and logistics development which is materially different than office uses. I would note that the alternative employment zoning objective 'Enterprise & Employment' in the Development Plan is E1 *'to provide for enterprise and employment development in the form of business parks, light industrial uses,*

office, technology parks etc with pure warehousing use generally not accounting for more than 20% of the floor area permitted on any site. The E1 zoning objective provides for the high-quality business park developments which would amount to a primarily office-based use which in my view is more representative of the proposed development. Accordingly, I would consider that the question arises whether a grant of permission for the entire office proposal would compromise lands zoned E1 'E&E. It is a Development Plan policy objective, i.e. EMP2 *'to promote and support the development of employment land and to protect employment zoned land from inappropriate development'*. I would note that there are E1 'Enterprise and Employment' designated lands located further away from Rathnew centre than the appeal site however there are other E1 lands located equidistance to the centre of Rathnew as the appeal site.

- 8.1.13. Having regard to the grant of permission relative to the proposed development a second question arises whether the permitted development is materially different than that which was originally sought permission for by the applicant. The final permitted development includes a creche, nursing home and 1 no. block of offices (without ancillary café). I would consider that although the scale of the revised development is significantly less than the original development for which permission was sought the permitted development would not be materially different.

Overall, I would conclude that the principle of the proposed development would be inconsistent with the provisions of the Wicklow Town – Rathnew Development Plan, 2013 – 2019, having regard to Table 13.2 'Land-Use Table' of the Development Plan. Table 13.2 clearly states that residential institution is typically not permitted in lands zoned E2 'Enterprise & Employment'. Secondly I would consider that the proposal, given the scale of office use may adversely impact and undermine the delivery of lands zoned E1 'Enterprise & Employment' elsewhere within the Development Plan.

8.1.14. In such a scenario the impacts of the proposed development are contrary to the zoning objectives of the Wicklow Town – Rathnew Development Plan, 2013 – 2019, and therefore the proper planning and sustainable development of the area.

8.2. **Planning History**

8.2.1. The appeal site was the subject of a planning application (L.A. Ref. 08/1375) and an appeal (appeal ref. 233755) with the final decision issued by the Board in 2010. This previous development sought permission for 9 no. blocks of development comprising of;

- 7 no. blocks for light-industrial use
- 1 designated block for retail warehousing
- 1 designated block for office use.

8.2.2. Following an additional information request by the local authority the retail warehousing block was omitted. The operative plan at the time was the ‘Wicklow Town Rathnew Environs Plan, 2008 – 2014’, and the subject site was zoned ‘Employment and Retail Warehousing’ (E1). Wicklow County Council decided to grant planning permission subject to 21 no. conditions.

8.2.3. The Board, on appeal, decided to refuse permission comprehensively and the reasons for the refusal can be summarised as follows;

- Peripheral location of the proposed development relative to Rathnew
- Proposal is removed from other areas of consolidated employment type
- Scale, density and layout of proposal would result in overdevelopment
- Not in accordance with orderly expansion of Rathnew including adjoining lands zoned AA10.
- Premature pending the determination of a road layout for the area.

- 8.2.4. The Board's direction included a note which stated that the orderly development of Rathnew would require a sequential approach to development to prevent development on the rural fringe.
- 8.2.5. In considering the current appeal I would acknowledge that the previous Board decision was taken almost 10-years ago and the context to the appeal site has changed. In this regard lands designated AA10 zoned lands to the immediate north of the appeal site are now designated 'Residential Infill' in the Wicklow Town – Rathnew Development Plan, 2013 – 2019. Furthermore, in the previous plan lands situated to the south of the appeal site were designated a mix of 'Employment (E)' and 'Employment and Retail Warehousing (E1)'. Whereas in the Development Plan these lands are designated 'Strategic Land Bank'.
- 8.2.6. Overall, I would conclude, having regard to the Board's previous decision and concerns in relation to sequential approach for orderly development that the appeal site is still peripheral in nature and that the proposed development given the location and scale, in my view, would not satisfactorily address the Board's refusal reason in appeal ref. 233755.

8.3. **Traffic Safety / Access**

- 8.3.1. In terms of vehicular access to the serve the proposed development it is proposed to provide an entrance onto the adjoining regional road. I noted from my site inspection that the proposed vehicular entrance would have good sightline provision in either direction. The submitted drawings indicated a sightline provision of 160m in either direction from the proposed entrance which is acceptable on this class of road. The proposal includes a right turning arm to facilitate traffic approaching the proposed development from Rathnew.

