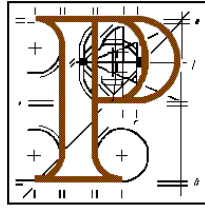


An Bord Pleanála Ref. No.: PL 04.244445

An Bord Pleanála



Inspector's Report

Proposed Development: Permission is sought to construct an off-line Motorway Service Area, to include a new access, fuel facilities for cars and HGVs both with canopies, underground storage tanks, amenities building gross floor area c.1410m² comprising convenience shop, ancillary areas, 5no. eat-in/take-away cafe/restaurants, public toilets, seating/circulation area, internal and external play areas (c.102sqm). Parking for 124 no. cars, 20no. HGVs, 5 no. coaches and 7 no. motorcycles. Ancillary signage (both illuminated and non-illuminated) on the shop building, forecourt canopies and general fuel forecourts. On-site waste water treatment system, c.3.0km 100mm dia. rising main to connect to the public mains and c.11500sqm willow plantation. Surface water attenuation tank (c.1200sqm). Retaining walls. Pumping stations. Surface water outfall to local stream to the North. All ancillary site development, landscaping and boundary treatment works, all at Junction 13 on the M8 Motorway, Gortnahown, Kiltrislane, Cloonlough, Brigown, Mitchelstown, Co. Cork

Planning Application

Planning Authority: Cork County Council
Planning Authority Reg. Ref.: 14/06405
Applicant: Applegreen Service Areas Ltd.

Type of application: Permission
Planning Authority Decision: Refuse permission

Planning Appeal

Appellants: Applegreen Service Area Ltd

Observers: JR Oronoco Ltd

Type of appeal: First Party against refusal

Site Inspection: 14/04/2015

Inspector: A. Considine

1.0 THE SITE

- 1.1 The appeal site is located approx. 3km south of the town of Mitchelstown, and just off junction 13 of the M8 motorway. The site lies to the west of the interchange, and the regional road, the R639 which would have been the old N8 road connecting Fermoy and Mitchelstown crosses the M8 at this junction. The subject site is located at a much lower level than the motorway and the north bound off ramp. From the information submitted, it is to be noted that the site is located approximately 10-11m below the of the interchange roundabout.

- 1.2 The site has a stated area of 12ha and comprises part of two larger fields which are currently under grass and used for agricultural purposes. The site is generally rectangular in shape and is visible from the regional road. The site is located to the east of the fields, immediately west of the motorway interchange and is bound by a hedgerow along the southern boundary with undefined boundaries to the north and north west. A smaller hedgerow dissects the site running in a south east to north west direction. Access to the lands is currently via an existing agricultural track off the R639, approx. 150m to the north of the roundabout. This track runs south along the eastern site boundary, generally parallel to the line of the motorway. There are few residential properties in the vicinity of the proposed development site, the two closest being one approx. 300m to the east and one 400m to the north-east and south-east.

- 1.3 The Gradoge River flows in very close proximity to the subject site and a small drain comprises the boundary of the applicants land, located along the western – north western boundary. This drain discharges to the Gradoge River on the north west boundary of the landholding where it turns east and flows under the regional road, the R639 (old N8) to the north of the site, through Mitchelstown, before joining the Funshion River. Water flows freely in the drain. There is a surface water attenuation pond associated with the motorway to the north of the subject site and approx. 450m to the north of the site, there are two local authority boreholes which supply the Mitchelstown South public water supply scheme.

2.0 PROPOSED DEVELOPMENT

2.1 As per the public notices, planning permission is sought to construct an off-line Motorway Service Area, comprising the following:

- A new vehicular access to and from the northbound interchange roundabout at junction 13,
- a four-pump island car/van forecourt and a two-pump island HCV forecourt, both with canopy over. The height of each canopy is 8.059m and 6.9m respectively.
- Underground fuel storage tanks (total area c.200sqm), tanker delivery area and associated pipework.
- An amenities building (total gross floor area of c.1410sqm) comprising a convenience shop (c.100sqm net sales area) and ancillary areas (c.428sqm) comprising store room, freezer, chiller, manager's office, comms room, staff toilets, staff changing area, staff tea station and cleaner's room, 5no. eat-in/take-away café/restaurants (c. 267sqm in total), public toilets (c.123sqm), seating/circulation area (c.437sqm) internal and external play areas (c.102sqm).
- Parking for 124 no. cars (including 7 no. disabled parking spaces), 20no. HGVs, 5 no. coaches and 7 no. motorcycles.
- Ancillary signage (both illuminated and non-illuminated) on the shop building, forecourt canopies and general fuel forecourts (total area of signage c. 24.9sqm). 2 no. double sided totem ID/Price point signs (c.7.5m and c 12m in height respectively and c.49sqm total advertising area) indicating site services.
- On-site waste water treatment system, c.3.0km 100mm dia. rising main to connect to the public mains and c.11500sqm willow plantation.
- Surface water attenuation tank (c.1200sqm).
- Retaining walls.
- Pumping stations.
- Surface water outfall to local stream to the North.
- All ancillary site development, landscaping and boundary treatment works,

all at Junction 13 on the M8 Motorway, Gortnahown, Kiltrislane, Cloonlough, Brigown, Mitchelstown, Co. Cork

2.2 The proposed buildings associated with the development comprise a large single storey building which will rise to a height of 7.5m. In terms of access to the site, the Board will note that a letter of consent was provided from Cork County Council with regard to the making of the application. The proposed development will be accessed off an existing roundabout where a new access arm will be constructed. Planning permission is sought for seven (7) years.

2.3 The application documents include the following reports / documents:

- Planning Report
- Traffic Impact Assessment
- Screening for Appropriate Assessment
- Engineering Report
- Hydrogeological Risk Assessment
- Letters of Consent from appropriate parties
- Details plans and drawings

3.0 REPORTS ON PLANNING FILE

3.1 There are 9 submissions noted on the planning file from third parties. I have read the content of all submissions. The issues raised in the objections are summarised as follows:

- Questions the validity of the application by reason of land folio numbers and lands in the ownership of Cork County Council.
- The location of the proposed development site within the greenbelt of Mitchelstown in an unserviced area
- Potential environmental risk and in particular public water supply
- Impact of the large scale proposed development on the commercial and retail activity in Mitchelstown
- Cork City is 50km to the site and there is an off line MSA in Fermoy, Amber station while there is a dedicated MSA at Cashel, 50km to the north. In addition, there are a further 3 MSAs between Cashel and Dublin which should be sufficient to cater for motorway traffic.
- The development is not strategic or exceptional in nature
- Archaeological impacts potential
- Issues raised in the Boards previous decision pertaining to the site have not been addressed. The stated reasons for refusal remain valid.

- The proposed development remains premature pending the upgrading of the Mitchelstown Waste Water Treatment Plant
 - The topography of the site requires extensive earthworks and infilling and will seriously impact the visual amenities of the area.
 - Despite amendments, the proposed development does not accord with NRA / national policy or the TEN-T Regulations.
 - The scale of the proposed development is significantly larger than the previously refused proposal.
 - A similar development has been permitted in Cahir, Co. Tipperary, approximately 33km from the subject site, where considerable investment has been made. A grant of planning permission in this instance raises a concern that the permitted development would no longer be economically viable.
 - The proposed development is not in compliance with the requirements of the 2009 County Development Plan or the 2011 Fermoy LAP.
 - This is a repeat application for a development which was recently refused by ABP. Circumstances have not changed to alter that decision to refuse.
 - The application should be refused pending the decision of the NRA and their proposals.
- 3.2 There are no submissions from elected representatives noted on the planning file.
- 3.3 4 no. external reports have been submitted to the Planning Authority in relation to the proposed development from the following:

Health Service Executive: Submits no objection subject to compliance with conditions.

An Taisce: Notes that this is a repeat application and submits that an evaluation is required that demonstrates that all issues have been resolved which determined the site previously unsuitable.

Irish Water: Notes that the site overlies a karst aquifer and is within 500m of the borehole abstraction point for the Mitchelstown Old Public Water Supply which currently yields approximately 1.5million litres of water per day and is the drinking water supply for a population of 2,600 people. A fuel spill or pollution incident has the potential to cause

considerable damage to the supply and source. There is strong objection to the proposed development.

National Roads Authority: This report submits that the development should be undertaken in accordance with the requirements of the Spatial Planning & National Roads Guidelines for Planning Authorities and in particular, section 2.8. In addition, the report refers to the recently published NRA Service Area Policy, August, 2014, and in particular, sections 1.4 and 5.2 of the policy document. Reference is also made to the NRA DMRB TA 70/14: The Location & Layout of On-Line Service Areas (June 2014).

The report submits that the authority neither endorses nor opposes such facilities but will assess proposals on the basis of impacts on national roads and compliance with guidelines. The report notes that the current proposed development is an off-line motorway service area located in an unzoned rural area in the vicinity of junction 13 of the M8 and is not an NRA service area. The site is located within an area identified in the NRA Service Area Policy.

Issues are also noted with regard to signage and concludes that permission for same as proposed should be refused as it would interfere with the operational efficiency and safety of the national road network and endanger public safety by reason of traffic hazard, would be at variance with national policy and would set a precedent for further similar development.

In addition, issues are raised regarding proposed lighting and the fact that the RSA does not consider that the gradient of the access to the site meets NRA DMRB Standards. A swept path analysis for HGV vehicles should be considered.

- 3.4 There are 3 no. reports noted from internal County Council Departments on the Planning Officers report from the following:

Area Engineer: The report advises that it is to be considered with the proposed development at junction 14. The report notes that there are only 2 suitable sites, at junctions 13 & 14 on the M8 for the proposed development. The subject site will have to be substantially raised as well

as having new safe access provision. This proposal will change the existing roundabout to a 5-leg roundabout, which is not considered ideal. Issues are also raised regarding the proposed entrance and its impacts on signage, public lighting, drainage and on existing routes and minor alignment changes will be required to maximise sightlines. The proposal could draw from established retail development in Mitchelstown.

