



An
Bord
Pleanála

Inspector's Report ABP-300994-18

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| Development | Filling station, retail unit, 4 pump islands with canopy, access road, vehicular entrance, signage, |
| Location | Mid Way, Toghers, Portlaoise, Co. Laois. |
| Planning Authority | Laois County Council |
| Planning Authority Reg. Ref. | 17/538 |
| Applicant(s) | Petrogas Group (Applegreen) |
| Type of Application | Permission |
| Planning Authority Decision | Grant with conditions |
| Type of Appeal | First / Third Party |
| Appellant(s) | Transport Infrastructure Ireland Paul Dunne Atlantic Enterprises |
| Observer(s) | None |
| Date of Site Inspection | 28 th of June 2018. |
| Inspector | Caryn Coogan |

1.0 Site Location and Description

- 1.1. The site is located within the **Midway** facility just off the M7 Dublin-Cork Road at Junction 17 which includes a hotel and multiple dining outlets. The Midway facility is to the north of the Togher Interchange which is a major roundabout interchange on the M7 motorway between Dublin and Limerick. The site is located along the R922(Abbeyleix Road) which connects Junction 17 off the motorway to Portlaoise town. The subject site located within the townland of Togher and Meelick at an entrance to Portlaoise.
- 1.2. There is a modern hotel 90-bedroom hotel on the *Midway* site with leisure facilities, which is visible from the M7. In addition, there is a large foodhall which includes a number of restaurants including, Chopsticks, Subway, Costa, etc . The *Midway* facility is accessed and exited by a oneway system off the N77(Abbeyleix Road), which leads into a large surface carpark for cars and buses. There is a 75metre queuing lane for the right turning movements off the Junction 17 interchange. At the entrance to Midway, the speed limit changes form 80km/hour to 60km/hour.
- 1.3. The subject service station site, (0.94Ha), is the north of the large surface carpark serving both the hotel and the foodhall facility. Part of the site along the southern site boundary contains some of the bus parking and landscaping. The site is level and has no road frontage onto the adjoining road network. It is currently used for grazing horses. It is not visible from the motorway, the interchange and it is barely visible form the Abbeyleix Road (N77).

2.0 Proposed Development

- 2.1. Planning permission has been sought for the following:
 - Retail unit adjoining existing foodcourt (240sq.m.) with net retail area of 88sq.m., to a height of 8.63metres, with 3No. façade signs
 - 4No. pump islands with branded canopy over
 - Access Road for deliveries to hotel and foodcourt
 - Vehicular entrance and egress points
 - Replacement of totem sign at entrance

- Associated site development works.

3.0 Planning Authority Decision

3.1. Decision

Laois Co. Co. granted planning permission for the proposed development on 25th of January 2018 subject to 17No. standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning history is detailed
- County Development Plan policies are outlined.
- Assessment issues arising

Request for Further Information:

In response to the Further Information, a swept path analysis is carried out for HGVs. Proposals for signage a mitigation measures for illegal driving issues, including additional 'No entry' road markings is proposed, along with bollards, and a ghost island is proposed. The Road markings for the indicate left and right turns. Issues relating to surface water collection and disposal were addressed. Details regarding lighting were submitted.

A report was submitted addressing the concerns of the third party submissions.

Contributions: €32 per sq.m.which equates to €8177

Recommendation to Grant

3.2.2. Other Technical Reports

Roads Department: No objection subject to Stages 3 and 4 Road Safety Audit carried out at the appropriate times and submitted to Road Design. The office was satisfied all of the items requested in the further information were addressed.

EHO had no objections.

3.3. Prescribed Bodies

TII objected to the proposed development on the following grounds:

- Official D0ECLG's Policy on Access to National Roads
- Official D0ECLG's Policy on Service Area
- Traffic and Transport Assessment
- Precedence

3.4. Third Party Observations

Other third party objectors cited the following concerns:

- There is a move away from existing fuels to electrical
- Illegal use of the lane into Midway by cars wanting to go into Portlaoise
- Midway is used as a car pooling location
- Accidents at the Meelick exit.
- There is an existing petrol filling station along the Abbeyleix Road.
- Motorway Service Area
- Traffic and pedestrian safety

4.0 Planning History

There is no planning history associated with the actual subject site. However, there is an extensive planning history relating to the adjoining lands in particular a site to them south west within the *Midway* complex which was the subject of a number of applications and appeals for a petrol filling station.

4.1 PL11.240814

Planning permission was granted by Laois Co. Co. under planning reference 11/280

Planning permission was granted a filling station on the north-east corner of the roundabout on Junction 17 but it was **refused** on appeal to the Board.

