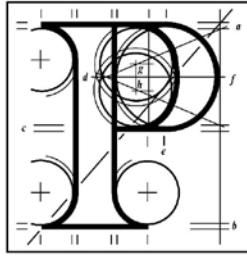


An Bord Pleanála



Inspector's Report

Development: Demolition/removal of existing and abandoned buildings/structures and construction of off-line motorway service area off the L3156 at Junction 11 of the M18, Latoon South and Latoon North, Dromoland, Co. Clare.

Application

Planning authority: Clare County Council
Planning application reg. no. 16/50
Applicant: Applegreen Service Areas Ltd
Type of application: Permission
Planning authority's decision: Refusal

Appeal

Appellant: Applegreen Service Areas Ltd
Type of appeal: First party -v- Decision
Observers: None
Date of site inspection: 6th July 2016
Inspector: Hugh D. Morrison

Site

The site is located in a position that adjoins Junction 11 of the M18 to the south west. That portion of the M18 that runs past the site is elevated in relation to the site and it is orientated on a north/south axis. Junction 11 is composed of a flyover with roundabouts at either end that connect entrance and exit ramps on either side of the M18 for northbound and southbound traffic with that portion of the R458, which runs between Newmarket on Fergus to the south east and Clarecastle to the north west, and the L3156, which connects Ballygirreen to the south west with Dromoland to the north east. This local road also extends further to the south to serve the townlands bound by the estuary to the River Fergus, the M18 and Shannon Airport.

The original line of the aforementioned local road runs on a diagonal alignment through the site from the south western corner to a point towards the north eastern corner. This cul-de-sac provides the existing access to the two halves of the site. The south eastern half is an undulating field that is in agricultural use for grazing. The northern portion of the north western half accommodates a cluster of abandoned buildings that appear to have been last used in conjunction with the construction of the M18. These buildings comprise a bungalow and single storey office building, a Dutch barn with lean-to structures on either side, a freestanding storage building and two portacabins. They are clustered around a yard that is bound by steel palisade fencing. The southern portion of this half comprises overgrown unused ground that contains outcrops of rock.

The site is roughly triangular in shape and it extends over an area of c. 5.5 hectares. This site is bound to the east by the embankments to the M18 and the exit ramp for northbound traffic to Junction 11. It is bound to the north and west by embankments to the western roundabout to this Junction and to the realigned L3156. The remaining southern boundary is with agricultural land to the south and it is denoted by a mature hedgerow.

The site lies beside a level area of land that extends to the west to the estuary of the River Fergus. This land is mainly in agricultural use. An aviation radio station lies at some remove to the south south west of the site and a row of one-off dwelling houses, likewise, lie on the eastern side of the L3156 at some remove to the south. On the eastern side of Junction 11 lies a single dwelling house and the Inn at Dromoland and, to the south east, lies Dromoland Castle Hotel and Golf Course.

Proposal

The proposal would entail the demolition/removal of existing and abandoned buildings/structures on the site (total floor area c. 1004 sq m) and the construction of an off-line motorway service area (MSA) (total floor area c. 1400 sq m) which

would be served by a new access from and egress to the L3156 in place of the existing site access/egress. The MSA would comprise the following elements:

- A 4-pump island van/car forecourt and a 2-pump island HCV forecourt, both with canopy over. The height of each canopy is c. 6.84m and 6.3m respectively.
- Underground fuel storage tanks (total area c. 200 sq m) and associated pipe work.
- Connection to existing Irish Water water main for water supply, underground static/potable water tanks and associated pipework.
- Three underground retention separators (c. 42 sq m).
- A single storey amenities building (total gross floor area of c. 1400 sq m) comprising:
 - A convenience shop (net sales area 100 sq m);
 - Five eat-in/takeaway cafes/restaurants (total floor area c. 185 sq m) with ancillary areas (c. 275 sq m) comprising store rooms, freezers, chillers, manager's office, coms room, staff toilets, staff locker room, lobbies, sluice, food and preparation areas;
 - External storage (c. 170 sq m);
 - Public toilets (c. 123 sq m) including 24 hour external operation;
 - Seating circulation area (c. 486 sq m);
 - Tourist information area (c. 4 sq m);
 - Internal play area (c. 45 sq m); and
 - Fuel store (c. 12 sq m).
- Picnic area, external play area and external seating area (c. 476 sq m).
- Proposed uses are limited to a NRA Type 1 compliant uses for an off-line MSA.
- Parking for 184 cars (including 9 disabled parking spaces and 3 electric car charging points).
- A total of 25 HCV spaces comprising 13 dedicated HGV spaces (including ADR space), 6 dedicated coach spaces, 5 mixed-use coach/HGV spaces, and 1 delivery space.