The proposal could impact negatively on the adjacent stream and the size of the proposed site could increase the risk of hazard containment in the event of an accidental leak / incident, despite the zero discharge system.

Serious concerns raised regarding the proximity of the site to the public water supply wells.

Proposals for the upgrading of the WWTP is not set in stone.

It is concluded that between the two proposed development sites, from an engineering perspective, the site off Junction 13 is preferable to this proposed site at Junction 14. The development of this site would require the importing of vast quantities of suitable material to raise the site and access road. Any construction programme will have a negative impact on the environment / receiving roads environment.

Archaeologists Report: Advises the large scale development is in close proximity to a known archaeological site. While conditions are drafted, further information is requested to provide for a revised layout plan which identifies archaeological sites and to liaise with the local authority archaeologist to agree the extent of the buffer zone.

Environment Section: Report advises concerns remain regarding the protection of ground waters and the aquifer feeding the Mitchelstown Public Water Supply. Provides conditions should the overall planning assessment consider that permission should be granted.

- 3.5 The first party submitted unsolicited further information, prior to the Planning Authority completing their report, in an effort to specifically

address a number of issues raised by NRA and Irish Water. The submission is summarised as follows:

- All signage will be subject to approval of the NRA
- Full details of lighting can be agreed with the PA prior to the commencement of development. In addition, extensive screening and landscaping proposals, already submitted, which will provide further protection to neutralise any risk of distraction or hazard to motorway users.
- All road gradients are in full compliance with the DMRB including the 2% gradient element on the 20m section closest to the roundabout.
- Swept path analysis provided

- A Hydrogeological Risk Assessment was submitted as part of the Planning Application.
- The assessment highlighted that there was no significant greater risk associated with the Public Water Supply Source as a result of the proposed development.
- The overall risk score is 5 with an associated risk rating of low.

The Board will note no reference to the above unsolicited response is made in the Planning Officers report.

- 3.6 The PAs Assistant Planner provided a planning report which presents an overview of issues pertaining to the proposed development. The report considers the planning history of the site and those relevant nearby sites, notes that the proposed development site has been increased and now takes in more of the mapped flood risk area to the west and south west of the site. The report noted that no pre-planning meetings were held with the applicant and considers the policy context for the proposed development. The report summarises all submissions made in relation to the proposed development including internal and external technical reports and public submissions. An assessment and conclusion section is presented in the report and the Board will note the conclusion that the previous reasons for refusal by An Bord Pleanala remain relevant. The report also considers that issues relating to the extensive earthworks and infilling would have a visual impact and that issues relating to the protection of archaeology

remain outstanding. It is recommended that permission be refused for the proposed development.

- 3.7 Following the completion of the above report, and prior to the completion of the Senior Planners report on the proposed development, Irish Water submitted a further report acknowledging receipt of the Hydrogeological Risk Assessment. The report maintains the concerns previously raised and notes that there is no spare capacity in the treatment plant in Mitchelstown. The proposed development is contrary to IW commitment to minimise catchment risk and in the absence of full and agreed proposals for an alternative supply to the area, refusal is recommended.

There appears to have been correspondence between the first party and IW prior to the PA making its decision whereby a proposed potential solution to ensure a continuous water supply was presented. IW suggest that subject to the detailed conditions being executed prior to any development, including the locational proposals and the specific interlink between the new source and the existing supply network, the specification of the borehole alarm and shutdown system shall be stipulated during the new connection process, there is no further objection to the proposed development.

The Senior Planner advises that he attended a meeting with Irish Water to in relation to this proposed development. Concerns for this proposed site remain.

- 3.8 The Senior Planner notes the reports and documentation including submissions on file and refers to the Area Planners report. The report notes the key points including the planning history, policy and submissions. The report considers the proposed development under eight headings as follows:

- Principle of the development
- Retail impact
- Visual impact
- Water Service
- Roads / Layout
- EIA / AA

- Archaeology
- Other issues

The report has had regard to both the current application on the Mitchelstown Site as well as the proposed development at the Fermoy Site. The report concludes that the proposed development is acceptable in principle and that the provision of one off line MSA at either Junction 13 or Junction 14 is acceptable by reference to both local and national policy. The principle of the development is considered acceptable but the report indicates that the Fermoy site is the preferable location. The report also notes that the subject site is considered unacceptable in terms of water services and there are outstanding issues relating to roads, gradients and archaeology and as such, it is concluded that the Fermoy Site is acceptable and is a better location than the subject Mitchelstown proposal. It is recommended that planning permission be refused for the proposed development for two stated reasons.

4.0 DECISION OF THE PLANNING AUTHORITY

The Planning Authority refused planning permission for the proposed development for the following two reasons:

1. The DoECLG Spatial Planning and National Roads Guidelines emphasise that a proliferation of off line service area facilities at national roads junctions should be avoided. The NRA Service Area Policy 2014 identifies that between Fermoy and Mitchelstown there should be one Motorway Service Station. The site is located within the Mitchelstown Greenbelt. The Planning Authority considers that the proposed location at Fermoy (Junction 14 - East) is the preferred location in overall planning terms, and that the development of a second facility within the Mitchelstown greenbelt would not constitute a strategic and exceptional development and would be contrary to national policy and the Cork County Development Plan, and contrary to the proper sustainable planning and development of the area.

2. Having regard to the documentation on file and the proximity of the site to the main borehole for the Mitchelstown South water supply that is located in close proximity to this proposed site, the Planning Authority considers that there is considerable risk to the source and that therefore

the proposed development is contrary to the proper planning and sustainable development of the area.

5.0 RELEVANT PLANNING HISTORY

5.1 The Board will note the concurrent planning appeal which is with An Bord Pleanála which relates to a similar type development proposed at Junction 14 of the M8, at Gortroe and Moorpark (townlands), Fermoy, Co. Cork, which is located approximately 9km to the south of the current proposed development site, ABP ref PL04.244411 refers. This development proposes the construction of an Off-line Motorway Service Area comprising:

Motorway Service Area, to include a shop/restaurant building (with a drive through and take-away facility and ancillary plant, storage/service areas), forecourt with canopy, fuel facilities for heavy commercial vehicles (HCVs) with canopy over, underground fuel tanks, LPG tanks, substation, car wash, drainage facilities, signage, landscaping, picnic & external seating/amenity areas, set-down and parking areas (with control barriers to HCV parking), footpaths and a new entrance and roundabout on to the R639 regional route (with amendments to the existing entrance serving the Teagasc facility at Moorepark) and all associated ancillary development works

All Junction 14 on the M8 Motorway, Gortroe and Moorpark (townlands), Fermoy, Co. Cork

5.2 The following is the planning history pertaining to the current Junction 13 (Mitchelstown) proposed development site:

ABP ref. PL04.242586 (PA ref. 13/4648): Cork County Council granted planning permission, subject to 47 conditions, for the construction of an Off-line Motorway Service Area comprising:

- Vehicular access to/from the north-bound interchange roundabout of Junction 13.
- Car/van forecourt and HCV forecourt, both with canopy over.
- Underground fuel storage tanks and associated pipe work.

- Amenities building (966.6-sq.m.) comprising: convenience shop and ancillary areas; 4 no. Eat-in / take-away café / restaurants; seating / circulation area; public toilets; internal and external play areas and substation.
- Parking for 71 no. cars, 12 no. HGVs, 3 no. coaches and 5 no. motorcycles.
- Car wash.
- On-site wastewater treatment system and c. 12,000-sq.m. willow plantation, 2.5km rising main to connect to the public mains.
- Surface water attenuation tank and outfall to stream to the north.
- All ancillary signage, site development, landscaping and boundary treatment works.

All at Junction 13 on the M8 Motorway Gortnahown, Kiltrislane, Cloonlough, Brigown, Mitchelstown, Co.Cork

Following multiple third party appeals, the Board accepted the recommendation of the Inspector and refused planning permission for the proposed development. The two reasons for refusal are stated as follows:

1. The proposed development is located within the Mitchelstown Greenbelt Area, wherein it is the policy of the current development plan for the area and the Fermoy Electoral Area Local Area Plan that development will only be allowed where it is of a strategic and exceptional nature. The Spatial Planning and National Roads Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in January 2012 advocate a coordinated approach to the provision of off-line motorway service as part of the development plan process and indicate that a proliferation of private off-line service area facilities at national road junctions should be avoided.

Having regard to the foregoing and other concurrent proposals for similar development along the M8 motorway, and notwithstanding the acknowledged requirement for such a facility in this area, it is considered that pending the imminent updating of national Service Area policy by the National Roads Authority and the formulation of an appropriate planning policy approach, the proposed development would be premature and contrary to the policies of the development plan with regard to development within the Greenbelt

and to the provisions of the national guidelines. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development is located within the source protection zone of the Mitchelstown South Water Supply Scheme. Having regard to the nature of the uses proposed on the site, and notwithstanding the proposed zero discharge design of the on-site wastewater treatment and disposal proposals, the Board is not satisfied that this location is suitable or appropriate for such development or that it would not give rise to an increased risk of contamination of this important public water supply source. Furthermore, owing to the topography of the site requiring extensive earthworks and infilling, the site is likely to be highly visible which would seriously injure the visual amenity of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 5.3 The following is the relevant planning history pertaining to other sites in proximity to the subject site

ABP ref. PL04.242495 (PA ref. 13/4399): Cork County Council granted planning permission, subject to 41 conditions, for the construction of a Motorway service station on the subject site, to include a shop/restaurant building with a drive through and take-away facility and ancillary storage/service areas, forecourt with canopy over, fuel facilities for heavy commercial vehicles with canopy over, underground fuel tanks, substation, car wash, drainage facilities, signage, landscaping, picnic & external seating areas, parking and set-down areas, new entrance and roundabout on to the R639 regional route and all ancillary development works at Junction 14 on the M8 Motorway, Gortroe and Moorpark, Fermoy, Co. Cork.

