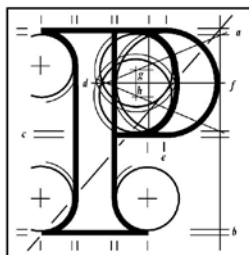


An Bord Pleanála



Inspector's Report

Development: Motorway service area and rest area adjacent to Junction 12 of the M18 at Kilbreckan, Doora, Co. Clare.

Application

Planning authority: Clare County Council
Planning application reg. no. 14/769
Applicant: Pat McDonagh
Type of application: Permission
Planning authority's decision: Grant, subject to 24 conditions

Appeal

Appellants: Claireen Service Station
Shane Brigdale
Applegreen Service Areas Ltd
Type of appeals: Third parties -v- Decision
Observers: None
Date of site inspection: 28th April 2016
Inspector: Hugh D. Morrison

Site

The site is located 2.8 km to the east of the Clareabbey roundabout on the N85, which lies within the southern outskirts of Ennis, and 4.8 km to the south east of Ennis town centre. This site lies to the north east of the Killow East Roundabout, which forms part of Junction 12 on the M18. The southbound exit ramp to this Junction and adjoining extensive motorway verge bounds the site to the west. The eastern extremity of the N85 terminates at the Killow East Roundabout and, to the east of this Roundabout, the L4144 bounds the site to the south. (This local road runs in an east north easterly direction to the R469, the regional road which runs between Kilmurry and Quin and Ennis). Existing access to the site is from the L4144 via a farm gate adjacent to the Killow East Roundabout. This gate serves a vehicular track across the western half of the site to the adjoining field to the north.

The site is one of a number of fields that spread out to the north east. Formerly, this site was quarried for stone in connection with the construction of the M18. It is now down to grass and in agricultural use for grazing. The site is of amorphous shape and it extends over an area of 4.2 hectares. While overall it is of undulating form, this site slopes gently towards its centre, where a French drain has been laid on a roughly west/east axis to reflect the more pronounced fall in levels towards the south eastern corner of the site. The Killow East Roundabout is elevated above the site and the aforementioned southbound exit ramp and the western extremity of the L4144 rise to meet this Roundabout. The site boundaries with these roads and the northern boundary are denoted by means of timber post and rail fences. The remaining eastern boundary is denoted by means of a tree-lined hedgerow and timber post and wire fences.

Proposal

The proposal would entail the development of the site to provide an off-line motorway service area (MSA). This MSA would be focused on a two storey building with a floorspace of 2126.9 sq m. This building would include within it a convenience shop (100 sq m), a food court (761.20 sq m), a drive thru, offices (241.80 sq m), and staff facilities. An accompanying canopy would be constructed over a fuel service area, which would be surrounded by car parking spaces.

- As originally submitted access and egress points to the site would have been separated out along the southern boundary with the L4144. The aforementioned building would have been centrally sited with the fuel service area on its western side. The majority of customer car parking spaces (165) would have been laid out to the south of this building, with bus parking spaces (10) to the north, and an HCV fuel service area to the north east and parking spaces (20) to the east. A one-way loop road would have run around these spaces.

- Following a request for further information, the layout of the proposal was amended. Thus, the access would be re-sited further to the east to a position adjacent to the egress and a roundabout would be laid out close by to facilitate the distribution of traffic. The proposed building and fuel service area would now be sited in the western half of the site with the building to the north and the service area to the south. Bus parking spaces would be further to the west and the HCV fuel service area and the HCV parking spaces would be, variously, to the north west and the north. Customer parking spaces would be laid out to the east and an overnight caravan parking and picnic area would be laid out in the south eastern corner of the site.
- At the appeal stage, the applicant has submitted a further amended layout, which shows the omission of the drive-thru and the overnight caravan parking area and the re-siting of the picnic area to a position beside the south eastern corner of the building. Improved pedestrian facilities and an improved specification for the dedicated farm road across the eastern portion/north eastern corner of the site are also shown. The priority previously afforded to the access road from the L4144 on the roundabout would be changed so that, as with the other roads joining this roundabout, traffic would be required to halt.

The proposal would also entail infrastructural and associated works, which would include public lighting, signage, landscaping, electrical sub-station, on-site waste water treatment plant (incorporating pumping chambers), rising main, sand polishing filter, petrol interceptor, surface water attenuation system (out falling to on-site storm water facilities), underground fuel storage tanks, rain water harvesting system, on-site potable water source with secondary connection to public water supply, and underground storage tanks for fire-fighting purposes. An upgrade to the adjacent Killow East Roundabout would also be undertaken.

Planning authority's decision

Following receipt of further information, permission granted subject to 24 conditions, which include the following ones:

2. (a) Net retail floorspace in the forecourt shop to be capped at 100 sq m.
- (b) The development to function solely as a motorway services area.
- (c) First floor to be used in accordance with further information plans of the same.
- (d) Tourist information centre to be relocated closer to the public seating area.

5. (a) & (b) Overnight parking of caravans/mobile homes to be omitted and parking area concerned to be reassigned for the parking of vehicles only.
12. (a) The 11 car parking spaces to the east of the forecourt to be omitted in favour of landscaping.
- (b) The north western exit from the forecourt to be omitted in favour of landscaping.
- (c) The area denoted in red within the roundabout to be removed.
- (d) Gully points to be identified.
- (e) Pedestrian crossing between building and HGV parking to be introduced.
15. (a) Additional lighting column to the east of column 6 to be introduced.
- (b) All lighting to be cowled.
20. The drive-thru to be omitted.

Technical reports

- County Archaeologist: Following receipt of further information, which included an archaeological test trenching report, no objection.
- Chief Fire Officer: Following receipt of further information, no objection, subject to compliance with other relevant statutory codes.
- DoAHG: Following receipt of further information, no objection, on archaeological grounds, and condition requested, on nature conservation grounds, to ensure that all mitigation measures cited under section 6 of the NIS are implemented.
- Road Design: Detailed critique of further information provided: Certain points encapsulated in amending conditions attached to draft permission.
- TII/NRA: Following receipt of further information, objection maintained: The proposal remains at variance with official policy in relation to the control of development on national routes: Itemised issues have still to be resolved.
- Drainage: Advises that work is on-going in cleaning arterial drains comprised in the Manus Drainage District, which includes the site and the L4144.
- Environmental Health: Critique made of the proposed overnight parking area.

Grounds of appeal

(a) Claureen Service Station

- Under further information, the proposed layout of the site was revised and so is no longer wholly within the red edge of the application site. While the planning authority seeks to address this matter by reference to Section 34(13) of the Planning and Development, 2000 – 2015, the view is expressed that a new application should have been made.
- Section 2.8 of the SPNR Guidelines advocates a plan-led approach to the provision of off-line motorway service areas (MSAs). The DP does not identify any sites or advise on how such sites may be identified.

Attention is drawn to application reg. no. 16/50 (appeal PL03.246435) for an off-line MSA at Junction 11 of the M18 and to the TII's acknowledgement that there is a need for an on-line MSA between Sixmilebridge and Ennis on the M18. A risk of oversupply thus exists.

The replacement CDP should give a lead as to the appropriate location for a MSA and, until this happens, proposals for MSAs should be regarded as premature.

- The current proposal is at odds with the TII's aforementioned quest to provide an on-line MSA between Junctions 7 and 12 of the M18, a stretch of motorway that requires particular consideration due to its complexity. This quest underwent a public consultation stage in November 2015, when two sites identified between Junctions 10 and 11 were discussed.

In the light of the foregoing, the current proposal, which would be only 8km away, would be contrary to national policy that seeks a sustainable provision of Type 1 MSA facilities along the motorway network at 100 km intervals. Such proliferation cannot be justified. In this respect, attention is drawn to the Board's decision on a comparable proposal (PL04.242586).

- Under the Draft Ennis and Environs Local Area Plan 2015 – 2021 (dLAP), the appeal site was included within an extension of the Plan's boundary to the east of Junction 12 of the M18 and it was zoned commercial and identified under Policy 6.13 as a MSA. The TII, in its submission on this draft Plan, critiqued this zoning on the basis that it was neither coherent nor evidence led. Furthermore, serious concern was expressed that it did not reflect the SPNR Guidelines and that it was premature pending a review of M18 MSA needs. Deletion of the said zoning and Policy was requested. The dLAP has been abandoned.

The Ennis and Environs Development Plan 2008 – 2014 (DP) remains the operative DP until the adoption of the draft Clare County Development Plan 2017 – 2022. The DP shows the site as lying outside the settlement boundary in countryside, subject to strong urban pressure, wherein a MSA is not identified as an appropriate use. Accordingly, the proposal would be a material contravention of this DP and yet the planning authority has permitted the same.

Policy EN13 of the DP addresses the Western Corridor Working Landscape, within which the appeal site lies. The proposal would run contrary to this Policy insofar as it would be a visually prominent commercial development that would be out of character with its host rural agricultural landscape. It would be injurious to the amenity of this landscape and it would establish an adverse precedent for such development.

Policies RT5 and RT11 of the DP address out-of-centre retail development and evening and late night uses. The proposal would fail to comply with the criterion comprised in these Policies.

- The TII, as the leading authority on MSA, states that the proposal would “not comply with the design standards for a Type 1 Service Area in accordance with the design standards of TA 70/14.” Nevertheless, the planning authority inexplicably agrees with the applicant’s contrary view. Neither the planning authority nor the applicant consulted with the TII in advance of the current application.

Even after the submission of further information, the TII expressed the following concerns:

- The proposal would result in an increase in merge/diverge movements at Junction 12 with implications for mainline flow on the M18, which have not been assessed.
- The TIA lacks analysis of the +5 years design year requirement.
- The TIA utilises traffic flows to the Killow East Roundabout and the proposed access that are too low and right hand turning traffic flows into this access are omitted.
- The TIA shows that the Killow East Roundabout and the proposed access would be over capacity by 2031 and yet appropriate mitigation is not identified.