- Seven motorcycle spaces and 18 bicycle spaces.
- Garda enforcement area.
- Ancillary signage (both illuminated and non-illuminated) on the amenity building (north elevation), car/van and HCV forecourt canopies (total area of signage c. 24.9 sq m).
- One double sided totem price point sign and 1 double sided welcome sign (c. 122.5 sq m total advertising area) indicating site services.
- On-site waste water treatment system and sand polishing filter.
- Surface water attenuation tank (c. 980 cubic metres).
- Diversion of existing 100 mm public water main on-site and provision of new way leave.
- All ancillary site development, landscaping and boundary treatment works.

Planning authority's decision

Permission was refused for the following reasons:

1. *Under CDP 11.3 of the Clare County Development Plan, 2011 – 2017, as varied, it is an objective of the planning authority to safeguard the motorway and national road junctions in line with national policy. In this regard national policy as outlined in the Spatial Planning and National Roads, Guidelines for Planning Authorities (January 2012), advocates a co-ordinated approach to the provision of off-line motorway service areas through the planning process and outlines that the proliferation of private off-line service area facilities at national road junctions shall be avoided.*

Having regard to the foregoing, and having regard to other planned and proposed service stations along the M18, it is considered that the proposed development would set a precedent for further developments of off-line motorway service area facilities between Junctions 7 and 12, would be contrary to the objectives of the development plan and would be contrary to the Ministerial guidelines issued to planning authorities. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. *Having regard to the internal road design and layout of the development, and the deficiencies in the Traffic and Transport Assessment as submitted with the application, the planning authority considers that the proposal, in its current form, would endanger public safety by reason of traffic hazard, due to the additional traffic turning movements and car parking which would be generated by it.*

Technical reports

- An Taisce: Attention is drawn to the repeat nature of the current application and the parallel application 14/769 and appeal PL03.246157 for a site at Junction 12 of the M18. Objection is raised to the prospect of two MSAs to the south of Ennis.
- Chief Fire Officer: No objection raised in principle.
- HSE Environmental Health: Standard advice conveyed on a range of subjects.
- DoAHG: The Department concurs with the findings of the applicant's archaeological impact assessment. Conditions entailing the involvement of an archaeologist and the excavation of test trenches are requested.
- Roads Design Office: A detail critique of the proposed site layout is provided and an updated TTA is requested.
- TII: Official policy is outlined and the current proposal is considered to be at variance with this policy as by itself, or by the precedent which it would set, it would have the potential to adversely affect the operation and safety of the national road network. The TTA is critiqued, as are several points of design detail.

Grounds of appeal

The applicant begins by outlining their experience in providing MSAs throughout Ireland. They draw attention to the absence of objection by either the planning authority or the inspector who reported on PL03.244739 to many aspects of the proposal for the site. They proceed to contest the two reasons for refusal as follows:

First reason

- The Policy cited in this reason refers to 11.3, whereas it should refer to 11.2.
- Junction 11 of the M18 represents the optimum Junction at which to site a MSA, as it is rural in nature and one of the least trafficked between Shannon and Ennis. Accordingly, this Junction has ample spare capacity to absorb traffic generated by the proposal. The Roads Design Office raised no objection to its use in this respect.
- Attention is drawn to the SPNR Guidelines, which advise that planning authorities "may", as distinct from "shall", consider policies for the inclusion of off-line MSAs in their CDPs. No restriction exists against the consideration of off-line MSAs on sites not identified/zoned for such use in CDPs. Since the said Guidelines were adopted the Board has granted permission for off-line MSAs on such sites in the following instances:

- Junction 14 on M11: Cullenmore PL27.241347
- Junction 27 on M7: Birdhill PL22.242361
- Junction 7 of M9: Paulstown PL10.243782
- Junction 1 on M8: Fermoy PL04.244411
- The planning authority's refusal of the current proposal contradicts the permission that it granted for an off-line MSA at Junction 12 of the M18 (14/769 and PL03.246157), which was proposed for a site that, like the appeal site, is not identified/zoned in their CDP.
- This reason states "having regard to other planned and proposed service stations along the M18", a reference to the aforementioned application/appeal. Such regard is unreasonable and inequitable as this application/appeal has yet to be finally determined. Furthermore, 14/769 and PL03.246157 are critiqued on the following grounds:
 - The components of the proposed off-line MSA are deemed to be not permitted uses in the Ennis and Environs Development Plan 2008 – 2014 (DP) and so this proposal would materially contravene the countryside zoning of the site.
 - The planning authority relied upon Policy ZL4 of the DP, which relates to petrol filling stations, and yet this Plan identifies sites for the retention/development of such stations as it is.
 - Other deficiencies included inadequate flood risk assessment, the likelihood that the off-line MSA would become a destination in its own right, unresolved traffic management and road safety issues, and adverse impact upon visual amenity.
- The aforementioned site is zoned as a commercial site for an off-line MSA in the draft CDP. However, no weight can be given to this zoning of the site until this Plan is adopted. (The applicant has challenged the same in a submission to the planning authority). Furthermore, this zoning is not accompanied by any rationale based on an assessment of other sites adjacent to Junctions on the M18 and so its appropriateness has not been demonstrated. To identify just one site for an off-site MSA runs the risk that, if on non-land use grounds it is held to be inappropriate, no off-line MSA would be provided along a stretch of motorway where there is an acknowledged need for one.
- This reason does not just refer to proposed but planned MSAs, too. The TII plans to provide an on-line MSA between Junctions 7 and 12 of the M18.