Following multiple third party appeals, and a first party appeal, the Board accepted the recommendation of the Inspector and refused planning permission for the proposed development. The reason for refusal is stated as follows:

'The proposed development is located within the Fermoy Greenbelt Area, wherein it is the policy of the County Development Plan and the Fermoy Electoral Area Local Area Plan that such development will only be allowed where it is of a strategic and exceptional nature. The Spatial Planning and National Roads Guidelines issued by the Department of the Environment, Community and Local Government in January, 2012, advocate a co-ordinated approach to the provision of off-line motorway service areas as part of the development plan process and indicate that a proliferation of private off-line service area facilities at national road junctions shall be avoided. Having regard to the foregoing and other concurrent proposals for similar development along the M8 motorway, and notwithstanding the acknowledged requirement for such a facility in this area, it is considered that pending the imminent updating of national Service Area policy by the National Roads Authority and the formulation of an appropriate planning policy approach in this regard, the proposed development would be premature and contrary to the policies of the development plan with regard to development within the Greenbelt and the provision of the Guidelines. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.'

ABP ref. PL04.241495 (PA ref. 12/6185): Permission was granted for development at the existing Amber petrol filling station site on the Dublin Road (R639) Fermoy, approx. 11km south of the subject site comprising:

- (1) An extension station (08/10082) restaurant / dining area, incorporating a drive-thru restaurant and take-away (148-sq.m.) and external seating / smoking area;
- (2) Parking for 60 cars and 17 trucks with new entrance off Pike Road and modified entrance off Dublin Road; and (3) associated works and signage.

The Board order noted concerns in relation to the impact of the development on Fermoy town centre and considered that they could be adequately addressed by the omission of the proposed 'drive-thru' component of the restaurant. Condition no. 2 of the Board decision omitted the proposed 'drive-thru' element, while condition no. 3 precluded hot food takeaway from the premises.

Tipperary County Council Jurisdiction:

ABP ref PL 92.244135 (PA ref. 14/600036): Permission granted by Tipperary County Council for the development of service station with proposed forecourt layout to include a forecourt canopy, 8 petrol/diesel pumps on two islands, underground fuel storage tanks, air/water service area, automatic roll-over carwash and ancillary signage, both illuminated and non-illuminated, the proposed forecourt building (300 m²), incorporating retail shop space (90.5m²), cafe/take away food area (99.5 m²) with external seating area to side of building, toilet and baby changing facilities and off licence. Permission also sought for parking of heavy goods vehicles/buses (18 spaces) and cars (35 spaces), two fast fill diesel pumps, area for recycling bins and bin store and all associated services required for above. Planning Permission also granted for a commercial well to service this development and for on-site effluent system, percolation area, and all associated site works all at Scarnaglorane, Cahir, Tipperary. This location is at Junction 11 of the M8 Motorway and is currently under consideration by the Board at the time of writing this report (12th May, 2015)¹.

ABP ref. PL.23.241786 (PA ref. 13/4): Permission refused to Applegreen Service Areas Ltd. in February 2013 for the development of a motorway services area on the R639 at Cahir, Co. Tipperary, for three reasons including the failure to demonstrate a need for the facility on unzoned lands, which would undermine the strategic delivery of services as required by the NRA. The site is located approx. 40km north of the subject site. This application was withdrawn following first and third party appeal.

¹ This report is updated on the 14th May, 2015 to advise and confirm that the above proposed development at Junction 11 of the M8 has been refused by An Bord Pleanala for 4 reasons, including non-compliance with national and local policy amongst others.

6.0 POLICY CONTEXT:

6.1 European Guidance

6.1.1 Regulation On Union Guidelines For The Development Of The Trans-European Transport Network

Agreement was reached in 2013 on the establishment of a unified core European transport network. The new core TEN-T network will be supported by a comprehensive network of routes, feeding into the core network at regional and national level.

The main objective of these new Guidelines is to establish a complete and integrated trans-European transport network, covering all Member States and regions. Article 44 Identification of the core network

1. The core network shall consist of those parts of the comprehensive network which are of the highest strategic importance for achieving the objectives of the trans-European transport network policy.

The M8 is identified as part of the core network.

Article 45 Requirements

2. The infrastructure of the core network shall meet all the requirements set out in Chapter II without exception. In addition, the following requirements shall also be met by the infrastructure of the core network:
 - (c) for road transport infrastructure:
 - the development of rest areas approximately every 50 kilometres on motorways in order inter alia to provide sufficient parking space for commercial road users with an appropriate level of safety and security.

6.2 National Guidelines:

6.2.1 Spatial Planning and National Roads, Guidelines for Planning Authorities, Department of the Environment Community and Local Government, January 2012.

- 6.2.1.1. Section 2.8 deals with Service Areas. It is noted that services areas may come in two formats:

On-line Motorway Service Areas, provided by way of direct NRA / Local Authority involvement and which incorporate extensive parking and also facilities that cater specifically for the refueling, refreshment and toilet needs of drivers and passengers. No provision is made for hotel accommodation facilities, nor extensive retail outlets. The Authority's service areas are designed to discourage infrastructure from becoming destinations in their own right.

Off-line Motorway Service Areas at National road Junctions: "In the preparation of their plans, planning authorities may consider policies for the provision for off-line motorway service area facilities with reference to the requirements and advice included in the most up-to-date NRA guidance on the location and layout of the NRA's service areas and also similar type existing or planned privately promoted service facilities within existing towns / settlements and located in the general environs of the relevant road corridor.

A proliferation of private off line service area facilities at national road junctions should be avoided. It is therefore important that a coordinated approach between planning authorities should be undertaken in consultation with the NRA as part of the drafting of development plans. In addition, facilities proposed for inclusion in service areas should be of a type that avoids the attraction of short local trips, a class of traffic that is inconsistent with the primary intended role for motorways and other national roads and associated junctions in catering for strategic long-distance and inter-urban and inter-regional traffic. Furthermore, to permit a service area to become a destination for local customers would be contrary to Government planning policy on retail and town centres as set out in Retail Planning Guidelines 2005. The consequence of this would be to threaten the viability of business in cities, towns or other local centres."

6.2.2 Retail Planning Guidelines 2012

6.2.2.1 Section 4.11.10 notes that on line and off lines services are not considered in the guidelines and refers to the Spatial Planning and National Roads Guidelines which deal with such facilities.

The guidelines note that convenience shops are part of the normal ancillary services provided with motor fuel stations. They should only be permitted where they would not seriously undermine the approach to retail

development in the development plan. The floorspace of the shop should not exceed 100m² net.

6.2.3 NRA Service Area Policy, National Roads Authority August 2014.

6.2.3.1 The document sets out the policy basis on which service areas will be provided to meet the needs of road users on the National Road network in Ireland. As set out at 2.2 in relation to design standards for service areas the authority publishes design standards for on-line service areas which are regularly updated. The NRA TA 70/14 (June 2014), Volume 6, Section 3, Part 3, NRA Design Manual for Roads and Bridges. The authority does not prescribe standards for developments which are not part of national roads, such as off-line service areas, though planning authorities and road authorities may have regard to National Roads Standards.

6.2.3.2 Section 2 of the Policy document deals with facilities and types of On-Line Service Areas as follows;

Two types of on-line service areas are envisaged, namely **Type 1** and **Type 2** Service Areas

A Type 1 Service Area (full service area) will be ***a large scale service area providing an amenity building (including a convenience shop, restaurant, washrooms and tourist information), fuel facilities, parking and picnic area***

A Type 2 Service Area (rest area) will be ***a small scale service area providing parking, picnic and toilet facilities, but without a main amenity building or fuel facilities***

6.2.3.3 In relation to spacing of service areas the policy targets the provision of Type 1 Service Areas (full service areas) every 100km in most cases. In practice, that requires the spacing to be less than 100 km in most cases. In addition, where the gap between Type 1 Service Areas is in excess of 85 km, a Type 2 Service area should be provided. The spacing set out above has been set based on a combination of European and national policy, international research, analysis of the road network in Ireland and submissions received as part of the public consultation process.

6.2.3.4 The needs for service areas on the existing dual carriageway network is demonstrated in Figure 3.1 and associated text identifies Mitchelstown - Fermoy section of the M8 –Junction 13 to 14 - as a location where off-line facilities could meet the criteria. The Policy also notes that the combination of an existing off-line service area at Cashel (Junction 8) and a planned service area at Ballacolla (Junction 3) which has planning approval on the M8, may meet or could be upgraded to meet the criteria.

6.2.3.5 In terms of Need, the document identifies that a Type 1 facility to be located Mitchelstown to Fermoy, Junctions 13-14, and at an approximate distance of 45-105km from previous facility. The document identifies the need for an off-line facility in this area of the M8.

6.2.3.6 At Section 5.2 of the Policy document, it is stated that “Except for the statutory consultee role, the Authority has no role in determining how off-line development should be delivered

6.2.4 NRA Advice Note TA 70/14 - The Location and Layout of On-line Service Areas, June 2014.

The advice note gives general principles to be followed for the siting and layout of on-line service areas on National Roads. The advice note supercedes NRA TA 70/13 and includes amendments of the definition and types of service area.

6.2.5 National Road Safety Strategy (RSA) 2013-2020

With regard to engineering measures, the strategy notes that the completion of the Major Inter-urban Route network has improved the safety of the National Route system. Further motorway service areas are planned to protect against driver fatigue.

Key actions under the heading of Engineering include the following:

56. The provision of at least 5 new service areas on or immediately adjacent to the motorway network by 2020. The lead agency for this action is identified as the NRA.

6.3 Local Policy

In terms of the local policy context, the Board will note that the previous, 2009 Cork County Development Plan was in operation during the Planning Authority's assessment of this proposed development. I also note that the

Senior Planners report and recommendation is dated the 14th of January, 2015, which is one day before the new County Development Plan came into effect. The Senior Planning Officers report refers to Objectives contained in the 2009 County Development Plan. In this regard, I intend to present the policy context of both documents in this section for ease of reference for the Board in its deliberations of this appeal.