4.2 Permission was refused by Laois Co.Co. and An Bord Pleanala for a petrol filling station at the Midway site under planning registrations **08/1479 Ref.PL11.233133** because the proposed development would give rise to increased traffic movements and traffic volumes on the Abbeyleix Road and the Togher Interchange

4.4 **07/555**

Refers to an application to revise a previously permitted scheme under ref. no. 04/1549 comprising hotel with meeting facilities and bar, leisure facility and PL11.240814 An Bord Pleanála Page 4 of 29 food court on lands adjacent (northeast) to the Togher Interchange, Abbeyleix Road, Meelick, Portlaoise, Co. Laois. The alterations proposed comprised the development of a petrol station.

4.5 **P.A. Reg. Ref. 06/1027:**

Refers to an application to revise previously granted permission 04/1549 to develop a single storey structure comprising of a petrol station with ancillary retail unit and drive through take away restaurant with seating and bin storage. 6 no. island petrol pumps, and 47 no. parking spaces and all associated development works at lands adjacent to Togher Interchange. Permission was refused by the Council for five reasons.

4.7 **P.A. Reg. Ref. 04/1549:** Refers to the parent permission on site for which permission was granted for a 4 storey 90 bedroom hotel, consisting of approximately 4226 sq.m. of accommodation with meeting room facilities and bar, single storey (double height) food court, comprising of 5 no. individual units (total area 1457 sq.m.) 2 storey leisure facility (including swimming pool) of total area 1063 sq.m., 300 no. car parking spaces, 6 bus parking spaces on a site of 2.97 ha at Togher Interchange, Portlaoise, Co. Laois. This has been constructed and is fully operational.

4.8 Other Relevant Applications:

A.B.P. Ref. PL11.215808 / P.A. Reg. Ref.05/1400: Refers to an application for a Motorway services building, petrol filling station, associated car, coach and heavy goods vehicle parking areas and associated roads and infrastructure at Togher,

Portlaoise, Co. Laois by Corrigeen Construction Limited. The site is situated west of the current appeal site. This application was made in conjunction with PL11.215859 for a distributor road. Permission was refused by the Board for the distributor road and therefore, the Board considered that it would be premature pending the determination of a road layout for the area, including the National Transport Node objective at this location and therefore the development would be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1 National Policy Papers/ Policy/ Guidelines

The National Development Plan 2007-2013 entitled *Transforming Ireland – A Better Quality of Life for All* which aims for balanced regional development and has identified County Laois as having a strategic role in the Midlands Region.

The **National Spatial Strategy (NSS)** which sets out Government policy in relation to achieving balanced regional development and has identified the strategic centrality and prominence of County Laois and indeed Portlaoise Town as having strong National Development Potential as a major transport hub and distribution centre, fulfilling the role of inland port.

Sustainable Development: A Strategy for Ireland 1997, which provides a framework for the achievement of sustainability at a local level.

The **National Climate Change Strategy 2007-2012** was published in April 2007, developing from the 2000 Climate Change Strategy, and it builds on the commitment to sustainable development set out in Towards 2016 taking into account the review contained in Ireland's Pathway to Kyoto Compliance (2006). Its purpose is to demonstrate how Ireland is to meet its 2008-2012 Kyoto commitments and to identify further policy measures needed for the period from 2012 and after 2020.

Transport 21 Launched in 2005, this policy initiative sets down how an intended sum of €34.4 billion will be spent on Ireland's transportation system. It covers national roads, rail and bus services and regional airports. It relates to the period from 2006 to 2016, comprising two investment programmes – a national programme and a separate programme for the Greater Dublin area. The programme seeks to meet the transport needs of the country's citizens and also underpin our competitiveness into the future.

Smartertravel >>> A Sustainable Transport Future – A new transport policy for Ireland 2009-2020 provides guidance on the provision of a high quality and sustainable travel and transport infrastructure, that supports the movement of both people and goods.

5.2 Development Plan

Laos County Development Plan 2017-23

A minor part of the site along the southern axis is contained within the **Togher National Enterprise Park** designation.

ECN2 Develop Togher, on the southern outskirts of Portlaoise, as a National Enterprise Park as designated in the National Spatial Strategy and Midland Regional Planning Guidelines;

The County Development Plan notes the enterprise park includes 101 hectares land bank on the southern outskirts of Portlaoise with access from the Junction 17 off the M7.