The following outstanding traffic safety concerns of the TII remain:

- The gradient of the local road between Killow East Roundabout and the proposed access would exceed 2%.
- Forward visibility for drivers turning right into the proposed access would be inadequate.
- Other outstanding safety concerns are as follows:
 - The applicant has not demonstrated that he has sufficient interest over the lands outside the red edge of the application site that would come within the eastern visibility splay to the proposed access.
 - The specification of a separate access and egress (20m wide) to the site could lead to driver confusion, especially in the case of drivers turning right into the site.
 - The TIA under-estimates traffic flows from the N85 to the west of the site.
 - While the proposed overnight parking area has been omitted, there is no word on the proposed picnic area. As this area would be sited beside an open attenuation pond, a safety risk would be posed.
 - MSA traffic and agricultural traffic, including livestock, would share the same access and egress facilities, thus leading to potential conflict.

The re-routed private right of way would abut the proposed waste water treatment plant rather than display the required minimum 4m clearance distance.

This right of way would be unable to accommodate an HGV satisfactorily.

- The planning authority's decision to permit the proposal is critiqued on the following grounds:
 - The critiques of the TII and the Road Design Office are not engaged with.
 - Reliance is placed on DP Policy ZL4 and yet the proposal is for far more than just a petrol filling station
 - While the planning authority appears to have initially relied upon the dLAP's zoning of the site, when it came to decide on the current

application not only had this Plan been abandoned but the TII has made progress in MSA site selection, as outlined above.

- Attention is drawn to the planning authority's draft refusal of application reg. no. 15/15 for a comparable proposal at Junction 11. While this application was withdrawn, the reasons given for its contemplated refusal could equally well have been used to refuse the current proposal.
- The proposal would, due to the range of services on offer, become a destination in its own right, which would, due to its connection to the local road network, intercept drivers travelling towards Ennis from the east. Thus, local businesses, including the appellant's, would suffer a loss in trade. Such an outcome would be contrary to the Section 19.6 of the DP, which seeks the retention of existing petrol filling stations in Ennis.

Contrary to Section 8.10 of the DP, the proposal was not the subject of a retail impact assessment and so no sequential test was carried out on the same.

The SPNR Guidelines and the SAP echo the above concerns with respect to destination and the generation of local trips.

- While the omission by condition of the proposed drive-thru is welcomed, the inappropriateness of this use is emphasised in the light of its propensity to generate local trips and its exclusion from the list of uses considered to be suitable for a MSA (cf. TGD TA70/08). Attention is drawn to the Board's decision on appeal PL04.241494 to omit a drive thru from a MSA.
- The proposal would rely upon an on-site waste water treatment plant (WWTP), which could be a potential source of pollution. It is thus premature in advance of the provision of a public sewerage system.

The WWTP would be sited within 3m of the site boundary rather than the required 30m and so it would effectively sterilise a portion of the adjoining land.

The location of the T and P tests is not shown on the site services and drainage layout drawing and so it is not possible to verify whether or not the WWTP would be sited in a location that would be demonstrably hydrologically viable.

(b) Shane Brigdale

- The appellant has a registered right of way across the site. He has not given his consent to the current application and so it should have been declared invalid.

The planning authority subsequently under a request for further information sought to address this subject (cf. question 4(ix)(b)). However, notwithstanding an unsatisfactory answer from the applicant this subject was not pursued further and a note referring to Section 34(13) of the Planning and Development Act, 2000 – 2015, was not added to the draft permission.

- The applicant proposes to provide an alternative route across the site for the appellant. This route is critiqued on the following grounds:
 - It would fail to connect with an existing roadway and loading pens to the north of the site,
 - It would pass through a buffer zone for bats,
 - It would pass too close to the proposed WWTP,
 - It would be inadequate to accommodate a cattle truck,
 - The forward visibility afforded would not be comparable with the existing route, and
 - It would inevitably pose a security risk to the appellant's land to the north of the site.
- Attention is drawn to the failure of the applicant and the planning authority to liaise with other bodies, primarily the TII, in contravention of CDP objectives so to do.

The planning authority failed to reflect the TII's advice in granting draft permission and thereby contravened CDP objectives relating to petrol filling stations, motorways and national primary and secondary roads, and service and rest areas.

- Attention is drawn to the greater than 2% gradient of that portion of the L4144 from which access to the site would be taken and to the initial portion of the proposed on-site access road that would be subject to a similar gradient while passing through a 180 degree curve – a combination that would be particularly hazardous for high sided vehicles.
- Attention is drawn to the site's former use as a quarry and to the fact that bedrock remains very close to the surface, as borne out by the T test results.

The concern is thus expressed that rather than discharging into the ground, effluent from the WWTP would percolate laterally downgrade into surface water ponds.

Dissatisfaction is expressed over the applicant's effective deferral of more detailed investigation and design work to the waste water licensing stage: what if insurmountable problems then emerge against the backdrop of an extant permission?

The presence of an underground stream, possibly now piped, in the south eastern corner of the site has not been investigated and yet it is in this corner that the applicant proposes to site a wetland.

- Dissatisfaction is expressed over the uncorroborated figures in the applicant's Hydro-G report of an equivalent PE of 168 for hydraulic loading and 452 for organic loading. The design of the proposed WWTP utilises the former figure but not the latter one, i.e. 313 is used instead.

EPA separation distances would not be reflected in the siting of the proposed WWTP.

- In view of the foregoing critique of waste water, a considerable number of CDP objectives relating to water would be contravened.
- The appellant has also submitted a personal letter outlining his dealings with the applicant.

(c) Applegreen Services Area Ltd

- Attention is drawn to the dLAP, which has been discontinued, and the dCDP, which is proceeding. Under Section 18(3) of the Planning and Development Act, 2000 – 2015, the former but not the latter type of plan can be considered in assessing applications.

The DP makes explicit that all the land within the Plan's boundary but outside of the settlement boundary is a countryside area that is under strong urban pressure. The zoning objective for this area is "To provide for the appropriate development of agricultural and forestry uses and to restrict residential development and to conserve and enhance the environment, biodiversity and landscape." The accompanying zoning matrix does not cite MSAs, but each of the component parts of the same are deemed not to be permitted in countryside areas and so the proposal would materially contravene the aforementioned zoning objective.

Section 19.6 and Policy ZL4 of the DP pertain to the sustainable provision of petrol fillings stations within Ennis. Consequently, this Section does not

envisage an off-line MSA, such as that proposed, and this Policy sets out criteria for the assessment of proposed petrol filling stations, which the current proposal would not meet.

- Attention is drawn to what appears to be the proposed use of the M18 wetlands to the south east of the site and yet the TII has not consented to such usage nor is it likely to do so.

The applicant's Hydro-G report is critiqued on the following grounds:

- The proposed volume of storage to cater for surface water run-off is 549 cubic metres, i.e. proposed attenuation tanks (354 cubic metres) + new wetlands (195 cubic metres), whereas the appellant calculates that this should be 766 cubic metres, i.e. 638 cubic metres + 20% for climate change.
 - Attenuation would only occur with 1 in 100 year events, thereby exacerbating local flooding downstream of the site. A detailed flood risk assessment should, therefore, have been undertaken.
 - The site lies within the Manus Drainage District. Infrastructure within this District is in poor condition and thus is in need of upgrade. Funding for such upgrade is not assured and so the aforementioned detailed flood risk assessment should have assumed the existing baseline. The proposal would be premature until the said upgrade is undertaken.
- Attention is drawn to the Killow East Roundabout: the ARCADY outputs in the applicant's TTA indicate that traffic generated by the proposal would have a significant effect upon this Junction. Attention is also drawn to the proposed access and PICADY analysis which concludes that the RFC for the same would be 1.05 in the design year.

The TTA does not expect pedestrians and cyclists to be in attendance at the MSA. However, it does encourage employees to cycle and yet there is no provision for cyclists at either Killow West or Killow East Roundabouts.

- The on-site access arrangements are critiqued as follows:
 - The proposed yield line on the circulatory roundabout would risk confusion and collision.
 - The triple diverge shortly after the said roundabout would risk sudden breaking and sharp turning manoeuvres.

- The juxtaposition of the delivery yard and the drive-thru route would risk collisions.
- No clear and safe pedestrian routes are shown between the HCV parking spaces and the building.
- The purpose of the access road along the eastern side of the site is unclear.
- Notwithstanding the planning authority's concerns over the first floor of the building, this floor has been retained on the basis of rooms that appear to be oversized for their allotted uses. Concern is expressed that such retention is to ensure that the building is a landmark one and thus highly visible from the M18. Neither national nor local MSA policies justify this approach.

Attention is drawn to the design approach exhibited by recent on-line MSAs, which is both discrete and sympathetic to the surrounding countryside. By contrast, the design of the proposed building is based on an urban template.

- Attention is drawn to the TII's objection to the commercial zoning of the site in the dLAP and to its objection to the current proposal. In particular, the TII expresses concern that the proposal would generate traffic at Junction 12, which, contrary to the SPNR Guidelines, would harm its operating efficiency.

The planning authority's justification of the proposal on the grounds of the DP's position on petrol filling stations is also dismissed as being contrary to these Guidelines.

Attention is drawn to advice contained in the NRA's Service Area policy, which states that facilities in MSAs should be of a type that avoids the attraction of short local trips. Condition 2(b) attached to the draft permission seeks to address this point. However, it would be virtually unenforceable in practise, as the proximity of the site to Ennis is fixed. Precedent for refusing an MSA on the basis of such proximity and resulting trade diversion is established by the Board's decision on PL10.242806.

Regret is expressed that, whereas the planning authority contested the office content of the proposed building, the applicant was not requested to undertake a retail impact assessment of the retail activities.

Attention is also drawn to the fact that at present 50% of the traffic using Junction 12 is either going to or coming from Ennis. This percentage is much higher than that for traffic change at other more rural junctions on the M18, such as Junction 11, where the appellant has applied for an off-line MSA (application reg. no. 16/50 and appeal ref. PL06.246435). Inevitably, the

retail offer, including the range of dining options “under one-roof”, would attract customers to the loss of Ennis.