6.3 Cork County Development Plan 2009

6.3.1 Section 6.3.10 of the Plan deals with Service and Rest Areas:

The National Roads Authority has prepared a policy statement on the provision of service and rest areas. They have identified the need for one service area between Fermoy and Mitchelstown. The Council will support the NRA in the provision of this important facility for road users. Regard must be given to the National Roads Authority's guidance document, 'Policy for the Provision of Service Areas on Motorways and High Quality Dual Carriageway', when identifying an appropriate site for a serviced rest area.

6.3.2 Objective INF 3-6:- National Roads – Protection of Interchanges:

It is an objective of this Plan to protect the capacity of the interchanges in the County from locally generated traffic.

6.3.3 Objective INF 3-7:- National Roads – Service and Rest Areas

It is an objective to implement the NRA's policy document on the Provision of Service Areas and Rest Areas on Motorways and High Quality Dual Carriageways.

6.3.4 Section 4.8.9 of the Plan deals with Greenbelts Around Other Towns

Within these Greenbelts, the Local Area Plans will generally reserve land for agriculture, open space or recreation uses. Exceptions to this will only be allowedin the circumstances referred to in paragraphs 4.8.5 and 4.8.6 of this plan.

Section 4.8.5. refers to long-established commercial or institutional uses while paragraph 4.8.6. refers to development of a strategic and exceptional nature, that would not be suitably located within zoned lands, and which may be accommodated successfully in certain Greenbelt locations. This would only be appropriate where the impact of the development on the specific function and open character of the Greenbelt can be minimised (objective RCI 8-10).

6.3.5 **Objective RCI 8-11** Greenbelts Around Settlements

- (a) It is an objective to retain the identity of towns, to prevent sprawl, and to ensure a distinction in character between built up areas and the open countryside by maintaining a Greenbelt around all individual towns.
- (b) It is an objective to reserve generally for use as agriculture, open space or recreation uses those lands that lie in the immediate surroundings of towns. Where Natura 2000 sites occur within greenbelts, these shall be reserved for uses compatible with their nature conservation designation.
- (c) It is an objective in particular to prevent linear roadside frontage development on the roads leading out of towns and villages.
- (d) The local area plans will define the extent of individual Greenbelts around the ring and county towns and any of the larger villages where this approach is considered appropriate. They will also establish appropriate objectives for the Greenbelts generally reserving land for agriculture, open space or recreation uses.

6.3.6 **Objective RCI 8-10:-** Strategic and Exceptional Development:-

It is an objective to recognise that there may be development of a strategic and exceptional nature that may not be suitably located within zoned lands and that such development may be accommodated successfully in Greenbelt locations. In such circumstances, the impact on the specific functions and open character of the Greenbelt should be minimised.

6.3.7 **Objective INF 5-8:** Protection of Quantity and Sources of Drinking Water

- (a) It is a general objective to conserve sources of drinking water and to minimise threats to either the quality or quantity of drinking water reserves that might result from different forms of development or development activity and other sources of pollution.

6.3.8 **ENV 6-4 Guidelines for Groundwater Protection**

- (a) In assessing applications for development, the Council will consider the impact on the quality and quantity of groundwater and will have regard to the recommended approach 'Groundwater Protection Schemes' (and the Response Matrices) published by the Department of Environment, Heritage and Local Government, the Environmental Protection Agency and the Geological Survey of Ireland. In particular, the conservation objectives for water dependent protected sites will be addressed.

(b) The Council will also ensure that proposals for septic tanks and proprietary treatment systems comply with relevant standards. The cumulative impact of such facilities will also be considered in the assessment of proposals.

6.3.9 The R639 is designated as scenic route **S3**: N8 National Primary Route between Moorepark and Mitchelstown, Views of the Galtee, Nagle, Kilworth & Knockmealdown Mountain Ranges.

6.3.10 **Objective ENV 2-11:-** It is a particular objective to preserve the character of those views and prospects obtainable from scenic routes identified in this plan.

6.4 Cork County Council Development Plan, 2014

6.4.1 Section 10.3 of the Plan deals with the Road Network while 10.3.3 deals with national and primary and secondary roads. Section 10.3.5 of the 2014 County Development Plan deals with Motorway Service Areas and states that ‘the “NRA Service Area Policy” (August 2014) sets out the policy basis on which service areas will be provided to meet the needs of road users on the national road network. In relation to offline facilities it states that provided offline facilities are in close proximity to the roadway and of sufficient standard, the NRA will take these locations into account when evaluating the level of provision and prioritisation of development for online NRA service areas.

6.4.2 County Development Plan Objective TM 3-1: National Road Network states as follows:

c) Restrict individual access onto national roads, in order to protect the substantial investment in the national road network, to improve carrying capacity, efficiency and safety and to prevent the premature obsolescence of the network.

e) Prevent the undermining of the strategic transport function of national roads and to protect the capacity of the interchanges in the County from locally generated traffic.

f) Consider the most up to date guidance in relation to the provision of Service and Rest Areas on the National Road Network (Section 2.8 of the

Department of the Environment Community Heritage and Local Government 'Spatial Planning and National Roads Guidelines' (2012) and 'NRA Service Area Policy' (August 2014).

g) Cooperate with the National Roads Authority to identify the need for Service areas and/or rest areas for motorists along the national road network and to assist in the implementation of suitable proposals for provision, subject to normal planning considerations.

h) Ensure that in the design of new development adjoining or near National Roads, account is taken of the need to include measures that will serve to protect the development from the adverse effects of traffic noise for the design life of the development.

i) Control the proliferation of non road traffic signage on and adjacent to national roads having regard to the NRA's "Policy on the Provision of Tourist & Leisure Signage on the National Roads" and Section 3.8 of the 'Spatial Planning and National Roads Guidelines (2012)' of the Department of the Environment Community Heritage and Local Government.

6.4.3 In terms of road freight, the Development Plan at section 10.5.13 states that 'the County Council is also supporting the additional provision of service/rest areas on the motorway network to provide necessary facilities'.

6.4.4 Section 4.5 of the CDP deals with Greenbelts while section 4.5.4 deals with Planning Principles for a Greenbelt, stating that 'for the purposes of this plan the following principles underlie the designation of the greenbelts in Metropolitan Cork and around the county towns:

- Maintenance of distinction in character between the town or city urban and rural areas by the prevention of unrestricted sprawl of urban areas into the countryside;
- Prevention of individual settlements merging into one another;
- Strategic protection of land that may be required for development in the future;
- To focus attention on lands within settlements which are zoned for development and likely to contribute to the regeneration of areas;
- Provision of a source of recreation and amenity and to allow for open countryside to be within easy reach of most built up areas; and

- Retention of land in agriculture, forestry or other uses which would otherwise be susceptible to inappropriate development.

6.4.5 Sections 4.5.9 to 4.5.13 deals with Greenbelts around other towns, and objective RCI 5-8 is relevant as follows:

County Development Plan Objective RCI 5-8: Greenbelts around Settlements

a) Retain the identity of towns, to prevent sprawl, and to ensure a distinction in character between built up areas and the open countryside by maintaining a Greenbelt around all individual towns.

b) Reserve generally for use as agriculture, open space or recreation uses those lands that lie in the immediate surroundings of towns. Where Natura 2000 sites occur within Greenbelts, these shall be reserved for uses compatible with their nature conservation designation.

c) Prevent linear roadside frontage development on the roads leading out of towns and villages.

d) The local area plans will define the extent of individual Greenbelts around the ring and county towns and any of the larger villages where this approach is considered appropriate. They will also establish appropriate objectives for the Greenbelts generally reserving land for agriculture, open space or recreation uses.

6.5 Fermoy Electoral Area LAP 2011

6.5.1 Green Belts Around Towns

The LAP reiterates the provisions of the County Development Plan 2009 with regard to these Greenbelts.

6.5.2 Objective GB 1-1 Green Belts Around the Ring and County towns

This policy restates objective RCI 8-11 of the County Development Plan 2009. With regard to the Green Belt around Mitchelstown, section 1.9.18 of the LAP notes that an important and attractive characteristic of the town is the complex topography and landscape character of its setting. The plan seeks to protect this through the retention of the Greenbelt around the town. The prominent ridges to the south east in conjunction with the lower ridges to the south west and north east of the town, which are relatively

free from development, provide an attractive rural setting to the town and are therefore not considered suitable for development.

6.5.3 Section 1.9.19 of the LAP states as follows:

To the south, the principal approach road into the town is the R 667, which is a designated scenic route and is deemed unsuitable for development, as it would have a negative impact on the visual setting of the town.

6.5.4 In addition to the above, Section 1.9.20 of the LAP goes further to state:

To the north west of the town, lies an area where the topography is less elevated and more suited to development. An area of land has been identified in this region where there is an established proliferation of one-off dwellings. This area is less visually prominent to the general setting of the town than the equivalent areas to the south, east and north east and whilst this area should remain generally open and rural in character its capacity to accommodate some individual housing in a rural setting is recognised. This area of land is subject to Objective GB 1-2 of this LAP.

7.0 GROUNDS OF APPEAL

7.1 This is a first party appeal against the decision of Cork County Council to refuse planning permission for the proposed development.

The following is a summary of issues raised in this appeal:

- The previous reasons for refusal by An Bord Pleanala have been fully addressed by the applicant.
- The first reason for refusal is flawed and based on an inadequate assessment of the proposed development against the JR Oronco. Ltd proposal. The JR Oronco Ltd site is not the preferred location in planning terms.
- The subject proposed development is preferable in terms of water services.
- The Fermoy proposal poses a greater risk to local retail impact given its location mid-way between Kilworth and Fermoy. The Mitchelstown proposal is significantly removed from the built up area of the town.
- The significant works in terms of visual impact has been overstated by the PA. The current proposal is cut-fill neutral and will not require the importation of fill and is preferable in relation to visual impact.