However, no timescale is available for this proposal and so at best it is likely to be provided in the medium term.

- The TII acknowledges the complexity attendant upon site identification in South Clare given the prevalence of sites containing archaeology and/or ones that are at risk of flooding. Neither of these issues pertains to the appeal site.
- Under the Advice Note NRA TD22, the desirable minimum weaving length on either side of an on-line MSA is 2 km in either direction along the motorway in question. The TII's preferred site between Junctions 10 and 11 of the M18 would not achieve this minimum consistently.
- The TII's preferred site would also be a single sided one served by an overbridge. Thus, the combination of on-line and off-line MSAs would potentially provide an optimum service.
- The M18 carries 23,000 vehicles per day and this is projected to increase to in excess of 28,000 by the design year for the current proposal. Elsewhere in the motorway network MSAs operate sustainably far below these levels. The applicant also has experience of operating MSAs close in drive time to other MSAs.
- The TII's national policy does not preclude the provision of more than one MSA. Thus, for example, on the M8, two off-line MSAs at Cashel and Ballacolla are considered to meet the criteria for an on-line Type 1 MSA without causing proliferation.
- Section 3.3.2 of the NRA's Service Area Policy states that the presence of a planned on-line MSA "doesn't preclude future developments off-line at these locations subject to approval by the planning authorities."

Second reason

- The case planner acknowledges that the issues raised under this reason would not warrant refusal, if the principle of the proposal was deemed to be acceptable by the planning authority. Thus, they could have been addressed by means of a request for further information.
- The applicant's engineer has provided a detailed response to the advice of the Roads Design office (RDO), which informs this reason. This response makes the following points:
 - Planting above 1m would not encroach into the visibility splays that would accompany the site access and egress points.
 - Details of on-site and additional off-site lighting have been submitted.

- Details of the proposed pedestrian crossings have been shown on drawing no. 14219 – 002 along with their resiting to the east of the amenity building.
- The dwell areas exiting the site would be between 1.75% and 4% over the 15m in advance of the L3156 (2.5% would be achieved over the initial 5m). The RDO's request that they be between -2.5% and +2.5% would have implications for levels elsewhere and the quantity of fill that would be required for the development. As the proposed levels would come within the range set out in TD 41-42/11, the applicant would prefer to retain them. However, if the Board considers that the RDO's requested levels should be pursued, then these could be conditioned.
- The proposed high containment kerb between HCV parking spaces 1 and 13 has been retained as space 13 would be reserved for ADR vehicles and such separation is appropriate under Section 3.30 of NRA TA70/14.
- The RDO's requested reorientation of the proposed coach spaces is shown on drawing no. 026 PL1. However, the applicant maintains that the original orientation would maximise passenger safety.
- Drawing no. 007 PL4 clarifies access arrangements to the water main wayleave that would run alongside the southern and eastern boundaries of the site.
- Contrary to the RDO's contention, the applicant's on-site surface water storage arrangements would take account of the limited capacity of the off-site surface water drainage network.
- Drawing no. 002 PL4 shows the safety barriers that are proposed for erection at the site access and egress points.
- An updated TTA has been submitted that incorporates traffic counts taken in April 2016. These counts have no implications for the design of the proposal or the capacity of Junction 11 of the M18.

Response

The planning authority has responded to the above grounds of appeal by stating the following:

First reason

- The proposal is considered to, in principle, materially contravene national policy on MSAs.
- In the light of the draft CDP's zoning of the site, the parallel proposal for an off-line MSA at Junction 12 of the M18 was permitted.
- In the light of the TII's planned on-line MSA, the current proposal would lead to a proliferation of MSAs.

Second reason

- If the Board considers that the applicant's information submitted at the appeal stage is satisfactory, then objection on road safety grounds would be withdrawn.

Planning history

Site

- 15/15 & PL03.244739 for an off-line MSA was withdrawn prior to a decision on the first party appeal.

Junction 12 of the M18

- 14/769 for an off-line MSA is the subject of third party appeals (PL03.246157) that remain to be determined by the Board.

Development Plan

The operative development plan for the site is the Clare County Development Plan 2011 – 2017 (CDP). This Plan shows the site lying in a rural area under strong urban pressure. To the west of the L3156, the land opposite the site is designated as a heritage landscape that is at risk of flooding.

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

Objective 16.3 relates to Western Corridor Working Landscapes.