Support by appellant (a) for appellants (b) and (c)

- The views of the other appellants with respect to national roads policy and the TII’s view that the complexity of the section of the M18 in question means that MSA proposals require special attention are welcome. Furthermore, attention is drawn to the inspector’s view in her report on PL03.244739 that “The necessity for a co-ordinated forward planning approach in line with the statutory guidance with regard to off-line MSA development cannot be under estimated.” No evidence of such co-ordination exists in the current case.
- The views of the other appellants with respect to zoning objectives and Policy ZL4 of the DP are welcome as is appellant (c)’s concerns over the proximity of the site to Ennis and the resulting scope for trade deflection. The planning authority is criticised for refusing an expansion of an existing petrol filling station at Clareabbey (application reg. no. P15/429) partly on the grounds of adverse impact upon Ennis town centre and yet it did not request/assess the impact that would result from the current proposal upon the town.
- Attention is drawn to a further anomaly arising from the aforementioned application insofar as it was also refused on traffic and road safety grounds and yet the TII raised no objection. The current proposal was permitted, notwithstanding the TII’s objection.
- The comments of the other appellants with respect to flood risk, the proposed WWTP, and the visual and landscape impacts of the proposed building are also welcomed.

Responses

The planning authority considers that the case planner’s report adequately addresses the matters at issue.

The applicant has responded to the appellants’ grounds of appeal as follows:

- In relation to the application of the SPNR Guidelines, the site is currently zoned commercial in the dCDP and it is the only site thus identified for a MSA in this Plan. As this zoning also appeared in the dLAP, the current proposal is plan-led and it would not lead to a proliferation of MSAs. Likewise, the proposed facilities are standard ones, which would not cause the site to become a destination in its own right.

- In relation to the TII’s identification of a need for a Type 1 MSA on the M18 between Junctions 7 – 12, as yet no specific proposal has been brought forward and the timetable and funding for such a proposal is uncertain. By contrast, the current appeal site is immediately available to the applicant, it is located next to Junction 12, and this site would have less of an impact upon Ennis than any comparable site would have upon smaller towns, such as Newmarket-on-Fergus.
- In relation to alleged contraventions of the CDP and DP, the following points are made:
 - The applicant does not accept that the draft permission issued by the planning authority is an indication that it failed to work with other partners.
 - The case planer’s application of the DP’s Policy ZL4 pertaining to petrol stations is not considered inappropriate as at the heart of any MSA is the sale of fuel.
 - Attention is drawn to the DP’s Table 19.2, which does not state that petrol stations are “not permitted” in the countryside but that they are “generally not permitted”. As the proposal would comply with the criterion set out in Policy ZL4, no material contravention of the DP would result.
 - European and national policies encourage the siting of MSAs on the motorway network.
 - In the nature of the case, MSAs have to be located beside the motorways that they serve. Under DP Policy EN13, the site lies within the Western Corridor Working Landscape. The character of this landscape has already been affected by the presence of the M18. The applicant’s visual assessment concluded that the proposal would not be visually obtrusive. Accordingly, it would not contravene the CDP Objective 11.4.
 - The RP Guidelines do not address MSAs, as they are addressed under the SPRN Guidelines. Citation of the DP’s Policy RT5 on retail development is not appropriate. The floorspace of the proposed shop would only be 100 sq m and the distances between Ennis and the site would militate against the deflection of trade.
 - Citation of the DP’s Policy RT14 is not appropriate, as MSAs by their nature are open in the evenings and at night and this Policy addresses late opening within urban centres only.

- The applicant has no objection to the omission by condition of the proposed drive thru.
- Under further information, the red line of the application site was extended to encompass the revised access arrangements. The land thus affected lies within Clare County Council's ownership and, as the planning authority, it was aware of this extension, as were other parties, due to the public consultation exercise that ensued.
- Under Article 22(2)(g) of the Planning and Development Regulations, 2001 – 2015, the owner of land comprised in an application site must give their written consent to the application, as distinct from someone who has a right of way across the site. Accordingly, appellant (b)'s challenge to the validity of the current application is misplaced and the other points which he raises are civil matters rather than planning ones.
- Appellant (b)'s land to the north of the site has not been zoned for development and so the applicant proposes providing a means of access to this land commensurate with its agricultural use. This means of access would compare favourably with his existing one with respect to its surface and width. Furthermore, the applicant has offered him compensation for the relocation of a stock handling/manoeuvring area within his land and they contend that the security of this land would be enhanced by the presence of the proposal, which would operate 24/7.

The applicant's specialist consultants have responded to the traffic, waste water, and bat issues raised by the appellants. Their responses are summarised below

Traffic

Introduction

- The applicant outlines the chronology of TTA preparation for the original application, the further information, and the appeal stages.
 - Under the first stage, the junctions examined functioned satisfactorily, subject to the widening of the entry arm from the L4114 at the Willow East Roundabout.
 - Under the second stage, the RFC for traffic exiting from the site onto the L4114 was predicted as being 105.4% in 2031, the design year. By way of comment, the applicant reports that the stress test that yielded this figure was a very strenuous one and that if queues were to arise then they would be back into the site.

- Under the third stage, traffic flows through the Killow East Roundabout were re-apportioned and, notwithstanding the TII's concern that during the am peak an RFC of 87% would arise, the applicant insists that this figure would be below the threshold of 85%.

Response to appellant (a)

- The applicant has submitted diagrams that illustrate their contention that, as traffic flows at Junction 12 are relatively low, even a significant increase in merge/diverge movements would be capable of being satisfactorily accommodated with mainline traffic flows.
- Five year design year predictions were not undertaken as the relevant road network is not due to undergo any developments within this timeframe.
- The RFC of 105.4% RFC is discussed as per the applicant's introductory comments.
- Traffic flows through the Killow East Roundabout are discussed as per the applicant's introductory comments. Additionally, provided the marked three lanes for eastbound traffic entering this Roundabout are contracted to two and straight ahead and right hand turn arrows are marked out on the same, this arm would have an RFC of 65.8% during the am peak.
- While that portion of the L4144 that passes the site has a gradient in excess of 2%, this gradient would be more of an issue if the portion of road was a high speed one. As it is, traffic travelling downhill has just exited Killow East Roundabout and traffic travelling uphill is preparing to enter this Roundabout, and so in both cases travel speeds are typically low.
- The forward visibility that would be available to drivers turning right into the site from the L4144 would be sufficient as it would extend as far as the Killow East Roundabout.
- The requisite right hand visibility splay that would accompany the proposed egress would be over land that the applicant or the local authority would control and so its availability is assured.
- The width of the egress has been reduced by revising the angle at which it would meet the L4144 at from 70 to 90 degrees. This revision would ease concern over the risk of right hand turning manoeuvres from the L4144 being made into this egress.
- Citation of the DP's requirements for access and egress to petrol stations is misplaced as the proposal is for a MSA.

- The Road Design Office's concern over eastbound traffic estimates on the N85 was not shared by the TII, which simply required a turn in rate of 15% from the M18, as befits a MSA.
- Concern over the siting of the proposed children's play area is addressed by its re-siting next to the building.
- Concern over any conflict between agricultural traffic and MSA traffic would apply equally to the L4144. Separate accesses to cater for both sets of traffic would simply multiply accesses on this local road.
- Over run areas would be provided alongside the proposed agricultural means of access, to facilitate the unlikely eventuality of articulated vehicles using this route.

Response to appellant (b)

- The proposed agricultural means of access towards the eastern boundary would facilitate the attendance of a cattle truck and land is available to provide a turning head at the interface with the appellant's land.
- The issue of on-coming vehicle visibility would be addressed by widening the agricultural means of access to 6m around the initial bend from where there would be good forward visibility as far as the appellant's land.
- The issue of gradient is addressed as per the applicant's comments by way of response to appellant (a) on this issue. Additionally, concern over the possibility of HCVs turning over on the site access road is addressed by reference to the superelevation that would be incorporated into this road's design and to the fact that HCV's turning left into the site would continue turning left at the roundabout and so the risk of load movement would be minimised.

Response to appellant (c)

- Anecdotal evidence of queuing at the Killow East Roundabout is just that. The applicant undertook two manual 12-hour traffic counts, during which only periodical fleeting queuing was recorded with minimal delays ensuing.
- The absence of footpaths to the site is not an issue, as the nearest housing estate is 3.5 km away and so well beyond any recognised suggested acceptable walking distance.
- While visiting cyclists are not anticipated, they could use the non-motorway road network.

- The proposed roundabout within the site has been redesigned. Thus, the yield line within the main circulatory carriageway has been omitted in favour of a yield line on the entry arm from the L4114.
- The triple diverge concern would be mitigated by the fact that vehicles would be travelling at low speeds and signage and road markings would clearly present the options available.
- A parking bay has now been identified for use by ADR vehicles.
- Potential conflicts arising from HCVs reversing into the service yard would be mitigated by the omission of the drive thru, early morning deliveries, and the assistance of staff trained to be banksmen.
- Pedestrian routes between the HCV parking area and the main building are now shown on drawing no. 114219-013 revision P4.
- The caravan park has now been omitted from the proposal.
- The appellant's assertion that 50% of the traffic using Junction 12 is travelling from/to Ennis is considered to be incorrect. The applicant estimates that, while there is a 43% drop in the AADT traffic on the M18 across this Junction, as it is the main gateway to south and west Clare, much of it travels neither into nor out of Ennis. Furthermore, while an estimated 10% of the workforce in Ennis commutes to Limerick, not all use Junction 12 and not all travel during the am peak.
- Northbound traffic exiting Junction 12 for Ennis and south and west Clare is channelled into a slip lane that avoids Killow West Roundabout and so the opportunity to turn right for the L4144 and the appeal site is curtailed.

Water

Response to appellant (a)

- The EPA's Code of Practice (CoP) (2009) specifies a 4m clearance distance between WWTPs and public roads, rather than on-site internal access roads.
- Inevitably, MSAs tend to be located on sites where public sewerage facilities are not available. The appeal site is no exception. The applicant therefore proposes to install an on-site WWTP. While the appellant contends that the discharge from this Plant would threaten the quality of local water, the applicant demonstrates that the loadings that would be presented to such water would only be a fraction of those resulting from the agricultural use of the site in accordance with the Nitrates Directive.