- There are issues relating to impacts on European Sites associated with the Fermoy site. As such, the Mitchelstown proposal is preferable.
- The subject site is preferable in terms of archaeology.
- The proposed development is fully compliance with the NRA DMRB standards, while the Fermoy proposal does not represent the better of the two proposals in relation to road design and access.
- The planning authority has misinterpreted national and local policy. The current NRA Service Area Policy does not identify one motorway service station for junctions 13-14. A Type 1 Service Area can comprise two facilities located on either side of the motorway at different locations.
- A grant of permission does not represent a proliferation of off-line service areas.
- The proposed development represents a strategic exceptional development within the Mitchelstown Greenbelt. It would be the only such development within the Mitchelstown Greenbelt as the Fermoy site is located within the separate Fermoy Greenbelt.
- The second reason for refusal as stated by Cork County Council is contested.
- The proposal by the Fermoy proposal to connect Kilworth to the Fermoy Water Supply was accepted but no details of the interconnection have been provided. IW required that the link was to be constructed in advance of works commencing on that site.
- A similar approach was taken in the current proposal, which was accepted by IW, but not by the Planning Authority. Further information should have been requested for both schemes.
- Since the decision of Cork Co. Co., the appellant has developed further the alternative well source proposal in relation to the Mitchelstown site – presented in Appendix D of the appeal documentation. It is requested that this proposal be considered by the Board.

Included with the appeal document are the following appendices:

- A: Copy of decision to refuse
- B: Letter from Irish Water dated 9th February, 2015
- C: Letter of consent from Landowner
- D: Technical Paper 1 – Review of Hydrogeological setting of proposed Service Areas along M8 in Co. Cork

- E: Technical Paper 2 – Review of Hydrogeological setting of proposed Service Areas along M8 in Co. Cork
- F: Landscape Design Statement

8.0 OBSERVERS

There is 1 observer noted in relation to this first party appeal from McGill Planning on behalf of JR Oronco Ltd. The observations made are summarised as follows:

- The issues raised in the previous ABP decision have not been addressed.
- The same deficiencies in relation to wastewater treatment and risk of contamination to the groundwater source for the Mitchelstown Water Supply Scheme remain. The site is still located within the source protection zone of the water supply scheme.
- The development remains premature pending the upgrade of the Mitchelstown wastewater treatment plant.
- The site characteristics and difficult topography at Junction 13 makes it totally unsuitable for a motorway service area.
- Despite the amendments made to the scheme, the proposed service area is still not in accordance with NRA / national planning policy and the Trans-European Transport Networks (TEN-T) Regulations.
- There is consensus that Junction 14 is a better location and option of a Motorway Service Area than Junction 13.

9.0 RESPONSES

9.1 Planning Authority:

The Planning Authority has responded to this appeal where the Senior Planner has provided a report. This report is summarised as follows:

- The Planning Authority concerns re water supply at Mitchelstown remain.
- The PA is satisfied in relation to the policy approach of the two applications and its interpretation of local and national policy.
- The PA is satisfied in relation to AA (regarding the Fermoy proposal) – the grounds of appeal misconstrues sequence of events in reporting.

The Heritage Officer report of 01/12/14 was based on likely FI required (not related to AA issues).

- The PA note the recent Board decision PL10.243782

9.2 First Party Response to Third Party Observation:

The first party has responded to a third party observation as follows:

- The observation has ignored several important elements of the subject proposal.
- The provision of an alternative and viable public water supply for Mitchelstown has been presented. This has been accepted by Irish Water.
- Additional measures have been incorporated into the proposed development in terms of addressed ABPs previous concerns relating to the waste water treatment system.
- The observers site lies within a more sensitive inner source protection zone for the Kilworth water supply where the risk is classed as not acceptable. The subject proposal site has completely mitigated the risk to ground waters.
- Issues relating to access gradient, site levels and screening have been addressed
- The proposed development fully complies with the NRA and National guidance documents.

10.0 ASSESSMENT:

Having regard to the nature of this appeal, and having undertaken a site visit, as well as considering the information submitted, I suggest that it is appropriate to assess the proposed development under the following headings:

- Compliance with policy
- Concurrent proposal at Junction 14
- Landscape/visual impact
- Commercial Impacts
- Roads & Traffic
- Water Services & Infrastructure
- Other Issues

10.1 Compliance with policy

National Policy:

10.1.1 Planning permission is sought for the construction of an off-line Service Area whose primary intention is to service traffic on the motorway. The NRA Service Area Policy, 2014 acknowledges the requirement for such a facility on the M8 in the area of Mitchelstown – Fermoy – Junctions 13 – 14. Under the initial Service Area Programme in 2007, the NRA identified the intention to construct an on-line motorway service area north of Fermoy at Killworth and having considered the planning history associated with the subject proposed development, it would appear that the State has already acquired a site at Killworth of 26.42 acres specifically for the “provision of road services to the NRA”. Proposals for this facility have not progressed. The latest policy document, 2014 indicates that ‘service areas will be provided if the anticipated off-line developments have not emerged’.

10.1.2 The provision of motorway services has been supported in terms of national policy since 2006 when the National Roads Authority (NRA) announced that it would become directly involved in the provision of on line service areas on motorways and high quality dual carriageways. In October 2007, the Authority published its policy on the provision of service areas which included a map showing indicative locations for service areas based on a broad objective of having service areas at intervals of approximately 50-60km. Following direction from the Minister for Transport in August 2009 to suspend the development of further service areas requiring exchequer funding, the NRA announced at that time that it was not taking further steps to advance provision of proposed service areas.

10.1.3 The most recent NRA Service Area Policy August 2014 provides that the policy preference is for on-line service areas, having regard for public convenience, control over the quality, extent and nature of services to be provided, and the ability of the Authority to respond to emerging law, such as the ITS Directive² and the TEN-T Regulations³. The Board will note my

² Intelligent Transport Systems. Directive 2010/40/EU adopted 7th July 2010 to accelerate the deployment of innovative transport technologies across Europe.

³ The Trans-European Transport Networks (TEN-T) are a planned set of transport networks across Europe. The TEN-T regulation targets a gradual development of the transport network

reference above to the previous intentions of the Authority to provide an on-line service area at Kilworth and the current situation which suggests that the on line service area along this section of the M8 will only be provided in the future should an off-line facility fail to be delivered. The policy document identifies locations where future off-line facilities could meet the criteria (an appropriate level of provision of parking for cars and heavy commercial vehicles (HCVs), be located within a few hundred metres of the dual carriageway, remain open for 24 hours, and permit commercial vehicles to park for longer periods including overnight thus allowing drivers to take break and rest period) includes Mitchelstown to Fermoy (Junction 13 to Junction 14). Furthermore it is stated that

“Any decision to advance these service areas is a matter for the developers, and any decision to approve them is a matter for the planning authorities. The Authority is not advocating or opposing their development, but to the extent that these service areas are developed and fulfil the criteria noted above, the Authority does not envisage providing on-line service areas in their vicinity, at least not in the short or medium term. If we take it that the provision of on-line service areas in their vicinity will be considered again in 2019, allowing for planning and construction it is unlikely that the Authority will open any service Area in their vicinity before 2022, at earliest.”

10.1.4 The Board will note that the Planning Authority refused planning permission for this proposed development. The Board will also note that the submission from the NRA during the course of the PAs consideration of the proposed development did not advise an objection in principle to the development. I further note that as stated within the NRA policy document, except for the statutory consultee role, the National Roads Authority has no role in determining how off line development should be delivered. I consider that the NRA Policy Document is not a spatial planning document and therefore does not seek to identify locations for the provision of service areas rather has regard to planned locations.

with the core network a priority (by 2030) followed by the remainder of the comprehensive network (by 2050). In Ireland, the core network currently consists of the route from Northern Ireland via Dublin to both Cork/Ringaskiddy and Limerick/Foynes.

10.1.5 The Spatial Planning and National Roads, Guidelines for Planning Authorities 2012 stresses the role of planning authorities in the preparation of their plans to consider policies for the provision for off line motorway service facilities with reference to the requirements and advices included in the most up to date NRA guidelines. The guidelines place the emphasis on the development plan as the mechanism for the identification and siting of off line service areas, with appropriate consultation with the NRA. This is necessary to avoid a proliferation of such facilities at national road junctions. The co-ordinated policy response is clearly necessary in relation to the development of these strategic facilities and to ensure that provision is in accordance with proper planning and sustainable development.

Local Policy:

Cork County Development Plan, 2014

10.1.6 As advised in section 6.4 of this report, the new Cork County Development Plan came into force before the decision relating to this proposed development issued from Cork County Council. In this regard, I propose to only consider these current policies. The Plan objective TM 3-1 (e) seeks to prevent the undermining of the strategic transport function of national roads and to protect the capacity of the interchanges in the County from locally generated traffic. Part (g) of the objective indicates the objective to cooperate with the NRA to identify the need for Service areas and / or rest areas and to assist in the implementation of suitable proposals for provision, subject to normal planning considerations.

10.1.7 Section 4.5 of the CDP deals with Greenbelts and one of the planning principles associated with same seeks prevent urban sprawl, to focus attention on lands within settlements which are zoned for development and to retain the land in agriculture, forestry or other uses which would otherwise be susceptible to inappropriate development.

Fermoy LAP 2011

10.1.8 Objective GB 1-1 seeks to protect the greenbelt around the town of Mitchelstown and Section 1.9.18 notes that 'an important and attractive characteristic of the town is the complex topography and landscape

character of its setting. The plan seeks to protect this through the retention of the Greenbelt around the town. The prominent ridges to the south east in conjunction with the lower ridges to the south west and north east of the town, which are relatively free from development, provide an attractive rural setting to the town and are therefore not considered suitable for development.'

10.1.9 Section 1.9.19 of the LAP states as follows:

To the south, the principal approach road into the town is the R 667, which is a designated scenic route and is deemed unsuitable for development, as it would have a negative impact on the visual setting of the town. The Board will also note my reference to Section 1.9.20 above which goes further to suggest that to the north west of the town, lies an area where the topography is less elevated and more suited to development and is less visually prominent to the general setting of the town than the equivalent areas to the south, east and north east.