- 8.3.2. The application documentation includes a Transport Impact Assessment and this TIA assesses the existing road conditions, existing traffic flows, road safety analysis, the trip generation and distribution and the impact of the proposed development.
- 8.3.3. The traffic modelling concludes that the adjoining road network can operate in a satisfactory manner in the future with the proposed development and that no significant road safety issues would arise.
- 8.3.4. I would acknowledge the submission from the National Transport Authority, dated 27th February 2018. This submission highlights that the intensity of the development proposed would not fully align with the Transport Strategy due to the proximity of the site and its ease of access to the M11 coupled with the separation distance of the proposed development to Wicklow and Rathnew centres. The submission outlines that the applicant has not adequately demonstrated how the impacts of cumulative development of the subject site and adjoining sites would impact on the M11 given the proposed development is office based rather than more appropriate low-intensity forms of employment. I accept the grounds of this submission and I would acknowledge the precedent that the granting of permission for office use on lands zoned E2 'Enterprise & Employment' given that there are lands zoned E1 in the general proximity to the site.
- 8.3.5. The proposed car parking required for the proposed development is 449 spaces and the proposed development provides for 456 car parking spaces which is satisfactory. The proposed development also provides for an adequate level of car parking provision to serve the proposed development.
- 8.3.6. In relation to public footpath connectively to the appeal site I would note Figure no. 2 of the 'public footpath survey' which was part of a response to an additional information request. Figure no. 2 identified a gap in the footpath provision from Rathnew to the appeal site. There is a gap to the immediate north of the appeal site and on the opposite side of the public road from the appeal site. The applicant submits that there is a permitted development directly opposite the appeal site and

as part of this permission it is required to provide a public footpath. Further north of this permitted footpath there is no footpath provision and therefore a problem arises at this point in terms of pedestrian accessibility to the site from the town centre. The applicant has suggested that a levy is charged to pay for the outstanding footpath provision. I would consider, that should the Board decide to grant permission for the proposed development, it would be reasonable to include a development contribution charge for public footpath provision.

8.4. **Visual Impact**

8.4.1. The proposed landscaping incorporates the proposed development to the existing landscape and given the falling site levels away from the regional road the proposed development would, in my view, integrate to the site.

8.4.2. I would consider, having regard to the submitted plans and photomontages, that the visual impact of the proposed mixed use development would be acceptable and would not be detrimental to the character of the area.

8.5. **Appropriate Assessment Screening**

8.5.1. The appeal site is located approximately 2.5km - 3km from the Murrough Wetlands SAC (site code 002249) and the Murrough SPA (Site code 004186).

8.5.2. In relation to the Murrough SPA the qualifying interests include the following;

- Red-throated Diver
- Greylag Goose
- Light-bellied Brent Goose
- Wigeon
- Teal
- Black-headed Gull
- Herring Gull

- Little Tern
- Wetland and Waterbirds

8.5.3. In relation to the Murrough Wetlands SAC the qualifying interests include the following;

- Annual vegetation of drift lines
- Perennial vegetation of stony banks
- Atlantic salt meadows
- Mediterranean salt meadows
- Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae*
- Alkaline fens

8.5.4. It is intended that the proposed development will be fully serviced and I note that the Irish Water submission has no objections to the proposed development. However there is a watercourse / open drain that flows through the appeal site and it is proposed to discharge the surface water run-off from the proposed development by gravity via three new 225mm diameter surface water outfalls to the existing watercourse. The watercourse flows in a northern direction where it meets a larger stream / river which flows toward the Murroughs. I would estimate that the distance from the watercourse on the appeal site to its outflow to the Murroughs is a distance of approximately 2.5km – 3km.

8.5.5. Therefore surface water proposals would need consideration to determine any potential impacts on a Natura 2000 designated site. It is proposed to discharge surface water to the existing watercourse running through the site by gravity via three new 225mm diameter surface water outfalls. There will be a significant reduction in the surface water peak runoff discharge rates as the proposed development provides for surface water attenuation pond/tanks for the 1 in 100 year return period event plus 20% climate change allowance. The proposed development will provide for preliminary, secondary and in some instances tertiary stages of

treatment to the surface water run-off generated by this development. Overall having regard to the distance of travel and the details of the surface water proposals I recommend that no appropriate assessment issues arise.

- 8.5.6. I would consider that it is reasonable to conclude that based on the information on the file, which I consider adequate to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European Sites, i.e. site code 002249 and site code 004186, in view of the sites conservation objectives and a Stage 2 AA is therefore not required.

8.6. **EIA Screening**

- 8.6.1. 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.

9.0 **Recommendation**

- 9.1. 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.

10.0 **Reasons and Considerations**

1. The site of the proposed development is zoned E2 'Enterprise and Employment' in the Wicklow Town – Rathnew Development Plan, 2013 – 2019, where the objective is '*to provide for enterprise and employment development in the form of light industry, warehousing and logistics development*'. Policy Objective EMP2 of the Development Plan states '*to promote and support the development of employment land and to protect employment zoned land from inappropriate development*'. The proposed

development includes a mix of office, creche and nursing home uses. The proposed development mix would prejudice the development of the appeal site for *light industry, warehousing and logistics development* and therefore would contravene the Zoning Objective 'E2' and Policy Objective EMP2 of the Wicklow Town – Rathnew Development Plan, 2013 – 2019, and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the site on the periphery of the built up area of Rathnew and, notwithstanding the zoning objective, as set out in the Wicklow Town – Rathnew Development Plan, 2013 – 2019, which provides for 'Enterprise and Employment' on the site, it is considered that the proposed development, having regard to the scale and layout proposed, is removed from other areas within the Development Plan designated 'Village Centre and 'Town Centre' and, would not be in accordance with the orderly expansion of Rathnew / Wicklow.

Kenneth Moloney
Planning Inspector
28th June 2019