- The EPA’s “Waste Water Treatment Manuals: Treatment Systems for Small Communities, Business, Leisure Centres and Hotels” is cited by the appellant as requiring a 30m separation distance between a WWTP and adjacent buildings, a distance that the proposal would not achieve. The applicant insists that this Manual is for guidance only and that, in the light of the aforementioned loadings and in the absence of additional ones from other development, the proposal has no case to answer.
- The absence of a map showing the location of the T and P site holes is defended on the basis that the applicant’s submitted “Water, Waste Water and Storm Water Report” depicts the location of trial pits and describes the location of the said site holes in relation to the same. Furthermore, the Site Suitability Assessment (SSA) demonstrably followed the EPA’s CoP (2009).

Response to appellant (b)

- The issues of the 4m and 30m separation distances is raised and commented upon as per the applicant’s response to appellant (a).
- The appellant’s contention that relevant-to-planning design work on the WWTP has been deferred to the discharge licence application process is challenged on the following basis:
 - There is an unavoidable sequence to applications with a planning application preceding a discharge licence one,
 - The applicant and their engineering design team have been involved in designing, implementing, and monitoring the WWTP that serves the Obama Plaza MSA. The resulting experience has been and would continue to be drawn upon in working upon the currently proposed WWTP,
 - The SSA undertaken supports the proposed WWTP, and
 - A preliminary Assimilation Capacity Simulation scenario suggests that a ground water assimilation of 25 cubic metres per day would be required by the WWTP and that this rate could feasibly be handled. Based on this prediction, the applicant will, subject to planning permission, undertake a comprehensive hydrological assessment in connection with a discharge licence application.
- Concern over hydraulic break out from the proposed sand filter would be constructed with retaining walls to prevent such break out. Furthermore, the applicant’s hydrologist testifies to her first-hand experience of being able to

sample the discharge from a sand filter with an invert greater than 2m below ground level.

- In the light of the applicant's submissions and foregoing comments on water matters, the eight contraventions of the CDP cited by the appellant are dismissed as not being so.

Response to appellant (c)

- The wetlands identified as serving the M18 was constructed to serve greenfield run-off from the site following the quarrying activities that were undertaken therein. Under the proposal, these wetlands would continue to fulfil this function. They would be supplemented by on-site wetlands and underground storage tanks, which would attenuate storm water from the proposed hard surfaces.
- The aforementioned on-site wetlands and underground storage tanks would have volumes of 354 and 405 cubic metres, respectfully, and the off-site wetlands would have a further volume of 195 cubic metres. Thus on-site the cubic capacity would be 759 cubic metres, which approximates to the 766 cubic metres cited by the appellant as being necessary.
- Contrary to the appellant, the applicant insists that the rate of storm water release from the site at 16 l/s would equate with the greenfield run-off rate. The suggested re-siting of the hydro brake to the outlet from the on-site wetlands is accepted.
- Flood risk would be mitigated as follows: storm water would be attenuated to greenfield run-off rates, subject to agreement with Clare County Council, a drainage channel to the south of the site would be cleaned, and the site entrance/exit would be at an elevated level and they would be capable of being accessed/egressed from the M18/N85 to the west.
- There is no history of flooding on the site, which is in the PSFRM Guidelines' Flood Risk Zone C, and, under the proposal, the difference in height between the lowest area of hardstanding and the nearest water course would be a generous 6m.

Bats

- Appellant (b)'s concern that the siting of the alternative agricultural means of access would be adjacent to bat foraging areas is allayed by reference to the mass tree planting that is proposed to mitigate light spillage reaching these areas from the MSA and to the fact that light spillage from agricultural vehicles would be insufficient to disturb the same.

Responses to the applicant's responses

Appellant (a)

- The proposal is not plan led as neither the dLAP or the dCDP have been adopted. The former Plan is not proceeding and the zoning of the site in the latter Plan is the subject of objection and concern that it was the only site thus zoned. Furthermore, this zoning appears to have been proposed without consideration of the TII's finalised policy on MSAs (2014). To permit the current permission would thus at the very least be premature.
- Notwithstanding the applicant's contention that the TII's on-line MSA is not progressing, attention is drawn to the TII's "Project M18 MSA Document Site Selection Report" dated 5th April 2016, which identifies a site c. 1.5 km north west of Newmarket-on-Fergus for progression to the Preliminary Design Stage.
- Attention is drawn to two Board decisions (PL04.242495 and PL10.242806) on MSAs, which cite the lack of a co-ordinated approach as part of the reason for their refusal.
- While the appellant accepts that MSAs need to be located beside motorways, they continue to object to the scale of the current proposal with its two storey building.
- The applicant's citation of Newmarket-on-Fergus is paralleled by the appellant's concern over the impact of the proposal upon Clarecastle, a settlement of comparable size immediately to the south of Ennis.
- Following the submission of further information, the applicant highlighted revisions to the proposal but not those to the site boundaries. This was potentially misleading. A new application should have been made based on these boundaries.
- The EPA's 4m separation distance is relevant as the internal roads in question would be used by the public.
- The applicant's discussion of loading is critiqued on the basis that, while the agricultural comparison is correctly spread over 3.95 hectares, the discharge from the WWTP would be spread over an area of 0.126 hectares leading to a far more intensive concentration of loading.
- The EPA's 30m separation distance could be insisted upon with respect to any future development of lands to the north of the site.

- The failure of the applicant to disclose the sites of the T and P holes with respect to the proposed site of the WWTP is considered to be unsatisfactory.
- The modification of the proposed egress would be only a minor improvement that would be insufficient to allay the appellant's concerns over the proposed access/egress.

Appellant (b)

- The applicant's claim that the site is immediately available for development disregards the appellant's right of way over a specific route across the site, which he intends to defend.
- While a landowner's consent is required to the making of an application, by the same token, the consent of a person with a right of way across a site should be sought, if delay and conflict is to be avoided.
- The WWTP would be unable to discharge to ground water and so it would discharge to surface water, where regular monitoring of water quality would be facilitated.
- The applicant's disregard of the "4m rule" is considered imprudent.
- The French drain across the site is tangible evidence that there is a problem with vertical percolation in this former quarry site.
- In any event, within Karst environments, ground and surface waters interact and so to speak of discharging to one rather than the other is misleading.
- The understanding that the applicant could connect to the public water supply in the area, if their well fails, is questioned.
- The applicant's contention that a turning head could be provided in conjunction with the proposed means of agricultural access is challenged on the basis that, once the WWTP and landscaping proposals are allowed for, there would be insufficient room to do so.
- The appellant is neither persuaded that drivers will have reduced speed sufficiently to negotiate the site access arrangements safely nor that these arrangements would, in practise, be safe for high sided vehicles.
- The appellant accepts the advice of the applicant's ecologist. However, if the proposed means of access were to be used in the future in conjunction with the development of the appellant's land, then this advice would cease to apply and so his land may effectively be sterilised.

Appellant (c)

- The appellant shares the concerns of appellant (a) over the applicant's contention that their proposal is "plan-led".
- The applicant fails to engage with the DP's zoning objective for the site, which deems the various uses comprised in the proposed MSA to be "generally not permitted". Citation of Policy ZL4 does not overrule this objective and in any event there are urban sites identified for petrol stations. (Attention in this respect is drawn to application reg. no. 15/429 and appeal ref. PL03.246395 for the extension of the Clarecastle Service Station adjacent to the Clareabbey Roundabout on the N85).
- Policy ZL4's 300 sq m cap on convenience facilities would be greatly exceeded by the 2127 sq m floorspace of the building comprised in the proposal.
- The proposal would not be of strategic or national importance and so the provisions of Section 37(2)(b) of the Planning and Development Act, 2000 – 2015, would not be applicable.
- Junction 12 is not necessarily any more towards the mid-point between Limerick and Gort than more southerly Junctions on the M18. Furthermore, as this is a busier Junction than they, to add an MSA to it would threaten its viability and safety.
- The appellant's proposal for a MSA at Junction 11 and its impact upon Newmarket-on-Fergus are not comparable with the applicant's proposal. This Junction is infrequently used, as it lies 4 km north of this town, whereas Junction 10 lies 1 km to the south and so is used by commuters travelling to and from Limerick.
- The appellant shares appellant (a)'s concerns over the visibility of the proposed building.

Appellant (c)'s engineer has responded to the applicant's responses on traffic and water, as follows:

Traffic

- The anecdotal evidence should not be dismissed by the applicant simply on the basis of two 12 hour traffic counts. Rather a more thorough going analysis of the Killow East Roundabout, in particular, is required.
- The L4144 as it passes the site does have road markings and so it is not as favourably disposed towards cyclists as the applicant maintains

- The provision of an ADR parking space is a detailed requirement of TA 70/14, which is needed to ensure that a MSA is Type 1 compliant.
- The suggested use of banksmen indicates that the layout of the proposal would not be optimal from a safety perspective and the reference to deliveries outside of shop and restaurant hours prompts the question as to whether a 24 hour service would be provided in practise.
- The proposed pedestrian route between the HCV parking area and the building would not be optimum and so its likely use in practise is questioned.
- The applicant's assumption that, of the 43% of the traffic leaving the M18 at Junction 12, 85% of this percentage can confidently be equated with traffic counted on the N68 at a point 27 km to the south and on the N85 at a point 30 km to the north west is highly questionable. Thus, they have not established that Junction 12 is not more heavily used by vehicles travelling to and from Ennis.

Water

- Previously the applicant and the planning authority referred to the existing wetlands in connection with the M18. Accordingly, confusion remains as to the purpose of the same. Even if the wetlands do not serve the M18, the applicant states that it serves the site and its environs and yet, subsequently, omits to allow for these environs.
- The appellant remains to be convinced that the applicant has used Qbar rather than Q100 for their storm water calculations.
- Given the aforementioned comments with respect to environs, a flood risk assessment is warranted. Furthermore, as parts of the site are within PSFRM Guidelines' Flood Zones B and C, the justification test is of relevance for the entire site. Twenty percent for climate change also needs to be allowed for.
- The proposal would ultimately rely on the Manus Drainage System, which is in need of maintenance by Clare County Council that has yet to be budgeted for. What happens if this is not forthcoming? The applicant does not appear to be in a position to ensure that this would happen.
- Reassurances with respect to access/egress are premature until a full flood risk assessment has been undertaken.