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)

Assessment

I have reviewed the proposal in the light of national planning guidelines and advice, the CDP, relevant planning history, and the submissions from the parties. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) MSA policy,
- (ii) Traffic, access, and parking,
- (iii) Land use, landscape, and archaeology,
- (iv) Water, and
- (v) AA: Stage 1 Screening.

(i) MSA policy

1.1 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.

1.2 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.

1.3 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. It is located to the north west of Newmarket-on-Fergus between Junctions 10 and 11 of the M18 and it occupies a position on the eastern side of the motorway and so it would be connected with the western side by means of an overbridge. The consultants recommend that the site be adopted and that the TII progress to the next stage, that of preliminary design.

1.4 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 off-line MSA would come within the ambit of this definition.

- 1.5 The NRA Service Area Policy was published in August 2014. The current application was lodged on 29th January 2016 and it was preceded by application 15/15, for essentially the same proposal, which was lodged on 16th January 2015 and withdrawn at appeal PL03.244739. The NRA commented on the earlier application in advice dated 18th February 2015 and so it would have been in a position to be aware of the applicant’s proposal when preparing its Service Area Policy. The omission of any reference to this proposal within this Policy would therefore appear to be intentional. Instead, the Authority proposes to lead the development of a Type 1 MSA between Junctions 7 and 12 of the M18 (Sixmilebridge to Ennis).
- 1.6 The CDP does not identify any sites for MSAs. It 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).
- 1.7 The draft Clare County Development Plan 2017 – 2022 (dCDP) includes the Ennis Settlement Plan within which a site at Junction 12 of the M18 is zoned COM7 to facilitate the development of an off-line MSA. Under Objective 8.3 of dCDP, 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.”
- 1.8 The planning authority refused the current proposal on the basis that it would be contrary to the SPNR Guidelines, which advocate a co-ordinated approach to the provision of MSAs in order to avoid a proliferation of private off-line ones at motorway junctions. This proposal would be one of two off-line MSAs that are currently proposed for consecutive junctions on the M18 and so to permit it would establish a precedent that would risk the kind of proliferation that the Guidelines seek to avert.
- 1.9 The TII was consulted by the planning authority on the current proposal and they raised objection on the grounds that it would be contrary to MSA policy as outlined above and so, either by itself or by the precedent which it would set, it would have the potential to adversely affect the operation and safety of the national road network.
- 1.10 The applicant has responded to this reason for refusal.

- Attention is drawn to the SPNR Guidelines which do not oblige planning authorities to include policies for off-line MSAs in their development plans but leave such inclusion to the discretion of these authorities. In the absence of such policies, planning authorities may still consider proposed off-line MSAs for unzoned sites in the countryside, indeed the Board itself has granted permission for at least four such sites. Thus, there is no impediment to the consideration of the current proposal on an unzoned site, especially as it is located beside the lightly trafficked Junction 11 and within the stretch of the M18 between Junctions 7 and 12 that the TII has identified as needing a MSA.
- Protest is raised against the weight that the planning authority affords to the concurrent proposal for an off-line MSA at Junction 12 of the M18. The planning authority is criticised for being inconsistent in granting this proposal, when it could have been refused for the same reason as that presently under discussion. In this respect, any reliance upon the zoning in the dCDP is premature, in the light of the applicant's submitted objection to this zoning and in advance of the Plan's adoption. Furthermore, the proposal for Junction 12 has been appealed by the applicant, amongst others, and a decision from the Board on the same remains outstanding.
- The TII's proposal for an on-line MSA between Junctions 10 and 11 of the M18 is discussed. Attention is drawn to the fact that a preferred site has only just been identified and so development would be likely only in the medium term. Attention is also drawn to the departure from standards that would be entailed in such a development insofar as the customary 2 km separation distance from neighbouring junctions would not be consistently available.
- The applicant cites examples of locations elsewhere in the country where more than one MSA exists in close proximity to another one and they express the view that, in the case of the current proposal, an optimal solution could entail the provision of the on-line MSA on the eastern side of the M18 and their proposal on the western side, thereby negating the need for an overbridge to accompany the on-line one.

1.11 By way of summary, I acknowledge that NRA Service Area Policy (August 2014) commits to the provision of a Type 1 MSA between Junctions 7 and 12 of the M18 and that in April of this year on-line site 1E between Junctions 10 and 11 was selected as the preferred location for such development. While this Policy does not refer to the current appeal site or the concurrent one at Junction 12, such omission does not rule out consideration of the same by the planning authority/Board.

1.12 The TII's consultants recognise that one of the difficulties with site 1E is that a departure from recognised standards would be required, i.e. under NRA DMRB Volume 6 Section 2 Part 1 TD22 "Layout of Grade Separated Junctions" (February 2006) the advice on weaving lengths* states that "For rural motorways, the desirable minimum weaving length must be 2 km...The requirements for weaving for MSAs on rural motorways are as for rural motorway junctions." However, the need for this departure did not prevent the selection of site 1E and so I do not consider that significant weight should be attached to this matter.