Compliance with Policy

10.1.10 Having considered the relevant policy documents associated with the proposed development, it is clear that National policy seeks to support the provision of motorway service facilities at some location within junction 13-14 of the M8. I also note the current situation regarding the state providing such facilities and notwithstanding the fact that the Kilworth site appears to have been purchased to provide said on-line facilities, I am satisfied that national policy supports in principle, the development as currently proposed subject to normal proper planning and sustainable development considerations. I will discuss the issues associated with the concurrent proposed development at junction 14 below. I consider that in terms of National Policy the principle of development at this location is in accordance with national roads policy

10.1.11 In terms of the subject sites location within the Greenbelt area of Mitchelstown, it must be considered if the proposed development constitutes a development which will retain the identity of towns, prevent sprawl and ensure a distinction in character between built up areas and the open countryside. It is clear that the nature of the proposed development does not constitute permissible development in greenbelts

which include agriculture, open space or recreation uses. It might reasonably be considered that the development constitutes a strategic development which will be associated with the motorway and the existing interchange which would override the restrictive development policies of the greenbelt. The matter is further discussed in terms of the concurrent proposed development at J14 below.

10.1.12 As regards other national and local policies including retail and economic policy which supports the consolidation of urban areas, towns and villages and settlement policy which seeks to restrict development in open countryside, I consider that having regard to the potential strategic and exceptional nature of the proposed development and subject to operation as a service area for M8 traffic and not as a destination in its own right the principle of development at this location might be considered as acceptable, save for the provisions of Section 1.9.19 of the Fermoy Electoral Area LAP, 2011, which clearly seeks to protect the principle approach road to Mitchelstown from the south from development as it would have a negative impact on the visual setting of the town. The LAP goes further under Section 1.9.20 which suggests that lands to the north of the town are more suitable for development. I do accept in this regard however, that this area is somewhat removed from the motorway and as such, might reasonably be considered unsuitable specifically for the type of development proposed here. Infrastructural issues and other planning issues are discussed further below.

10.2 Concurrent proposal at Junction 14

10.2.1 The Board will note the concurrent proposed development at Junction 14 of the M8 which also seeks permission to construct a motorway service area. I would also acknowledge that both proposals have arisen due to the lack of progress in relation to the NRA proposed on-line facility at Kilworth. The most recent NRA policy would clearly suggest that the on-line facility at Kilworth will only be considered at a later date should an off-line facility between junctions 13 and 14 not be brought forward in the near future. All three possible service areas are located within an approximate 9km stretch of the M8 and in line with Spatial Planning & National Roads Guidelines, clearly this is a scenario which is to be avoided. The Guidelines place the emphasis on the development plan as the

mechanism for the identification and siting of off-line service areas, with appropriate consultation with the NRA. This is necessary to avoid a proliferation of such facilities at national road junctions. Submissions from the NRA have not raised specific objections to this, or other concurrent applications, however, they have drawn particular attention to Section 2.8 of the Guidelines.

10.2.2 I note that the County Development Plan has been updated, and it seems unfortunate that the Planning Authority failed to provide clearer direction with regard to the provision of Motorway Service Areas particularly in this location of the M8. However, I do accept that to specify a specific site as part of the Development Plan Process might be seen as possibly pre-determining a grant of planning permission, but as with all zoned land, site servicing is required to be considered as part of any planning application. In any case, I also acknowledge that the NRA has no real role in site identification for the provision of such facilities. I do note however, that only one facility should be considered along this stretch of the M8. I also suggest that the NRA on-line facility should also be considered as part of this joint assessment. The Board will note that the PA has granted planning permission for the proposal at Junction 14. Having considered the detailed reports associated with that permission, it would appear that the Junction 14 proposal at Fermoy has been considered the preferred option for the delivery of an off-line motorway service area in this area of the M8.

10.2.3 There is an existing facility located at Cahir, Co. Tipperary at Junction 11⁴, at approximately 40km to the north of the Junction 13 proposal and 33km to the north of the J14 proposal. In addition, the Board will note that there are Service Areas at Junctions 8, Cashel at 45km and 54km from Js 13 and 14, and Junction 3, Oldglass, Grantstown, Ballacolla, Co. Laois, a further 50km to the north along the M8. Submissions from the NRA have not raised specific objections to this, or other concurrent applications, however, they have drawn particular attention to Section 2.8 of the Guidelines. I note the NRA Policy which states that:

⁴ This report is updated on the 13th May, 2015 to advise and confirm that the proposed expansion and development of the Junction 11 facilities of the M8 has been refused by An Bord Pleanala for 4 reasons, including non-compliance with national and local policy amongst others.

Any decision to advance these service areas (including Mitchelstown to Fermoy (Junction 13 to Junction 14) on the M8) (my emphasis) is a matter for the developers, and any decision to approve them is a matter for the planning authorities. The Authority is not advocating or opposing their development, but to the extent that these service areas are developed and fulfil the criteria noted above, the Authority does not envisage providing on-line service areas in their vicinity, at least not in the short or medium term. If we take it that the provision of on-line service areas in their vicinity will be considered again in 2019, allowing for planning and construction it is unlikely that the Authority will open any Service Area in their vicinity before 2022, at earliest.

The Authority is aware that there are many other facilities for roads users available close to the dual carriageway network. These facilities are a welcome provision of services to road users, but do not fulfil the criteria above.

The Authority will provide on-line service areas at the remaining locations identified on the existing dual carriageway network. While that doesn't preclude future developments off-line at these locations, subject to approval by the planning authorities, such off-line facilities will not be considered as an alternative to the Authority's on-line service areas.

- 10.2.4 With regard to the identified NRA standard separation distance of 100km between the provision of on-line facilities, the Board will note that the permitted service areas are located at approximately 50km to the north of the J14 site and 45km of the J13 site. That said, National Policy suggests that there is a need for an additional service area along this section of the M8. The two current off-line service area applicants are located just 9km apart. Notwithstanding the opinion of the First Party, I consider that only one service area is required as a grant of permission in both cases would result in a proliferation of motorway facilities beyond the needs of the motorway network and contrary to national policy. While it may be considered unfortunate that a strategic policy has not been prepared to address this issue in this case, I acknowledge that the Senior Planning Officer with Cork County Council has made a logical and considered assessment of both proposals and the issues arising in

relation to both sites. In this regard, I suggest that it would be inappropriate to consider each proposal without due consideration of the other. They should not be considered in isolation given the similarities of both sites. Both sites are located within Greenbelts and in proximity to motorway interchanges. Ultimately, it is the consideration of site specifics that will determine if either site is suitable for the proposed development.

10.3 Landscape/visual impact

10.3.1 The subject appeal site is located in a rural area and is quite low-lying, and is located within the Greenbelt area of Mitchelstown, to the south of the town. The primary structure visible in the surrounding landscape is the motorway itself, together with its associated slip roads and roundabouts. The proposed development site lies adjacent to part of this infrastructure and at a significantly lower level than the road. There are existing trees and hedgerow boundaries on and around the site, which provide some screening on approach from the south and views into the site are limited at present. From the north bound off-ramp, the site is and will be visible.

10.3.2 The site slopes significantly from the eastern boundary towards the west and while I note the submission of the first party that the proposed development will be cut/fill neutral, there is no question but that necessary site works will involve an increase in levels across parts of the site. The proposed access road from the roundabout will involve extensive ground works given the existing difference in levels. I consider that these works will have a significant local visual impact. The Board will note the proposed extensive tree planting of the site which will provide additional screening. This is coupled with the proposed willow plantation in an effort to provide zero discharge from the site.

10.3.3 The first party submitted a visual impact assessment as part of the planning application documents and this assessment concludes that the greatest visibility will be at receptors to the north and east of the site, and adjacent to the proposed site entrance. The R639, to the south east of the site, is designated as a scenic route in the county development plan. This route is so designated, particularly with regard to views of the Galtee, Nagle, Kilworth & Knockmealdown Mountain Ranges. The appeal site is

currently open to views from the R639, which is elevated as it approaches from the south. There are extensive views towards the north and west over the Galtee Mountains. Having regard to the location and levels of the proposed development, I consider that interference with the views from the scenic route towards the distant mountains will be minor. In general, and while I consider that development may not significantly impact on views from the designated scenic route (S3) as identified in the development plan, given the provisions of Section 1.9.19 of the LAP, the development will have an impact which could be construed as being negative in terms of the visual setting of the town.

10.3.4 The immediate visual impacts will occur locally and certainly a grant of planning permission will impact and change the existing rural character of this area. While I have concerns regarding the erosion of the Greenbelt, I acknowledge the strategic nature of the proposed development. Is this adequate to accept that the landscape and visual impacts arising from a grant of permission in this instance?

10.3.5 In addition to the potential impacts of the built elements of the proposed development, concern has been raised regarding the provision of signage and the potential impacts of same. I consider that this matter could be reasonably addressed by way of appropriate conditions should the Board be minded to grant planning permission in this instance. In addition, clear direction on the issues of lighting should be provided by way of condition as part of any decision to grant planning permission.

10.4 Commercial Impacts

10.4.1 The proposed development site is located within 3km Mitchelstown town centre to the south of the town. The Board will note that there are two petrol filling stations to the south of the town along the Regional road and within approximately 2.5km of the current proposed development site. The main commercial activity in Mitchelstown town centre is primarily located along main street in the town. There are, as in many other towns across Ireland, a good many vacant units in the town centre.

10.4.2 Overall, the nature and size of the proposed development accords with other existing and proposed motorway service areas in other areas of the Irish motorway network. In terms of the offer proposed, I would note that while it is not the role of the planning system to inhibit competition, it is concerned with the protection of the vitality and vibrancy of existing town centres. National Policy, including The Strategic Planning and National Road Guidelines, also note that in formulating development plan policy in this regard, consideration should be given to similar type existing or planned privately promoted service facilities within existing towns/settlements and located in the general environs of the relevant road corridor. In this regard, all guidance clearly provide that off-line facilities which would generate local trips inconsistent with the role of the motorway network, or that would become a destination in their own right, are inappropriate.