Planning history

- 05/375: Quarry for the extraction of clay type materials and rock in connection with the construction of the M18 over a 24 month period on site which included the current appeal site: Permitted.
- 06/701: Quarry for the extraction of clay type materials and rock in connection with the construction of the M18 over a 24 month period on site adjoining the current appeal site to the north: Permitted.
- EPPI-13-014: General information meeting held on 7th October 2014.

Development Plan

The operative development plans for the site are the Clare County Development Plan 2011 – 2017 (CDP) and the Ennis and Environs Development Plan 2008 – 2014 (DP), which remains in force. These plans show the site as lying outside the Ennis Settlement Boundary and in countryside that is under strong urban pressure.

Objectives 11.2 and 11.3 of the CDP relate to motorway, national primary and secondary roads and service and rest areas, respectfully.

Policies EN13 and ZL4 of the DP address Western Corridor Working Landscapes and petrol stations.

Under the Draft Ennis and Environs Local Area Plan 2015 – 2021 (LAP), the site was identified as a commercial site (COM7). However, this Plan is not proceeding and the aforementioned DP is being reviewed as part of the new Clare County Development Plan 2017 – 2022, a draft of which has been published and shows the site as a commercial site (COM7).

National planning guidelines and advice

- Section 2.8 of the Spatial Planning and National Roads Guidelines (SPNR) addresses service areas.
- NRA Service Area Policy (SAP) August 2014
- Retail Planning Guidelines (RP)
- Development Management Guidelines (DM)
- The Planning System and Flood Risk Management Guidelines (PSFRM)

Assessment

I have reviewed the proposal in the light of national planning guidelines and advice, the CDP and the DP, relevant planning history, and the submissions of the parties.

Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) MSA policy,
- (iii) Traffic, access, and parking,
- (iv) Land use and landscape,
- (v) Water, and
- (vi) AA.

(i) Legalities

- 1.1 Appellant (b) owns land that adjoins the site to the north and he has a right of way across this site. This right of way is along a track that runs through the western portion of the site. Under the applicant's proposal, this track would be removed and an alternative means of agricultural access to the appellant's land would be provided through the eastern portion of the site.
- 1.2 Appellant (b) has not given his consent to the proposal and he considers that, just as the landowner of the site was required to consent to this proposal, so his consent should have been required. He thus contends that the application should not have been validated.
- 1.3 The applicant has responded to appellant (b) by drawing attention to Article 22(2)(g) of the Planning and Development Regulations, 2001 – 2015, which only requires that an applicant obtains a landowner's consent and not that of someone with a right of way across a site. They therefore contend that the planning authority was correct to validate their application.
- 1.4 I concur with the applicant's summary of the legal requirement in this matter.
- 1.5 Appellant (a) draws attention to the revised site layout that was submitted by the applicant by way of response to the planning authority's request for further information. Consequently, the proposal would no longer be fully contained within the red edge of the application site and so they contend that it should have been the subject of a further application with an enlarged red edge.
- 1.6 The applicant has responded to appellant (a) by stating that the land in question is roadside verge that lies within the ownership of Clare County Council. As the planning authority, the County Council was aware of the situation, as were third parties on foot of a public consultation exercise that followed receipt of the further information.

- 1.7 Appellant (b) has responded by stating that, whereas the applicant highlighted revisions to their proposal in the submitted further information, they did not highlight the revised site boundaries.
- 1.8 I note that the red edge was not revised and so the “revisions” that appellant (b) is referring to are ones that are implied by the new access/egress arrangements to the site. I note, too, that the site and newspaper notices that advertised the further information only referred to the lodgement of “significant further information” and so the “highlighting” that appellant (a) refers to appears to relate to the cover letter from the applicant’s agent.
- 1.9 I consider that, as the land in question is in the ownership of Clare County Council and as the proposed new access/egress arrangements themselves were clearly depicted in the submitted revised plans, that the opportunity was made available for both the County Council, as roads authority/landowner, and the public to view and comment upon the said revisions and with them the implied changes to the southern site boundary. Specifically, the Road Design Office was re-consulted and third parties were notified by means of the said site and newspaper notices. Accordingly, I do not consider that consultees/parties to this application were misled.
- 1.10 Clearly, as with the main body of the site, the applicant would need to actually be able to control the land in question for the development to proceed. Section 34(13) of the Planning and Development Act, 2000 – 2015, recognises this reality.
- 1.11 I conclude that there are no legal issues that prevent the Board assessing and determining this application/appeal in the normal manner.

(ii) MSA policy

- 2.1 National policy on Motorway Service Areas (MSAs) is set out in Section 2.8 of the SPNR Guidelines. This section addresses on-line and off-line MSAs. With respect to the latter MSAs, it advises that, in the preparation of their plans, planning authorities may consider policies for the provision of such facilities with reference to (a) the NRA Service Area Policy (August 2014), and (b) existing proposals for such facilities within settlements that are in the general environs of the motorway corridor.
- 2.2 Section 2.8 further advises that a proliferation of private off-line MSAs at motorway junctions should be avoided and, to this end, a co-ordinated approach between the NRA/TII and planning authorities should be pursued in the drafting of development plans. It also advises that facilities that would generate short local trips should be avoided, in order to protect both the primary role of

motorways in meeting the needs of long-distance traffic and the viability of town centre businesses.

- 2.3 The aforementioned NRA Service Area Policy identifies the need for a Type 1 MSA on the section of the M18 between Sixmilebridge and Ennis. This Policy states that “The location of this service area will require particular consideration due to the complexity of this section of the route and the Authority, in consultation with Clare County Council, will lead its development.” In April 2016, the TII was advised by consultants of a preferred site for an on-line MSA. This site is denoted as 1E and it is located to the north west of Newmarket-on-Fergus between Junctions 10 and 11 of the M18. The consultants recommend that the site be adopted and that the TII progress to the next stage, that of preliminary design.
- 2.4 Type 1 MSAs are defined as “a large scale service area providing an amenity building (including a convenience shop, restaurant, washrooms and tourist information), fuel facilities, parking and picnic area.” The current proposal for an MSA would come within the ambit of this definition. Nevertheless, the NRA/TII in its initial and subsequent advice to the planning authority stated that the proposal would not accord with the design standards for Type 1 MSAs set out in TA 70/14 entitled “The Location and Layout of On-Line Service Areas” (June 2014).
- 2.5 The NRA Service Area Policy was published in August 2014. The current application was lodged on 14th December of that year and it was preceded by what is referred to as a general information meeting with the planning authority on 7th October 2014. It is not clear from the evidence before me that the NRA was aware of the applicant’s proposal when preparing its Service Area Policy. I am therefore unable to say that the omission of any reference from this Policy of the current proposal was intentional or not. What is clear is that the Authority proposes to lead the development of a Type 1 MSA between Junctions 7 and 12 of the M18 (Sixmilebridge to Ennis) and that off-line MSAs will not be considered as an alternative to this on-line one.
- 2.6 The operative development plan for the site comprises the CDP and the DP. Neither Plan identifies any sites for MSAs. The former states the following under Objective 11.3: “To support the NRA in the provision of service and rest area facilities that may be proposed on the N18, having regard to the NRA guidance document Policy for the Provision of Service Areas on Motorways and High Quality Dual Carriageways.” (This document was the predecessor to the one cited above). The latter Plan shows the site as lying outside the settlement boundary of Ennis and its environs.

2.7 The parties to this appeal discuss the dLAP (discontinued) and the dCDP. Under Objective 6.13 of the former Plan, the site was zoned COM7 to facilitate the development of an off-line MSA. Under Objective 8.3 of the latter Plan, the planning authority undertakes “To collaborate with TII to secure the development of an on-line Type 1 Service Area on the M18 between Junction 7 and Junction 12 during the lifetime of this development plan...” This Plan also includes the Ennis Settlement Plan, which shows the site as lying outside the settlement boundary and zoned COM7. Thus, the dCDP explicitly supports the TII’s quest for an on-line MSA, while continuing with the dLAP’s zoning of the site.

2.8 The aforementioned COM7 zoning of the site does not appear to be accompanied by any commentary and the basis for its selection, in the absence of any other evidence, appears to be the existence of the current proposal. Based on the summary of Section 2.8 of the SPNR Guidelines set out in paragraph 2.1 above, this zoning does not appear to conform with these Guidelines, i.e. the site is not identified in the NRA Service Area Policy (August 2014) and it does not lie within a settlement boundary.

2.9 I conclude that there is an acknowledged need for a MSA between Junctions 7 and 12 of the M18. The TII is committed to providing an on-line MSA. The current CDP and DP do not identify the site for use as an off-line MSA. The draft CDP, while at too early a stage to be given weight, supports the aforementioned commitment of the TII, while bringing forward a zoning of the site that would facilitate its use as an off-line MSA. However, this zoning does not appear to conform to the advice set out in Section 2.8 of the SPNR Guidelines with respect to the inclusion of MSA sites in development plans.

(iii) Traffic, access, and parking

(a) The TTA

3.1 The original application was accompanied by a TTA which examined the performance of three junctions during the am and pm peak periods in the projected year of opening (2016) and in the design year (2031). These junctions were as follows:

- The cross roads between the L4144/L4104 and the R469, c. 2.5 km to the east north east of the site.
- The Killow East Roundabout on Junction 12 of the M18: This Roundabout serves the eastern extremity of the N85, the L4144, and the southbound exit ramp and the southbound entrance ramp to the M18, and
- The proposed “T” junction between the site access/egress and the L4144,

3.2 The RSA that accompanied the original application drew attention to the proximity of the proposed site access to the Killow East Roundabout. This matter was also identified as an issue by consultees and, so under further information, the applicant re-sited this access further to the east in a position adjacent to the proposed site egress. Also, under further information, the following additional junction was examined:

- The Killow West Roundabout on Junction 12 of the M18: This Roundabout serves the N85, and the northbound exit ramp and the northbound entrance ramp to the M18.