** 1.36 Weaving Section: The length of the carriageway between a successive merge or lane gain and diverge of lane drop, where vehicles leaving the mainline at the diverge or lane drop have to cross the paths of vehicles that have joined the mainline at the merge or lane gain. See Figure 2/9 and Figures 4/9 to 4/14.*

1.13 The applicant envisages a scenario wherein their proposal would complement an on-line MSA on site 1E. Precedent for the clustering of sites is cited, as is the opportunity to negate the expense of an overbridge to serve this site.

1.14 By way of response, I am not aware of any clusters of sites that entail a mixture of on-line and off-line MSAs. I note, too, that, notwithstanding the need for the said overbridge, the TII has not pursued such a mixture for the stretch of the M18 in question. While I could envisage the development of one or other site in isolation, the development of both sites would pose considerable difficulties as illustrated by the following examples:

- In the absence of an overbridge, northbound traffic would pass site 1E on the eastern side of the M18 and yet the spectacle of the on-line MSA would be likely to raise expectations of an equivalent one on the western side, only for signage to indicate an off-line one at Junction 11. Confusion would ensue.

Conversely, if the overbridge was insitu, drivers requiring services would turn off in advance of reaching Junction 11. Thus, this earlier intercept would divert potential custom from the off-line MSA.

- Southbound traffic would reach Junction 11 before site 1E and, unless there was no signage for the proposed off-line MSA, drivers requiring services would turn off in advance of reaching site 1E. Thus, this earlier intercept would divert potential custom from the on-line MSA.

The above examples illustrate the need, in practise, for the co-ordination of MSAs and, where they are in close proximity to one another, their tandem design to ensure (a) that drivers are not confused and road safety jeopardised thereby, and (b) their compatibility with one another to ensure that development is consistently viable.

1.15 I conclude that the appeal site has not been identified in either the NRA Service Area Policy), as outworked in the TII's consultant's report dated April 2016, or the CDP for development as an off-line MSA and that its un-co-ordinated development as such would be contrary to the SPNR Guidelines. Furthermore, such development would risk outcomes that would entail a proliferation of MSAs, which would be incompatible with one another, and which would jeopardise road safety.

(ii) Traffic, access, and parking

2.1 The TII's advice to the planning authority critiqued the applicant's submitted TTA on the grounds that an opening year of 2015 was cited, whereas 2017 would be more realistic, and a design year of +5 year forecast was not included. The planning authority's second reason for refusal reflects this advice insofar as it refers to deficiencies in this TTA.

2.2 The applicant has responded to this critique at the appeal stage by submitting a revised TTA that draws upon a new traffic count that was undertaken on Tuesday 5th April 2016. This TTA explores the performance of the two roundabouts on either side of the M18 at Junction 11 and the proposed access and egress points to the site during the am and pm peaks for 2017 and 2032. It demonstrates that these roundabouts would have sufficient capacity to comfortably accommodate the additional traffic that would be generated by the proposal. Likewise the proposed access and egress would have sufficient capacity, although the latter would, with an RFC of 0.79 for right handing exiting movements onto the L3156 by 2032, be nearing the threshold of 0.85 at which significant congestion would be likely.

2.3 The NRA's Traffic and Transport Assessment Guidelines (May 2014) advises that traffic forecasting should model for the base and opening years and for the +5 and +15 forecast years. While the applicant's revised TTA now utilises a base year traffic count that is up to date, it is unclear why along with the +15 year forecast a +5 year forecast has not been included.

2.4 The Roads Design Office provided a detailed critique of the proposed internal road design and layout of the site, including the points of access and egress. The planning authority's second reason for refusal reflects this critique insofar as it refers to this design and layout and the additional traffic movements and car parking that the proposal would generate.

2.5 The applicant has responded to this critique by submitting a revised site layout and commentary to the same at the appeal stage. The planning authority has signalled that if the Board is satisfied that this response addresses this critique then it would have no objection to the omission of this reason for refusal.

2.6 I note that the applicant's aforementioned response incorporates the majority of the points raised by the Roads Design Office (RDO). I note, too, that on a minority of points disagreement persists between the applicant and this Office. I discuss these points below.

- Attention is drawn to the gradient of the dwell area at the proposed egress point, which would range between 1.75 and 4%. While this range would come within that cited by the NRA's TD 41-42/11, +/-2.5% is recommended for the initial 15m depth back from the public road.

The applicant recognises what the RDO is saying. They draw attention to the achievement of 2.5% over the initial 5m depth, while expressing reluctance to rework the proposed gradients to meet this figure consistently as it would have a knock-on effect for the proposed level of the developed site and hence the amount of imported fill that would be required.

I consider that as 2.5% would be achieved for the initial 5m and as the remaining gradients would be within accepted parameters that to insist on their reworking would be unreasonable.

- Attention is drawn to the proposed raised kerb between HCV parking spaces denoted as 1 and 13. This kerb is not deemed to be necessary by the RDO.