10.4.3 The matter of the potential impact of this proposed development on existing facilities in Mitchelstown, I consider that these are adequately detached from the motorway to not consider them as an offer for motorway traffic. Motorway traffic will not divert so far off route for the services provided. As such, it has been pre-determined that there remains a requirement for an appropriately located motorway facility for motorway traffic and that the current proposed development should not be considered as being in direct competition with existing businesses in Mitchelstown.

10.4.4 The Board will note that proposed developments which seek to service motorway traffic are not considered in the Retail Planning Guidelines. The restricted level of convenience shopping proposed can be considered limited in its scale and having regard to the distance from Mitchelstown town centre, I accept that the development is unlikely to give rise to significant impacts on the viability and vitality of the town centre as the primary retail destination. I have had regard to the food elements proposed as part of the proposed development. While the site is located 3km from Mitchelstown, it is not so far as to preclude a short trip for local people with regard to the proposed fast food provision. I accept that this is a required and common feature of motorway service areas and as such, I consider it acceptable.

10.5 Roads & Traffic

10.5.1 The first party, included as part of the application documents, a Transport Impact Assessment Report, prepared by Roughan & O'Donovan, Consulting Engineers. This report includes a Road Safety Audit and concludes that the proposed development, including the changes made to address the issues raised in the audit, will be satisfactory in terms of traffic operations and safety. In order to access the site, the development proposes the construction of a fifth arm to the existing roundabout at the junction.

10.5.2 Analysis of the capacity of Junction 13 indicates that both the north and south roundabouts currently operate well within design capacity. The report notes that the proposed new arm to the northern roundabout to provide access to the site has been designed and laid out in accordance with the NRA DMRB, TD16/07 as amended by the NRA addendum to TD16/07 Geometric Design of Roundabouts. A capacity analysis ensures that the new access will not impact severely on the available capacity of the roundabout.

10.5.3 The Road Safety Audit notes that the roundabout is located within a 50km/ph zone and identified 2 potential problems arising from the proposed access to the site including the fact that as the access is located at the apex of the vertical alignment of the services road and the diverge slip, the access may not be conspicuous to other drivers as well as the proposed 6% grade on the access road potentially leading to fast entry speeds to the fuel forecourt. A number of recommendations are presented in the RSA to address these issues. I note the concerns of the NRA in this regard as well as the Area Engineer who considered that 'the proposed entrance will impact on signage, public lighting, drainage on the existing routes and minor alignment changes will be required to maximise sightlines.' I am further concerned by the comments of the Area Engineer with regard to the number of recent accidents at this location and the potential added confusion should a fifth leg be constructed at this roundabout.

10.5.4 In terms of parking, it is indicated that 124 car parking spaces will be provided which amounts to 177% of the NRA requirements, including 7 spaces which will be designated for disabled use. In addition, provision is made for 7 motorcycle parking spaces – 180% of the NRA requirements. The development also proposes to provide 5 coach spaces – 166% and 20 HGV spaces – 175% of the NRA requirements, which will be accessed via a dedicated HGV route. The TIA provides that as the proposed development will cater for for spare capacity in the range of 166% to 180% greater than the NRA minimums, further expansion is unnecessary. Overall, I am satisfied that should planning permission be granted in this instance, adequate parking is provided.

10.5.5 I have had regard to all reports and comments provided in relation to roads and traffic and I note the concerns of the Area Engineer in this regard. I also note the comments of the Senior Planner who advises that while the issues raised could be dealt with by further information reporting on the file indicates a preference for the Fermoy site and as such, no conclusions in relation to roads are drawn. Should the Board be minded to grant planning permission in this instance, I consider that it would be a requirement to ensure that all road safety issues are fully addressed. A condition in terms of a further safety audit and final determination of the access details should be included as part of any grant of planning permission, details of which will require to be addressed prior to the commencement of any development on the site.

10.5.6 In terms of signage, the Board will note the comments of the NRA. Should the Board be minded to grant planning permission in this instance, I consider it appropriate that a suitably worded condition be included to ensure that all signage complies with the DoECLG Spatial Planning & National Roads Guidelines, 2012 and Traffic Signs Manual, to the satisfaction of the NRA.

10.6 Water Services & Infrastructure

Water supply

10.6.1 The proposed development is to be served by the existing 300mm public water main which currently runs along the R639. The Engineering Report,

dated November, 2014 submitted with the planning application, notes that this main is located approximately 400m from the site. Irish Water has indicated no objection to the proposed development in this regard. The development also proposes to provide a 15m³ rainwater recovery system and a water holding tank with a storage volume of 120,000 litres in order to meet the requirements for fire-fighting purposes.

Wastewater supply.

10.6.2 The Board will note that the existing Mitchelstown Public Waste Water Treatment Plan and sewer network is operating at capacity and is overloaded. In order to connect the proposed development to this public system the mains will require to be extended in the order of approximately 2.5km to facilitate same. In this regard, it is proposed that all foul discharge from the development will be treated on-site with a packaged waste water treatment system. The treated effluent shall be pumped to a 1.2ha short rotation willow biomass plantation on the site. The first party submits that there shall be no outflow to surface water, giving a 'zero discharge' system. In addition, 48 hour storage is being provided on site and if required, wastewater can be transferred to the Fermoy WWT plant or other acceptable facility. This system shall remain in place until such time as the Mitchelstown plant has been upgraded and the new mains has been constructed.

10.6.3 The proposed development site is located within 400m of the two boreholes which supply the Mitchelstown Public Water Supply (South) system. The site is located partially within both the Inner and outer Source Protection Area of these important wells. The submitted Hydrogeological Risk Assessment report submits that site investigations determined the presence of thick clay – up to 10m – is present on site where the permeability rating is moderate to low. The report also concludes that given the proposal to construct a zero discharge system on site, there is not expected to be a hydraulic connectivity beneath the surface and the underlying bedrock aquifer, and subsequently, the Mitchelstown water supply source. In addition, it is submitted that the design of the wastewater treatment system, whereby there is no discharge to groundwater, there is a low risk to groundwater.

10.6.4 The underlying bedrock of Old Red Sandstone is classified by the GSI as being of Local Importance, moderately productive in local zones, of High to Low vulnerability. The EPA report, 2010, on the “Establishment of Groundwater Source Protection Zones Mitchelstown PWS (South) Water Supply Scheme”, identifies the zone of contribution to the boreholes and indicates that the appeal site is located within an area of Moderate – High vulnerability. The report concludes that the potential risk of contamination is currently moderate having regard to the hydrogeological characteristics of the area and agriculture is identified in the report as the main potential source of pollution. The use of the site as a petrol filling station is a significant concern given its location in a groundwater protection zone. In this regard, the potential impacts to groundwater quality due to spillages of hydrocarbons would be severe should such an event occur.

10.6.5 In order to address the above concerns, the applicant has proposed to provide an alternative raw water source with a zone of contribution that does not coincide with the proposed development site. The Board will note that Irish Water have accepted this proposal in principle subject to detailed proposals and specifications being executed prior to any development on the site. I note that discussions appear to have taken place between the first party and Irish Water late in the PAs assessment of the proposed development. Notwithstanding this proposal, where limited information has been presented, I have serious concerns regarding the proposed development and the potential risk to the underlying aquifer, and the public water supply of Mitchelstown.

10.6.6 The proposed development site lies over a source protection area and within 400m of the borehole abstraction point for the Mitchelstown Public Water Supply. This supply currently has an abstraction rate of approximately 1,800m³ of water per day and is the drinking water supply for a population of 2,600 people, approximately half of the towns daily requirements. The EPA considers the vulnerability of the site as ‘Moderate to High’. In this high risk area, I consider that a fuel spill has the potential to result in serious contamination of the source.

10.6.7 Given the concerns raised above in terms of the protection of the public water supply source and the location of the site within the source

protection zone, I have serious concerns. Notwithstanding the detailed reports provided in support of the proposed development, and while I acknowledge the need for a motorway service facility in this area of the M8, I suggest that the precautionary principle should apply. I am not satisfied that this location is suitable or appropriate for such development or that it would not give rise to an increased risk of contamination of this important public water supply source.

Flood Risk

10.6.8 The preliminary flood risk assessment maps produced by the OPW indicate that there is flooding potential along the stream to the northwest of the subject appeal site. Historic mapping for the area notes the area as being wet or marshy area. From the information provided in support of the proposed development, it is noted that the lowest existing ground level of the site is 120.0mOD with the lowest level of the willow plantation at 117.5mOD. The 1:100 year flood level of the adjoining stream, including a 20% increase for climate change, is estimated to be 116.55mOD. The finished floor level of the proposed building on the site is indicated at 121.8m with external hard surfaces proposed at 121m. These levels amount to almost 5m above the predicted 1% flood level. The report concludes that the site is not at risk of fluvial flooding.

Surface Water

10.6.9 Surface water run-off from the proposed development will be collected by a new surface water drainage system that will collect the surface water from paved areas. The roof of the building and forecourt canopy will be discharged to a rain water recovery system for re-use in the amenity facility. An ACO drain will be installed around the perimeter of the refuelling areas and will be discharged to Class 1 Forecourt Separators. All surface water discharge will finally pass through a Class 2 retention separator before outfalling to the existing ditch. The proposed outfall level is indicated at 116.15mOD and a tideflex one-way valve will be fitted to prevent storage capacity being reduced. The attenuation area will be sized for a 100-year flood event. Limited outflows will be restricted to greenfield rates, 8.64l/sec/ha. All pipework within the site will be sealed and no permeable paving will be used in order to ensure no loss to groundwater.