3.3 The original and the revised TTAs cite the applicant's experience of operating the Obama Plaza at Moneygall at Junction 23 on the M7 as the basis for apportioning trips to the proposed MSA. Thus,

- 40% of trips are assumed to be from southbound traffic on the M18,
- 40% of trips are assumed to be from northbound traffic on the M18,
- 10% of trips are assumed to be from east bound traffic on the N85, and
- 10% of trips are assumed to be from west bound traffic on the L4144.

The applicant has not sought to justify his use of this apportionment. I note that, while the village of Moneygall is adjacent to the Obama Plaza, Junction 23 lies along a rural portion of the M7 at some considerable remove from the nearest towns of Roscrea, Nenagh, and Templemore. By contrast, Junction 12 of the M18 is close to the County town of Ennis and the N85 is the national secondary road that links this town with Ennistimon to the west and, via the N68, to Kilrush in the south west. Thus, while Junctions 11, 13 and 14 serve Ennis via regional roads, Junction 12 is the M18 gateway to not only Ennis but to the West of the County. In these circumstances, it is not self-evident that Junction 23 of the M7 is analogous to Junction 12 and so I am not persuaded by the applicant's trip apportionment. Instead I would have expected to see a higher proportion of trips apportioned to the N85.

3.4 Without prejudice to the reservation thus expressed, turning to the applicant's examination of the aforementioned junctions, he concludes that, under the proposed development scenarios for 2016 and 2031, the crossroads between the L4144/L4104 and the R469 would perform satisfactorily. Subject to the widening of the westbound approach and to the consolidation of the three lanes into two and clearer road markings to the eastbound approach, the Killow East Roundabout would perform satisfactorily. Likewise, the Killow West Roundabout, which is accompanied by a slip road that effectively means that northbound traffic exiting the M18 and heading west does not connect with this roundabout,

would perform satisfactorily. However, the right hand turning movements from the proposed site egress westbound onto the L4144 would have an am peak RFC of 83.7% and a pm peak of 105.4% in 2031, i.e. just below and considerably above the threshold of 85%.

3.5 By way of explanation, the applicant states that the examination leading to the aforementioned RFCs is particularly strenuous as it assumes a turn in of 15% of mainline traffic from the M18 and the N85, a rate that is considerably in excess of what could reasonably be expected.

3.6 I note that, under Section 9.2 of the applicant's revised TTA, he assumes for the purpose of analysing the Killow East Roundabout robustly that no right hand turning movements are made into the proposed site access by westbound traffic on the L4144. These movements are thus excluded from the examination of the proposed access/egress and yet they would in practise affect the operation of this junction. If drawing no. 114210-013 revision P4 is consulted, then it becomes apparent that a vehicle waiting to turn right into the proposed access would effectively obstruct a vehicle exiting the egress to the right and yet it is such exiting movements that are identified as being prone to delay under the examination of this junction.

3.7 I note, too, that, at the appeal stage, the applicant has addressed the TII's advice to the planning authority whereby it drew attention to errors in the traffic flow diagrams for and the failure to allow for the unbalanced entry flows of traffic to the Killow East Roundabout. These corrections do not affect his satisfactory performance conclusion for this junction.

(b) The L4144

3.8 Appellants and consultees draw attention to the portion of the L4144, which passes the appeal site and from which access from and egress to would be obtained under the applicant's proposal. This portion was constructed as part of Junction 12 to the M18. It is of curved alignment and it falls from west to east at a gradient in excess of 2%. The L4144 is subject to a speed limit of 80 kmph. Ordinarily, a new access/egress off a public road to this gradient would warrant objection.

3.9 The applicant has responded to this concern by stating that traffic speeds would be low as vehicles accelerate downhill from the Killow East Roundabout or de-accelerate uphill towards this Roundabout. In these circumstances, the gradient should not be viewed as an issue.

3.10 During my site visit, I observed that the entry arms to the Killow East Roundabout are the subject of "Yield" signs and that visibility levels are good in and around this Roundabout. Accordingly, I am not confident that all drivers

entering the Roundabout from either the N85 or the M18 would necessarily come to a halt before entering this Roundabout and exiting onto the L4144. Thus, downhill speeds past the proposed site access/egress may be faster at times than the applicant's response suggests.

- 3.11 Appellants and consultees also draw attention to the visibility splays that would be available to drivers exiting onto the L4144 from the proposed site egress. These splays (3m x 160m) are shown on drawing no. 114210-013 revision P4. Concern is expressed that they would extend over land that the applicant does not control and that the westerly one would be obscured by existing road side signage and the easterly one could be obscured in the future by vegetation or structures/buildings.
- 3.12 During my site visit, I observed the two visibility splays "on the ground". With respect to the former one, the roadside signage would obstruct sight of on-coming vehicles to a small degree. With respect to the latter one, the land in question includes a strip that encroaches beyond roadside verge over a cattle pen beyond the south eastern corner of the appeal site. A line on the aforementioned drawing implies that the wetlands beside this pen are within the control of the roads authority. However, the ownership of the pen is unclear, although the applicant intimates that it is in the ownership of the current owner of the appeal site. Thus, the visibility splay to the west is slightly compromised and the prospects for the one to the east are in need of clarification.
- 3.13 As originally submitted, the application did not envisage right hand turning movements into the proposed site access. As revised, such movements are envisaged. Appellants and consultees have drawn attention to the width and alignment of the proposed site egress and they have expressed the concern that it may be mistaken for the access by drivers seeking to turn right. The applicant has responded by tightening the angle of the western kerb line to this egress from 70 degrees to 90 degrees. The revised RSA does not address this issue and so further mitigation measures, by way perhaps of signage and road markings, have yet to be identified. Beyond this risk of confusion, I am concerned that the forward visibility available to drivers seeking to turn right into the proposed site access would be inadequate, as a clear line of sight as far as Killow East Roundabout would not be available. Given my earlier comments on the possibility of speeding vehicles approaching downhill, this inadequacy would be potentially hazardous.

(c) On-site access arrangements

- 3.14 Appellants draw attention to the curved alignment and gradient of the proposed access road into the site. This road would pass through 180 degrees

and it would connect with the proposed on-site roundabout. Concern is expressed over vehicle speeds and the potential for high sided vehicles to topple over. This roundabout was first proposed under further information, when it was not envisaged as being a complete roundabout. However, under the planning authority's draft condition 12(c), it would be completed and so, instead of the access road being a free flow one, it would be subject to a "Yield" sign at its entrance point to this roundabout. At the appeal stage the applicant has submitted the aforementioned drawing which shows this configuration. While no RSA of the same is available, I consider that it would have the effect of slowing vehicles on the access road. There may also be the risk of the occasional tailback that could affect the L4144.

- 3.15 The applicant has addressed the specific concern over high sided vehicles. While he has not commented on the effect of the re-configured roundabout on this concern, I anticipate that the reduction in speed may ease the identified risk of vehicles toppling over. This reduction would also have the effect of giving drivers more time to process the advance signage that would alert them to the options available, i.e. HCV and bus fuel services and parking, car fuel services and parking, and car parking.
- 3.16 The site access arrangements depicted in the latest site layout plan (drawing no. 114219-013 revision P4) submitted at the appeal stage represent the applicant's response to earlier critiques of these arrangements by appellants, consultees, and the planning authority in its draft permission. Thus, the access arrangements that would have served the omitted drive-thru and the omitted caravan parking area have been removed in their entirety. The removal of the access arrangements for the drive thru would negate the main cause of conflict that would have arisen between exiting vehicles and delivery vehicles reversing into the delivery yard to the rear of the amenity building. I concur with appellant (c)'s residual concern over the potential for vehicular conflict and their contention that the need for such reversing manoeuvres should be designed out, e.g. by specifying a larger yard within which they could be contained.
- 3.17 The site access arrangements depicted in the latest site layout plan also show the addition of a new pedestrian route between the HCV parking area and the amenity building. However, as this route falls short of any entrance to the proposed amenity building, further work is needed to ensure that it would connect with the nearest one in the northern elevation of this building. The proposed pedestrian route from the bus parking area should be adjusted so as to be centred on this entrance, too.

(d) Alternative agricultural means of access

- 3.18 As discussed under the first heading of my assessment, appellant (b) has a right of way across the appeal site. The existing route of this right of way is across the western portion of the site, wherein the bulk of the proposed development would take place. Thus, the maintenance of this route is incompatible with this development and so the applicant proposes to provide an alternative means of access through the eastern portion of the site. This alternative means of access has been critiqued by appellant (b) and improved by the applicant (cf. to drawing no. 114219-013 revision P4 submitted at the appeal stage).
- 3.19 The appellant continues to critique this means of access on the basis that it would not be accompanied at its northern end by a turning head and that, given the proximity of the proposed WWTP and proposed tree planting to provide a buffer zone to screen the illuminated developed site at night, there would be no opportunity to provide such a turning head. He also questions whether the proposed alternative means of access would be sufficient to ensure that any future development potential of his land to the north can be realised, in practise.
- 3.20 Clearly, the questions raised by appellant (b) are matters for negotiation between himself and the applicant. For the purpose of the current planning assessment, I consider that the proposed alternative means of agricultural access would be comparable with the existing one across the site and so I am satisfied that the applicant has addressed this matter sufficiently.
- 3.21 I conclude that in the light of traffic estimates and the geometry of the L4144 as it passes the appeal site the proposed egress from the site would be likely to lead to congestion that would be incompatible with good traffic management and that its use would be hazardous and thus a risk to road safety.