The applicant states that as space 13 would be reserved for use by ADR vehicles that under Section 3.30 of NRA TA70/14, this kerb would be necessary.

I concur with the applicant's position in this matter.

- Attention is drawn to the coaching parking spaces, which would be laid out adjacent to the western elevation of the proposed amenity building. Concern is expressed that exiting coaches would be required to reverse out of these spaces and so their reorientation to facilitate forward gear exiting manoeuvres is requested.

The applicant has submitted a revised site layout plan that reflects the aforementioned request (drawing no. 026 revision PL1). However, they express the view that this orientation would be more hazardous to passengers who would be required to pass, potentially, between the long sides of parked coaches when going and coming to the amenity building. This hazard is considered to be greater than the one identified by the RDO and so, notwithstanding the revised site layout plan, the applicant expresses a preference for their original approach.

I concur with the applicant's position in this matter.

- 2.7 The advice of the TII cited above also refers to the sightlines that would be available at the proposed access and egress points. These sightlines are critiqued on the basis that they would fail to meet the relevant dimensions set out in the NRA's DMRB TD 41/42. The portion of the L3156 that passes the site is subject to a 60 kmph speed limit and so the relevant x and y distances are 3m and 90m. The submitted site layout plans cite these dimensions but do not tie them necessarily to the nearside kerb line. This may be the TII's concern. During my site I observed that there would be scope to so tie these dimensions and so, provided any landscaping along the front of the site is low level, I am confident that adequate sightlines would be achievable.
- 2.8 The quantity of on-site parking spaces would be appropriate to serve the proposed off-line MSA and the design and layout of these spaces would be satisfactory.
- 2.9 I conclude that the traffic generated by the proposal would be capable of being accommodated within Junction 11 without causing significant congestion and the proposed access and egress points and parking and manoeuvring arrangements would be satisfactory.

(iii) Land use, landscape, and archaeology

- 3.1 Under the CDP the site lies within a rural area that is under strong urban pressure. It is not formally zoned and the reference to strong urban pressure is relevant to the Plan's one-off rural housing strategy only. In these circumstances, there would appear to be no in principle objection to the proposal on land use grounds, as practise elsewhere indicates that off-line MSAs adjacent to motorway junctions have been permitted on unzoned rural sites.
- 3.2 The services proposed mean that that which is envisaged would constitute a Type 1 off-line MSA. The appeal site at Junction 11 of the M18 would be 5 km to the south south east of Clarecastle and 4 km to the north north west of Newmarket on Fergus. The proposed convenience shop and eateries would have total net floorspaces of 100 sq m and 185 sq m, respectfully. While these floorspaces would, by means of condition, be capable of being capped at these levels, the question arises as to whether they would have an adverse impact upon the vitality and viability of the two cited neighbouring town centres.
- 3.3 Section 2.8 of the SPNR Guidelines 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. Table 3.1 of the CDP sets out the settlement hierarchy for Clare: Clarecastle is not identified as a settlement in its own right and so I assume

that it is regarded as being part of Ennis, and Newmarket on Fergus is identified as being a small town.

3.4 With respect to Clarecastle, I anticipate that the proposed MSA would attract some passing trade from residents who commute to Limerick for work purposes. Likewise, with respect to Newmarket on Fergus, I anticipate that it would attract some passing trade from residents who commute to Ennis for work purposes. Beyond these scenarios and in view of the above cited distances between these settlements and the site, I do not anticipate that there would be appreciable numbers of locally generated destination trips to the proposed MSA and so I consider that its provision would be compatible with the maintenance of the vitality and viability of their town centres.

3.5 Map 16A of the CDP shows the site as lying within the Western Corridor Working Landscape and Figures 16.1 and 2 show this site as lying on the interface of, variously, Landscape Character Types denoted as Drumlin Farmland with Loughs and Flat Estuarine Farmland and Islands and Landscape Character Areas denoted as East Clare Loughlands and Fergus Estuary.

3.6 Under the CDP, the Western Corridor Working Landscape comprises all lands within 10 km of the N18/M18, except where they are heritage landscapes. Objective 16.3 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 stands. Part (b) raises the question as to the visual impact of the proposal.

3.7 The appeal site is enclosed on three of its four sides by embankments to Junction 11 of the M18. The south eastern half of the site is of undulating form and remains in agricultural use, while the north western half comprises a yard area with buildings and adjoining, overgrown, unused land. A mature hedgerow screens this site along its southern boundary and so the site appears as a discrete entity when viewed on approaches from the south along the M18 or the L3156. It is more visible from elevated positions on the said Junction and its slip roads. However, these views are short range ones only.

3.8 The applicant has submitted plans and photomontages that illustrate the design approach that would be comprised in the proposal. Thus, the existing road levels on the L3156 at the proposed access and egress points would be 14.5 m OD and

5m OD. Consequently the finished level of the bulk of the site would “split the difference” between these two levels by being in and around 9.4m OD. Thus, the on-site access and egress roads would, variously, descend to and descend from this level.