10.7 Other Issues:

10.7.1 Cultural Heritage Impacts:

The Board will note the comments of the County Archaeologist in relation to the proposed development and the archaeological findings associated with the construction of the M8. In the vicinity of the proposed development site, one recorded monument has been identified. This site ref. C0019-071 is a Fulacht Fia at Gortnahown and is located adjacent to the stream, on lands outside the proposed development site but within the appellants holding. The Board will note the comments of the County Archaeologist in terms of the high density of archaeological monuments, including those which were uncovered during the construction of the M8 road scheme. It is submitted that the potential of encountering archaeology is very high at this location.

The archaeological potential of the appeal site was the subject of investigations at further information and clarification stages, including geophysical surveys of the site. The results of an archaeological investigation, including archaeological testing and geophysical surveying, suggest that much of the site is unlikely to contain extensive subsurface archaeology. Three areas of archaeological potential along the periphery of the site (north, west and south) were identified, comprising the following:

- a curvilinear feature within the northern part of proposed development (ref. AAP 1),
- a burnt spread in the north-western corner (ref. AAP 2)
- a further burnt spread within the southern part of the site (ref. AAP 3).

Recommended conditions are presented by the County Archaeologist, but ultimately, further information is required in order that a revised site layout plan be submitted which clearly identify APP 1 & 2 and in order that the extent of the buffer zone can be agreed. Having regard to the site investigations undertaken and the findings of the Cork County Archaeologist, it is not considered that the development would give rise to significant impacts on the archaeological or cultural heritage of the area. Should the Board be minded to grant planning permission in this instance, I would consider it appropriate that the archaeological conditions prepared

by the County Archaeologist with regard to buffer zones and monitoring, should be included in such a decision.

10.7.2 Requirement for EIS:

The development is below the threshold for submission of a mandatory EIS, as set out in Schedule 6 of the planning and development regulations. The criteria set out in Schedule 7 in respect of sub-threshold development has been considered. Having considered the nature of the proposed development and the stated Schedule 7 criteria, I do not consider that the submission of an EIS is required in this instance. I acknowledge the submissions made in third party appeals in this regard. I also note the references to a requirement under the Roads Act for preparation of an EIS in respect of the proposed development. The Board will note however, the requirements of S.10 of the 2007 Roads Act amending S.50 of the 1993 Act, relate to development proposed by the Roads Authority or the NRA. The proposed development is proposed by a private party and therefore does not comprise such a category of development.

11.0 APPROPRIATE ASSESSMENT:

11.1 The obligation to undertake appropriate assessment derives from Article 6(3) and 6(4) of the Habitats Directive. Essentially it involves a case by case examination for Natura 2000 site and its conservation objectives. Appropriate Assessment involves consideration of whether the plan or project alone or in combination with other projects or plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures to avoid reduce or offset negative effects. This determination must be carried out before a decision is made or consent given for the proposed plan or project. Consent can only be given after having determined that the proposed development would not adversely affect the integrity of a European Site in view of its conservation objectives.

11.2 The appeal site is not located within or immediately adjacent to any Natura site. The closest Natura 2000 site is the Blackwater River (Cork / Waterford) SAC (Site Code 002170), approx. 5.8km south of the site at its closest point. The development proposes the discharge of surface waters

to the Gradoge River, and ultimately the Funshion River, a tributary of the River Blackwater, to the north of the current appeal site. The development proposes that surface-water run-off will be collected and attenuated prior to discharge via Class 1 full retention separator. The discharge point is approx. 5.8km directly upstream of the SAC boundary with a length of water flow from the discharge point to the Blackwater SAC itself, of approximately 41km. An Appropriate Assessment Screening Statement was presented to the planning authority as part of the planning documents. This AA identifies the conservation objectives of the SAC and assesses likely impacts of the development thereon.

- 11.3 The site the subject of this appeal itself can be considered a greenfield rural site. Given that there are Natura 2000 sites located within 15km of the site, the Board will be required to consider the potential effects of the proposed development on the identified SPAs and SACs. The site must be subject to AA regarding its implications for the Natura 2000 site in view of the site's conservation objectives *"if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects"* (EC, 2006). In other words, where doubt exists about the risk of a significant effect, an Appropriate Assessment must be carried out.
- 11.4 Having considered a number of potential significance indicators which have regard to any potential or likely effects of the proposed development on the on-site habitats, together with the habitats so protected under the designated SACs within 15km of the subject site, it is clear that the potential impact associated with the proposed development relates to the deterioration of water quality, which could have an indirect effect on the species and habitats that occur within the SAC. That said, I consider that, given the scale of the proposed development, together with the distance between the site and the SACs and the mitigation measures proposed as part of the planning application, the proposed development is unlikely to have an impact on the Natura 2000 sites within the 15km of the site. I am of the opinion therefore, that the development, if permitted, is likely to have little or no impact on the proximate Natura 2000 site. Invoking Article 28 and seeking the comments of the NPWS, is unnecessary in my opinion.

- 11.5 The AA screening report submitted determined that a full AA was not required, as the subject site is located at a distance from any designated sites and that no significant impact on designated habitats is expected to occur. The Planning Authority have considered and agreed with this conclusion.
- 11.6 The safeguards set out in Article 6(3) and (4) of the Habitats Directive are triggered not by certainty but by the possibility of significant effects. Thus, in line with the precautionary principle, it is unacceptable to fail to undertake an appropriate assessment on the basis that it is not certain that there are significant effects. Having regard to information provided, and in terms of screening for AA, I conclude that the proposed development would not be likely to have a significant effect on any Natura site and that there is therefore no requirement for stage 2 Appropriate Assessment.

12.0 CONCLUSION & RECOMMENDATION

12.1 Conclusion:

- 12.1.1 I have had regard to the information submitted in support of the application together with all reports and third party submissions, and the requirements of National Policy as it relates to the provision of off-line motorway service areas, national guidance and Local Policy in the forms of the Cork County Development Plan 2014 as it relates to the National Road Network and Greenbelts and the Fermoy Electoral Area Local Area Plan 2011. It is clear that there is a requirement for a motorway service area to be provided at some point between junctions 13 and 14 of the M8 motorway as described in the NRA Service Area Policy, NRA 2014. In this regard, I am satisfied that, subject to the normal planning criteria identified, in principle, it can be considered that the subject proposed development can be considered acceptable in principle.
- 12.2 Further to the above, the Board will accept that the subject site is located within a greenbelt and as such, the development must be considered to be strategic to the functioning of the motorway network. The provisions of Section 1.9.19 of the Fermoy Electoral Area LAP must also be considered in terms of the proposed development. The Board should also acknowledge the concurrent appeal currently before the Board for a

similar type development at Junction 13 of the M8, at a distance of 9km from the current site. Having determined the need for a motorway service area, national policy clearly provides that only one facility is required in this area. To grant planning permission for the two proposals would result in a proliferation of facilities beyond the established needs. In addition, such an approach would significantly and negatively impact on the greenbelts of Fermoy and Mitchelstown contrary to local policy and the proper planning and sustainable development of the area. In particular reference to the subject proposed development site, the Board will note Section 1.9.19 of the LAP which explicitly deems the area unsuitable for development as it would have a negative impact on the visual setting of the town. Ultimately, I consider that the proposed development, if permitted, would be contrary to the policy requirements of the LAP.

12.3 In addition to the above I suggest that it is reasonable to consider the plans of the NRA to provide an on-line service area at Kilworth, together with the investment already made by the state to acquire lands to facilitate same. It is notable that the latest NRA policy, 2014, while supporting the provision of private developer led off-line service areas, still indicates the intention to consider the provision of on-line service area in 2019 should this not happen. The time frame for delivery in this instance is indicated by 2022. In this regard, and while two proposals are before the Board for consideration, I do not consider that it is necessary to accept that either one is acceptable if site conditions and environmental considerations cannot be adequately addressed.

12.4 Considering the planning history pertaining to this proposed development, together with all of the other relevant issues discussed in this report, I have serious concerns regarding the location of the proposed development in a source protection zone and the potential impact of same on the vulnerable underlying aquifer. I am not convinced that adequate details or consideration has been given to this issue and as such, consider that a grant of planning permission would be contrary to the proper planning and sustainable development of the area.

12.5 In light of the above, and the serious environmental concerns as described, I consider that the site is not suitable for the proposed

development and as such, the proposal would be contrary to the policies of the LAP regarding the protection of the Fermoy Greenbelt.

12.2 Recommendation:

Having considered the contents of the application including the all specialist reports contained therein, the decision of the planning authority, National Policy, NRA Service Area Policy, 2014, the provisions of the Cork County Development Plan 2014, the Fermoy Electoral Area Local Area Plan, 2011, the provisions of the Spatial Planning & National Roads Guidelines (DOECLG 2012) the grounds of appeal and the responses thereto, the observations made to the Board, planning history, my site inspection and my assessment of the planning issues, I recommend that permission be refused for the reasons set out hereunder:

REASONS AND CONSIDERATIONS

1. The proposed development is located within the Mitchelstown Greenbelt Area, wherein it is the policy of the County Development Plan and the Fermoy Electoral Area Local Area Plan that development will only be allowed where it is of a strategic and exceptional nature. Section 1.9.19 of the Local Area Plan states 'To the south, the principal approach road into the town is the R 667, which is a designated scenic route and is deemed unsuitable for development, as it would have a negative impact on the visual setting of the town.'

Notwithstanding the identified need for a Motorway Service Area at a location in the area of Junctions 13 – 14, the Board is not satisfied that site conditions are acceptable for the proposed development. It is considered that the development, if permitted, would be contrary to the policies of the development plan with regard to development within the Greenbelt and the provisions of the national guidelines. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development is located within the source protection zone of the Mitchelstown South Water Supply Scheme and in close proximity to the main borehole for this public water supply which provides up to half of the towns daily requirements. Having regard to the nature of the uses proposed on the site, and notwithstanding the proposed zero discharge design of the on-site wastewater treatment and disposal proposals, the Board is not satisfied that this location is suitable or appropriate for such development or that it would not give rise to an increased risk of contamination of this important public water supply source. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

A. Considine
Inspectorate
12/05/2015

A. Considine
Inspectorate
13/05/2015