(iv) Land use and landscape

- 4.1 As discussed under the second heading of my assessment, the operative development plans for the site are the CDP and the DP. Under the latter Plan, the site is shown as lying outside the settlement boundary and in an area of countryside that is the subject of strong urban pressure. The zoning objective for the countryside is "To provide for the appropriate development of agricultural and forestry uses, to restrict residential development and to conserve and enhance the environment, biodiversity and landscape." The accompanying zoning matrix does not identify MSAs as a use in their own right. However, it does identify the constituent parts of MSAs, i.e. car park, petrol station, shop convenience, and restaurant, all of which are deemed to be "generally not permitted". Accordingly, the proposal would materially contravene the DP. I have

considered this proposal in the light of Section 37(2) of the Planning and Development Act, 2000 – 2015, and I am unable to identify any provisions within this Section that would justify such contravention being made by the Board.

- 4.2 The planning authority in its assessment of the proposal cited the DP's Policy ZL4 on the development of new petrol filling stations. The appellants' critique the use of this Policy insofar as it should not be applied in situations wherein the in-principle land use question prompts objection, such as in the present case. I concur with this critique and consider that, even if the proposal was compliant with the criterion set out in this Policy, and such compliance is far from certain, this would not overcome the underlying in-principle land use objection.
- 4.3 The applicant contends that, in the nature of the case, MSAs are likely to be sited in countryside areas and so objection to their proposal on this basis is unwarranted. In the light of my discussion of the advice contained in Section 2.8 of the SPNR Guidelines under the second heading to my assessment, the location of MSAs in the countryside should not be considered to be inevitable or a foregone conclusion. Furthermore, the applicant's position crystallises the question as to whether the location of MSAs should be application led or plan led. The aforementioned Guidelines envisage the former rather than the latter approach.
- 4.4 Section 2.8 of the SPNR also addresses the possibility that MSAs may attract short local trips that would be contrary to the RP Guidelines, as it could threaten the viability of existing town and neighbourhood centres. The appeal site is located close to Ennis and Clarecastle to the south of Ennis and these two settlements are connected to the site by the N85. The likelihood that the proposal would attract local trips therefore exists. The lack of persuasive estimates as to the number and proportion of traffic using Junction 12 that is generated by commuters residing in these settlements means that any estimate of commuter usage of the proposal is unavailable.
- 4.5 The applicant has accepted the need to omit the proposed drive thru as perhaps the most likely generator of local trips. Nevertheless, the combined draw of a 100 sq m convenience shop, an extensive food court with indoor and outdoor seating, and ample car parking would be likely to generate local trips in their own right and to deflect commuters travelling to and from work. The absence of any assessment of the likely impact of this custom upon retail centres within Ennis and Clarecastle is therefore of concern.
- 4.6 Beyond the aforementioned cluster of uses, the amenity building as originally proposed would have included office meeting areas at first floor level. The inclusion of these areas within this building was the subject of inquiry under the planning authority's request for further information. Consequently, these areas

were re-specified as a tourist information centre and a drivers' lounge. However, the latter use appears to have been previously proposed for a room towards the rear of the building, which was denoted as a truckers' lounge. This room is now proposed for use as a staff office. Condition 2(b) of the planning authority's draft permission seeks to exclude functions and events that would present the facility as a destination in its own right. The appellants have questioned the enforceability of this condition in practise. I concur with this enquiry, in the light of the revised first floor layout, which appears to leave open the possibility that such functions and events could be hosted.

4.7 The site lies within the DP's Western Corridor Working Landscape, which comprises all lands within 10 km on either side of the N18/M18, except where they are heritage landscapes. Policy EN13 addresses this landscape. It undertakes to:

(a) Permit development in these areas that will sustain economic activity, and enhance social well-being and quality of life – subject to conformity with all other relevant provisions of the Plan and the availability and protection of resources;

(b) That selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design, are directed towards minimising visual impact;

I interpret part (a) of this Policy to mean that the foregoing discussion of land use still stands. Part (b) raises the question as to the visual impact of the proposal.

4.8 During my site visit, I observed that the site is highly visible from the M18 immediately to the north of Junction 12 and that such visibility impacts upon those travelling southwards and thus towards the site.

4.9 The proposal would entail the siting of a two storey building towards the western boundary of the site with the M18. This building would have a parapet height of 8m and its fin feature would have a height of 10.848m. The accompanying canopy over the forecourt on the southern side of this building would range in height between 5.731m and 7.480m. The building would be finished in variety of materials, i.e. light and dark grey architectural metal panels, stone, painted nap plaster. Roof and canopy edges to the building and first floor window panels in the principal south facing elevation would, along with the fin feature, be finished in red. As originally proposed, the principal elevation of the amenity building would have faced west. However, as revised, this elevation would face south and so it would present to the L4144.

4.10 In the light of the foregoing observation and description, I consider that the proposed amenity building would be prominent when viewed from the M18 and the L4144. The appellants express concern that the size and design of this

building would be “urban” and, as such, an unsympathetic addition to the countryside. I share this concern and the additional concern that the more utilitarian western side and northern rear elevations and attendant bus parking, HCV fuel pumps, and delivery yard would present to the M18.

- 4.11 Under item 8 of the planning authority’s request for further information, the applicant was requested to engage with the NRA/TII’s document TA 70/14 entitled “The Location and Layout of On-Line Service Areas”. This document advises that MSAs be screened by means of 2m high landscaped earthwork bunds. The applicant duly submitted a landscape layout (drawing no. T-01 revision 2) showing such a bund. However, given the scale and height of the proposed building, this bund would fail to provide any meaningful screening of the same and so its visual impact would remain un-mitigated.
- 4.12 I conclude that the proposal would materially contravene the DP, that it would be likely to generate local trips that could adversely affect the viability of existing local retail centres, and that the proposed amenity building would be an unsympathetic addition to and unduly prominent within the local rural landscape.

(v) Water

(a) Water supply

- 6.1 The applicant proposes to supply water to the developed site by means of a borehole that would be sunk in the south western corner of the site (cf. drawing no. P-07) If the water thus supplied proves unsatisfactory in terms of quantity and/or quality, then the opportunity to connect to the mains water supply that is available under the L4144 would be realised.

(b) Waste water

- 6.2 The applicant has submitted a completed Site Characterisation Form (SCF). This Form refers to an accompanying report from the applicant’s hydrologist, within which the location of five trial pits is shown (cf. Figure 3 of the “Water, Wastewater and Stormwater Report”). The vicinity of two of these trial pits, denoted as TP1 and TP4, are used for the T and P percolation tests. TP1 is in the north eastern corner of the site on locally elevated ground. The holes dug in its vicinity yielded test results of 41.47 minutes/25 mm for T and 50.06 minutes/25 mm for P. These holes were dug to a depth of 700 mm at which point limestone bedrock was encountered. (TP4 is towards the north western corner of the site on lower ground. All but one of the six percolation tests failed within the holes dug in its vicinity). Based on these results, the applicant proposes to site a WWTP in the north eastern corner of the site along with two raised sand filter beds, each with a surface area of 250 sq m, set within a gravel pad to a depth of

300mm over an area of 1257 sq m (cf. drawing no. P-08 for a cross section of the proposed polishing filter).

6.3 Details of the proposed WWTP are set out in a report from Molloy Environmental Systems. This report works on the basis of a PE of 167. Under Table 4 of the EPA's "Wastewater Treatment Manual: Treatment Systems for Small Communities, Business, Leisure Centres and Hotels" (1999), the recommended distance between WWTPs with a PE of over 161 and existing development is 50m. The appellants have also cited Table 6.1 of the EPA's Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (PE less than or equal to 10). Under this table, the minimum separation distance between WWTPs and site boundaries and roads is stated as being 3m and 4m, respectfully. They state that the proposal would fail to abide by these distances.

6.4 I note that, while the former EPA publication is directly applicable to the proposal, the latter one is not. However, insofar as the proposal is for a much larger WWTP than that which is addressed by the latter publication, the distances set out therein should presumably be regarded as absolutely minimal. Thus, if these documents are applied to this proposal, the minimum separation distance between the WWTP and the amenity building, albeit the delivery yard to the rear of this building, would be 42m, and thus below the 50m cited. Worryingly, within this distance would lie the HCV parking area, which I anticipate may be used by truck drivers' to overnight in. The WWTP would maintain a 3m separation distance from the northern site boundary. However, the equivalent distance of 4m between the road servicing the HCV parking area and the proposed alternative means of agricultural access would be infringed.

6.5 The applicant has responded to the aforementioned critique of the siting of the WWTP, by insisting that the documents concerned are for guidance only. While I accept that this is so, I would expect that the infringement of recognised separation distances would be accompanied by either a site specific explanation as to why this should be acceded to and/or mitigation measures. Neither of these has been forthcoming.

6.6 The appellants draw attention to the site's previous use as a quarry in conjunction with the construction of the M18. They express concern that the applicant's proposal that the WWTP would discharge to ground water may, in a karst limestone environment, mean that, in practise, it would discharge ultimately to surface water. I am curious as to where the ground water is, as the applicant's completed SCF does not report the presence of ground water in the T and P holes that were dug. The applicant anticipates that more comprehensive hydrogeological work would be undertaken in advance of making an application for a discharge licence and that there is an inevitable sequence to applications, i.e. planning first and then the discharge licence. However, I concur with the

concern of appellants that insufficient work has been done to establish that discharge to ground water is a viable option in this instance.

(c) Flood risk and storm water

6.7 The DP's flood risk map (ref. E2) shows a lower lying area to the east of the site as being in Flood Zones A and B. During my site visit, I observed that the L4144 to the east of the site is accompanied on its southern side by a watercourse and to the north of this road lies Lough Naslatty. Surrounding land is wet.

6.8 Under a request for further information, the applicant was asked to address the issue that the proposal would exacerbate the flood risk attendant upon the L4144 to the east. He has addressed this issue by stating that proposed storm water drainage arrangements for the site would mimic the present greenfield run-off rate (0.017 cubic metres per second). Thus, storm water would discharge to the existing wetlands that adjoin the south eastern corner of the site. In turn these wetlands discharge into the Manus Drainage District. Improvements to the efficiency of watercourses in this Drainage District are needed. The applicant's hydrologist expresses the preliminary view that the removal of bed silt and bank vegetation from the watercourse by the L4144 would reduce its tendency to flood.