- 3.9 The proposal would comprise the applicant’s customary style amenity building with accompanying canopies over forecourts for cars/vans and HCVs. The submitted photomontages indicate that the developed site would be most visible on its south western corner, when viewed by approaching traffic on the L3156. Projected landscaping would mitigate the visual impact that would otherwise persist at this vantage point. From other surrounding vantage points the presence of the site would become more noticeable. However, given its contained form, any wider visual impact would be limited and again, in time, landscaping would serve to screen and soften the effect upon short range views.
- 3.10 The applicant has submitted an Archaeological Assessment of the site. This Assessment makes a distinction between the south eastern and north western halves of the site: the former, as distinct from the latter, has not been disturbed in the past and so it is recommended that, prior to development, this half of the site should be the subject of archaeological testing. The DoAHG, in its advice to the planning authority, concurs with this approach.
- 3.11 I, therefore, conclude that the proposal would be appropriate on land use grounds and, provided landscaping proposals are implemented, it would be compatible with the visual amenities of the area. Archaeological testing of the greenfield portion of the site is recommended.

(iv) Water

- 4.1 The applicant has submitted an Engineering Report that addresses water supply, surface and foul water drainage arrangements and flood risk. They have also submitted a Hydrogeological Impact Assessment (HIA).
- 4.2 With respect to water supply, an existing water mains underneath the cul-de-sac within the site would be re-directed around the southern and eastern perimeters of the site and a 6m wayleave would accompany the same for maintenance purposes. The applicant has agreed with Irish Water that a connection to this mains can be made to serve the proposal. The amount of water that would be required would be eased by means of a rainwater harvesting scheme that would recycle water from the roof of the amenity building and forecourt canopies for non-potable use within the MSA.
- 4.3 With respect to surface water drainage, a new system would be installed to serve the site, which would incorporate SuDS features which, in addition to the aforementioned rainwater harvesting scheme, would include attenuation

measures that would ensure that the discharge to the L3156 road drainage network is capped at an acceptable 14.91 litres per second per hectare for a 1 in 100 year storm event. In this respect a 977.94 cubic metre attenuation tank would be installed, along with a Class 1 by-pass separator and a hydro-brake. Class 1 forecourt interceptors would also be installed around the perimeter of the refuelling areas.

- 4.4 With respect to foul water drainage, the applicant has undertaken a site characterisation exercise, which returned T and P values of 21.58 minutes per 25 mm and 33.78 minutes per 25 mm, respectfully. The assessor recommends the removal of the topsoil, due to its slow soakage, and its replacement with subsoil with a T value less than 30 minutes per 25 mm. An overall depth of existing and imported subsoil of 1m would be necessary and a further 0.3m layer of washed gravel would be placed underneath the proposed sand polishing filter. The installation of secondary treatment is also recommended, prior to discharge to this sand polishing filter and ultimately to groundwater.
- 4.5 The applicant has calculated the maximum PE that the proposed on-site package waste water treatment system would need to be able to handle, i.e. 453. They propose to install a system that incorporates Sequential Batch Reactor technology. The accompanying sand polishing filter would have an area of 325 sq m. This system and filter would be sited towards the northern end of the site and adjacent to the site access road.
- 4.6 The aforementioned HIA identifies the site as lying above Dinantian Pure Bedded Limestone and a regionally important aquifer of extreme vulnerability. (The ground water protection response is R2₂). This Assessment estimates that the daily discharge from the proposed sand polishing filter would be 17.4 cubic metres and that the daily flow of ground water beneath the site is of the order of 467 cubic metres. It undertook falling head permeability tests on the underlying bedrock and thereby ascertained that permeability varies at different depths.
- 4.7 The HIA utilises a source – pathway – receptor model to examine the likely impact of the estimated discharge and it concludes as follows:

Groundwater quality is expected to be good given the absence of potential sources of contamination. The discharge of treated effluent into the underlying groundwater will result in an increase in the levels of ammonia below the sand polishing filter. However these are not expected to elevate levels above the drinking water standards and/or groundwater threshold values. In addition further reductions in levels of contaminants will occur through attenuation processes within the underlying ground waters. There are a number of receptors within the vicinity of the site consisting of the underlying aquifer (future users) and water bodies, including the River Fergus and Latoon Creek, which are designated sites. Mitigation measures will be adopted

on site to reduce the potential impacts from the proposed discharge of highly treated effluent.

The need for a discharge licence would afford the opportunity for these matters to be examined in greater detail.