DM30 Petrol filling stations

Applications for filling stations should have regard of the Retail Planning:

Guidelines for Planning Authorities (DECLG, 2012) and the Spatial Planning and National Roads: Guidelines for Planning Authorities (NRA/TII, 2012) also take account of the following:

- 1) Be located within urban areas within speed limits;
- 2) Access to filling stations will not be permitted closer than 35 metres to a road junction;
- 3) Frontage on primary and secondary routes must be at least 20 metres in

length;

- 4) All pumps and installations shall be set back at least 5 metres from the roads;
- 5) A wall, of a minimum height of 0.5 metres, must separate the forecourt from the public footpath;
- 6) All external lighting should be cowled and directed away from the public roadway to prevent traffic hazard;
- 7) A proliferation of large illuminated projecting signs will not be permitted at filling stations - Generally only one such sign will be permitted;
- 8) Turbo-drying or car washing facilities will be located so as not to interfere with residential amenities;
- 9) Petrol filling stations can include an associated shop (no more than 100 sq.ms. (net retail floorspace) that provides for the sale of convenience goods.
- 10) An undue concentration of filling stations shall not be permitted, as in the past oversupply has led to closures with resulting unsightly derelict filling stations;
- 11) Late night opening will only be permitted if it does not impact adversely on nearby residences;
- 12) A landscaping Plan will form part of any Planning application.

5.2 **Portlaoise Local Area Plan 2012-18**

The Portlaoise LAP is currently under review and the Draft is on the website. Of note the ***Togher Masterplan***, the subject site is located outside of the Masterplan boundary, however the Midway facility is included in the designation.

The subject lands are zoned **Enterprise and Employment** in the LAP, the purpose of this zone is to provide for activities which will generate employment and encourage enterprise. It is an objective in this area to develop a flagship Togher National Enterprise Park which has the potential to boost the economy of Portlaoise and to contribute to the growth of the County and the Region as a whole.

A Petrol Station is **Open for Consideration** which means the use is generally acceptable except where indicated otherwise.

A convenience shop **under 100sq.m.** is also Open for Consideration under the Enterprise and Employment Zoning objective.

The very eastern portion of the site is a flood risk area.

5.1. **Retail Planning Guidelines**

The Guidelines place a cap of 100sq.m. on net retail floorspace within filling stations beyond which a retail impact assessment is required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

There are three third party appeals which by and large cover the same concerns. In order to avoid any undue repetition I will summarise the three of them collectively.

They have been made by

1. Transport Infrastructure Ireland;
2. Paul Dunne. Dunnes Service Station, Abbeyleix Road
3. Atlantic Enterprise Ireland, Ballybrit, Galway

6.2 The M7 motorway is part of the EU TEN-T Core Network. It is considered that the planning authority's assessment of the planning application does not give due consideration to the strategic nature of the N77 in close proximity to Junction 17 of the M7.

6.3 **Official D0ECLG Policy**

The official documents is *Spatial Planning and National Road Guidelines for Planning Authorities* (January 2012). New entrances creating an additional access point or generation of increased traffic from existing accesses on national roads where the speed limit is greater than 60kmph will be avoided. The proposal represents an intensification of an existing direct access to the N77 in proximity to a junction with M7, in close proximity to a junction with the M7, where an 80km/h speed limit applies. The development is contrary to the provisions of TRANS7 of the

County Development Plan. The intensification of a direct access to a national road in an area subject to 60km/h is considered to be at variance with the national and local policies.

6.4 Impact on Safety of N77 and M7 Junction 17

Appropriate assessment has not been undertaken to satisfactorily demonstrate the adequacy of the access junction to safely accommodate the additional turning movements generated and the associated impact on the safety and operation of the N77 and M7 Junction 17. There would appear to be difficulties in making right turn movements from the Meelick Road to access Portlaoise. This results in vehicles turning left from the Meelick road having travelled through the strategic national road junction. The N77/ Meelick Road junction should therefore be considered in the context of the operational safety of the N77/Midway junction having regard to the proximity of all the existing junctions concerned and the proposed intensification of use of the Midway junction arising from the subject planning application.

Having regard to the potential for significant underestimation of trips there are implications for the operation and adequacy of the right turn into the site. The limited stacking space available for right turning vehicles into the site could result in queues quickly forming back onto the M7/ N77 junction, especially of HCVs and buses are involved.

In addition, the applicant indicates that the main congestion at this junction will be as a result of increases in general traffic demand at the junction, the submitted traffic modelling undertaken by the applicant indicates some queuing and delays projected on the M7, most significantly on the westbound approach to the junction.

Trip generation rates have been derived using empirical data from similar Petrogas sites. This estimates a 22 % increase in existing trips to the Midway development as a result of the proposed petrol station. This equates to a total of 143 trips to the development. In the morning and 190 in the PM. There is a significant deficiency in the assessment in terms of underestimating trips, and it is not in accordance with best practice outlined in the TII Traffic and Transport Assessment.