6.9 With respect to the appeal site itself, the applicant draws attention to the fact that the nearest proposed area of hardstanding to the aforementioned roadside water course would be c. 6m above the bank top level. Likewise the proposed entrance/exit would be at a higher point on the L4144 than that portion that is presently liable to flooding and access/egress would be available from the west, so obviating the need to use the said portion of the local road.

6.10 Turning to the proposed storm water drainage arrangements, the existing storm water arrangements are depicted in Figure 2 of the hydrologist's response to the planning authority's further information request. These arrangements consist of a system of French drains that cross the western and southern portions of the site to, it is assumed, discharge in the wetlands to the south east. The retention of this system is not possible under the proposal and so a replacement system is proposed (cf. drawing no. P-07) that would comprise a drainage network, which would serve all the proposed hard surfaces. This network would pass through an oil interceptor, attenuation tanks (354 cubic metres), new wetlands in the south eastern corner of the site (195 cubic metres) and a hydro-brake, which the applicant agreed to the re-siting of at the appeal stage, before discharging into a by-pass channel that runs around the existing wetlands (195 – 278 cubic metres) beyond the site to the south east. The resulting storage capacity of these combined items would be 744 – 827 cubic metres.

- 6.11 The applicant's hydrologist estimates that during a 1 in 100 year storm event of 6 hours duration the greenfield run-off rate from the proposed hard surfaces would be 1277 cubic metres, of which 924 cubic metres would be the permitted run-off rate to the existing wetlands. The remaining 353 cubic metres would be capable of being accommodated in the proposed attenuation tanks (354 cubic metres).
- 6.12 The status of the existing wetlands has been the subject of exchanges between the parties. It was constructed at the same time as the M18 and, according to the applicant, its purpose is to serve the appeal site. However, Figure 3 attached to the aforementioned hydrologist's response shows the diversion of a water course from Lough Naslatty through it. It, therefore, appears that these wetlands serve the site and its environs, which includes this Lough.
- 6.13 In the light of the foregoing paragraphs, I am concerned that the applicant has not analysed the capacity of the existing wetlands with respect to not only the appeal site but the environs that includes Lough Naslatty. I consider that a fuller understanding of how these wetlands operate is necessary to ensure that the reliance that would be placed upon it can be justified and that any attendant flood risk from the same can be addressed.
- 6.14 I conclude that the applicant has not submitted sufficient information to demonstrate that the proposed WWTP would discharge in a satisfactory manner to ground water and that storm water discharge from the site to the existing wetlands would be compatible with its wider role in servicing the site's environs without in turn posing an increased flood risk to the site itself.

(vii) AA

- 7.1 I will conduct a Stage 1 Screening to establish whether or not the proposal needs to be the subject of a Stage 2 Appropriate Assessment. In conducting this Screening, I will draw upon the NPWS website, the applicant's NIS, and observations from my site visit. This information is considered to be sufficient to enable Stage 1 and, as needs be, Stage 2 to be undertaken.
- 7.2 The site does not lie within a Natura 2000 site. A considerable number of SACs and SPAs lie within a 15 km radius of this site. In the light of the nature and scale of the proposal and its likely impacts and the qualifying interests and conservation objectives of the said sites, I consider that the following ones should be brought forward for screening:
- Dromore Woods and Lough SAC (IE000032)
 - Pouladatig Cave SAC (IE000037)
 - Poulmagordon Cave (Quin) SAC (IE000064)

- East Burren Complex SAC (IE001926)
- Old Domestic Building, Keevagh SAC (IE002010)
- Newhall and Edenvale Complex SAC (IE002091)
- Lower River Shannon SAC (IE002165)
- Old Farm Buildings, Ballymacrogan SAC (IE002245)
- Old Domestic Building, Ballycullinan SAC (IE002246)
- Toonagh Estate SAC (IE002247)
- Old Domestic Buildings, Rylane SAC (IE002314)
- Ratty River Cave SAC (IE002316)
- Knockanira House SAC (IE002318)
- Kilkishen House SAC (IE002319)
- River Shannon and River Fergus Estuaries SPA (IE004077)

7.3 The proposal would entail the installation of a storm water drainage network, which would discharge via existing wetlands to a series of consecutive water courses that would, in turn, discharge to the River Shannon at Carrownanelly, where the River is subject to SAC and SPA designations (IE002165 and IE004077). There is thus a source/pathway/receptor route between the site and these Natura 2000 sites. However, provided good construction management practices are upheld throughout the construction phase and the quality of water discharging from the site is not jeopardised either during this phase or subsequently during the operational phase, I do not consider that the Conservation Objectives of the said sites would be likely to be significantly effected.

7.4 The applicant undertook a bat survey, which established that there are four species of bats that use the hedgerow along the eastern boundary of the site for foraging and commuting. An abandoned farm building on the far side of this hedgerow is also being used occasionally as a roost. While none of the bats thus identified was a Lesser Horseshoe Bat, this species is known to frequent the area of Doora, with a known maternal roost 3.2 km to the east of the site.

7.5 One of the qualifying interests of all of the remaining Natura 2000 sites listed above is that of the Lesser Horseshoe Bat. Given the likelihood that this Bat, along with the other four species of bats, uses the said hedgerow for foraging and commuting, too, the impact of the proposal during its construction and

operational phases, both individually and in-combination with other projects, needs to be assessed. Of concern in this respect would be the indirect impact of light pollution from the proposed MSA, which would operate on a 24/7 basis, in terms of the species sensitivity to such pollution and the deflection of prey away from the hedgerow and into the more illuminated areas of the site. A direct impact may occur, too, if the hedgerow were to be partially or wholly removed as a result of the proposal. If one or other of these impacts were to occur then they would probably have a significant effect upon the Lesser Horseshoe Bat. Given the presence of existing lighting to Junction 12 of the M18, in-combination effects resulting from the indirect impact may also be significant.

7.6 In view of the foregoing discussion, I consider that the conclusion of probable significant effects means that progression from Stage 1 to Stage 2 is needful and so the question of how the effects thus identified may be mitigated arises.

7.7 The proposed illumination of the site is depicted in drawing no. 114219-016 revision P1 and the proposed landscaping of the site is depicted on drawing no. T-01 revision 2. The former plan has not been updated to show the omission of the proposed caravan parking area and so some reduction in the illumination of the south eastern corner of the site could be anticipated. Likewise, the illumination of the proposed alternative means of agricultural access would lead to a slight reduction in illumination adjacent to the eastern boundary. The latter plan depicts the retention of the hedgerow on this boundary and the planting of an evergreen hedge (*Cupressocyparis leylandii*) on the inside of this one along the entirety of the eastern boundary and along the northern boundary. This hedge is further depicted in Figure D2 to Appendix D of the applicant's Bat Survey.

7.8 In view of what is depicted in these plans I consider that the identified direct impact can be discounted. The identified indirect impact needs however to be assessed further, both individually and in-combination.

7.9 The applicant's NIS sets out a series of mitigation measures, which include the planting of the aforementioned evergreen hedge (prior to the commencement of construction), the augmenting of the existing hedgerow with indigenous species, and the specification of a lighting network that would be of a type and a design that would minimise the impact of illumination upon the said hedgerow. I consider that these mitigation measures would be feasible and that they would be capable of satisfactorily addressing the indirect impact of light pollution, both individually and in-combination.

7.10 I therefore consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate assessment, that the proposed development, individually or in

combination with other plans or projects would not adversely affect the integrity of the European sites nos. IE000064, IE001926, IE002010, IE002091, IE002010, IE002091, IE002245, IE002246, IE002247, IE002314, IE002316, IE002318 and IE002319 or any other European site, in view of the sites' Conservation Objectives.

Conclusion

In view of my assessment, there are clearly a considerable number of outstanding issues that could be addressed by means of further information. There are also a cluster of issues that would not be amenable to being addressed in this manner as they amount to (a) in-principle MSA policy and land use objections, and (b) traffic management and road safety objections. I, therefore, propose to follow the convention of distinguishing between these two types of issues in the drafting of reasons for refusal that encompass these latter objections only.

Recommendation

In the light of my assessment and conclusion, I recommend that the proposed motorway service area and rest area adjacent to Junction 12 of the M18 at Kilbreckan, Doorra, Co. Clare, be refused.

Reasons and considerations

1. Under the Ennis and Environs Development Plan 2008 – 2014, the site is located outside the Ennis settlement boundary and in an area zoned countryside, which is adjacent to Junction 12 of the M18. This site has not been identified for use as a Motorway Service Area in either the NRA's Service Area Policy (August 2014) or the Clare County Development Plan 2011 – 2017 or the aforementioned Development Plan. Under Section 2.8 of the Spatial Planning and National Roads Guidelines and Objective 11.3 of the County Development Plan, the selection of sites for Motorway Service Areas should be identified in the Service Area Policy or they should be the subject of a co-ordinated approach that would seek their identification in an adopted Development Plan. Accordingly, the development of the site to provide the proposed Motorway Service Area would be contrary to the advice contained in these Guidelines and the said Objective. Furthermore, such development would materially contravene the Countryside Zoning Objective of the site in the Ennis and Environs Development Plan 2008 – 2014. As such, it would be contrary to the proper planning and sustainable development of the area.

2. Traffic analysis of the performance of the proposed egress from the site indicates that this egress would not be capable of performing satisfactorily under peak traffic flow conditions in the medium to long term.

The gradient of the L4044 as it passes the site would be too steep and so vehicles may approach the proposed site access/egress at speed. Furthermore, the curved horizontal alignment of this local road and the necessary presence of roadside signage are such that the western sightline available at the proposed egress and the forward visibility that would be available to drivers seeking to turn right into the proposed access would both be sub-standard. Thus, right hand turning movements, variously, from this egress and into this access, would be inherently hazardous.

The proposal would, therefore, lead to traffic congestion at the proposed egress, which would be contrary to good traffic management practice, and the use of the proposed access and egress would, in practise, endanger public safety by reason of traffic hazard or obstruction of road users. Accordingly, this proposal would be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison

Inspector

27th May 2016