4.7 With respect to flood risk the applicant consulted a variety of sources.

Consequently, two flood risks were identified, i.e. pluvial flooding within a depression in the south western corner of the greenfield portion of the site arises after heavy rainfall and coastal flooding over a small portion of the site at its southern end is predicted for a 1 in 200 year storm event. The applicant proposes to leave the said depression in situ. Its level at 3.5 – 4m OD would be well below the finished levels proposed for the MSA. Likewise, the said small portion would be well below these levels, too. The applicant draws attention to the embankment that supports the rising L3156 to the west of the site and the effective coastal flood defence measure that this would constitute for the bulk of the site. They also draw attention to photographs taken during a recent flood event that show the site unaffected by the same.

4.8 I conclude that the proposed water supply and drainage measures would be satisfactory and that the proposal would not be at any significant risk of flooding.

(v) AA: Stage 1 Screening

5.1 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 NPWS's advice to the planning authority, the applicant's document entitled "Screening for Appropriate Assessment", and observations from my site visit. This information is considered to be sufficient to enable a Stage 1 Screening to be undertaken.

5.2 The site does not lie within a Natura 2000 site. However, several Natura 2000 sites lie within the wider area of the site:

- The Lower River Shannon SAC (IE002165) and the River Shannon and River Fergus Estuary SPA (IE004077) lie 0.4 km to the north and west,
- The Lough Gash Turlough SAC (IE000051) lies 3 km to the south, and
- The Newhall and Edenvale Complex SAC (IE003091) lies 5.5 km to the west.

5.3 The qualifying interests for the Lower River Shannon SAC and the River Shannon and River Fergus Estuary SPA are set out in full in their site synopsis as are the Conservation Objectives to maintain or restore the favourable conservation condition of the habitat and species. The River Rine runs to the north of the site. This River flows westwards into the River Fergus and it is included within the

designated SAC/SPA in question. I am aware that there are potential source – pathway – receptor routes between the site and the River Rine. Thus,

- During the construction phase, polluted surface water run-off could find its way into network of drainage ditches to the west of the site. That said, the L3156 embankment on the western side of the site would effectively contain surface water run-off from all but the south western corner of the site. Provided good construction management practices are observed the risk of pollution would be minimal and given the limited opportunity for surface water run-off to reach the River Rine, I do not consider that any significant effect would ensue. (During the operational phase of the site, surface water run-off would be discharged in a controlled manner to the L3156 road drainage network).
- The proposed waste water treatment system would discharge to ground water. It is unclear if this ground water connects with the River Rine. If it does, then provided the discharge has been fully treated in accordance with the applicant's proposal, there would be no significant effect upon the quality of the water in this River.

5.4 The NPWS, in its advice to the planning authority on the applicant's previous application for essentially the same proposal, drew attention to the presence of wintering Whooper Swans on lands to the west and south of the site. (These Swans are a species of qualifying interest for the SPA). It advised that they should be fully screened during the construction and operational phases of the proposal.

5.5 As described under the third heading of my assessment, the site is contained by the embankments that surround three of its four sides. The remaining southern boundary is denoted by means of a mature hedgerow. Provided this hedgerow is retained in situ, the site would be screened from the lands to the west and the south and so the additional activity that would be generated by the proposal during the construction and operational phases would be compatible with the presence of the wintering Whooper Swans.

5.6 The qualifying interest for the designation of Lough Gash Turlough as a SAC is that it is a turlough. I am not aware of any source – pathway – receptor route between the site and this SAC.

5.7 The qualifying interest for the designation of the Newhall and Edenvale Complex as a SAC is that it comprises caves which provide roosts for the Lesser Horseshoe Bat. The Conservation Objective for this SAC is to maintain or restore the favourable conservation condition of the habitat and species. While the site contains no caves, it does accommodate a number of relatively recently abandoned buildings and several hedgerows, the more substantial one of which

runs along the southern boundary. The applicant has not undertaken a bat survey and so I am unable to completely discount the possibility that the existing site may be used for roosting and foraging by the Lesser Horseshoe Bat. The proposal would entail the loss of the said buildings and hedgerows, although not the substantial one cited above, and the introduction of lighting that could have an indirect impact upon this species. However, given the proximity of the site to Junction 11 of the M18, which is illuminated, and the considerable separation distance that exists between the SAC and the site, I do not consider that a significant effect upon the species would be likely to ensue.

5.8 I, therefore, consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites Nos. IE002165, IE004077, IE000051, and IE003091, or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

Recommendation

In the light of my assessment, I recommend that the proposed demolition/removal of existing and abandoned buildings/structures and construction of off-line motorway service area off the L3156 at Junction 11 of the M18, Latoon South and Latoon North, Dromoland, Co. Clare, be refused.

Reasons and considerations

The site has not been identified for use as a Motorway Service Area in either the NRA's Service Area Policy (August 2014), as outworked in the TII's consultant's report dated April 2016, or the Clare County Development Plan 2011 – 2017. 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 risk the establishment of an adverse precedent that could lead to the proliferation of motorway service areas that would be incompatible with one another and which would be likely to cause driver confusion, thereby jeopardising road safety. Accordingly, the proposal would be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison

Inspector

14th July 2016