6.5 Related Planning Matters

TII seeks to ensure that official national objectives are not undermined and that the anticipated benefits of the investment made to the national road network are not

jeopardised. It is the policy of the TII to discourage inappropriate and unplanned development, which is considered to be contrary to the provisions of official policy adjacent to junctions/ interchanges on the national road network. In light of the previous Board decisions the TII considers that the proposed development in its current form would affect the safety, capacity and efficiency of the national road network. The proposal would set an undesirable precedent, would adversely affect the use of the N77, M7 and associated junction. The Exchequer has funded at substantial cost, significant improvements to road infrastructure in the area. The present investment will put at risk public investment. A longterm plan like the Togher National Enterprise Park Masterplan would need to consider long-term access and development requirements for the Midway site and update the Portlaoise Traffic Model. The Portlaoise Traffic Model was a matter in previous planning applications. The TII has become aware that Laois Co. Co. has commenced the review process of the Portlaoise LAP 2012-2018 and it is appropriate to consider the local area planning and transport integration at this critical location. TII want clarification on updating the Portlaoise Traffic Model.

6.6 Creation of an MSA

The proposal will create a Motorway Service Area on the N77 in close proximity to the town, the exclusion of HGV filling area will not stop other uses related to a MSA. The traffic generation figure regarding the development are flawed as they relate to ratios between fuel customers and others and appear to suggest that just over 2 in 10 trips to the outlets will be fuel related. If a customer average of 20000 is assumed and a fuel purchase of 4,000 is allowed for, this represents 20% of the total as fuel related. Then this would imply 8000 customers are attributable to the fuel count, representing 33% customers in fuel purchase related vehicles. Applied to existing trips at Midway, the projected fuel purchase figures are considerably lower than they should be distorting the overall assessment.

6.7 EFFECT OF PROPOSED DEVELOPMENT ON EXISTING BUSINESSES

The proposed development will seriously affect other businesses in the town not just filling stations. The inclusion of a filling station at Midway will create a destination.

Many of the current Midway visitors visit the town, and a fuelling station will take business away from the town.

The proposal will have a devastating effect on the Dunnes service station. The appellant has planning permission to upgrade his business but that is on hold until the outcome of this appeal. The planning authority did not take into account the viability of his business.

6.8 PLANNING HISTORY

There have been a number of applications for similar developments at this location which have been refused by the planning authority and the Board. These date from 2004- 2011. The proposed development does not demonstrate any material difference to the application that have been previously refused by the Board.

6.9 APPLICANT'S RESPONSE

TII Policy and Potential Conflict of Interest

In January 2018, TII was called before Oireachtas Committee on Transport to respond to allegations of anti-competitive behaviour and abuse of powers. Applegreen did not have any involvement in that module of the Committee's work. TII's mandate includes the provision of road safety and socio-economic transport infrastructure in the form of stops to prevent fatigue, which reduces accidents and fatalities. The TII's function as a consultee in the planning process is to act as a guardian of the infrastructure without bias.

The proposal is a small filling station which will use an existing safe access to a national road via an existing roadside facility which has been trading for over ten years which is close to a motorway junction with ample capacity.

The tone and content of the TII appeal suggests the development has a substandard design, and serious deficiencies in traffic impact studies. There is no professional engineering analysis or counter evidence to support the criticisms, their opinions seem to be taken at face value. These unsupported opinions and alarmist language is regularly used and regurgitated for proposed roadside facilities where roadside facilities other than operators proposed by TII. This would be expected from

competitors within the industry but not the TII. TII has strenuously objected to Applegreen proposals at Kill and Cashel, and have objected to proposals at Rathcoole, Kill, Naas, Monasterevin, Portlaoise, Abbeyleix and Urlingford, Mitchelstown and Fermoy, all along the Cork route.

TII has expressed the formulaic concern on every single roadside project not brought by TII themselves. It has withdrawn objections to similar or larger developments on different routes e.g. IKEA, a data centre in Wicklow and an office park in Mahon, Cork. According to TII the objections lifted was of political pressure, however it would appear other socio-economic reasons were at issues. It is not the job of TII to decide which type of job or which type of socio-economic benefit should be supported in the planning process and that TII should properly focus on whether the negative traffic impacts if any for a particular project are adequately mitigated or not.

The objection to this small petrol filling station is very pronounced when examined in conjunction with the fact within the same time period the TII chose not to object to Kildare Co. Co.'s grant of a major expansion of the Kildare village retail outlet project on the same route despite its own negative observations on the file (ABP PL09.300795).

6.10 Official DoECLG Policy on Access to National Roads

ATKINS have highlighted that the posted speed limit on the N77 changes to 60km/h immediately adjacent to the Midway entrance. Given the proximity of the M7 interchange speeds on the N77 at the entrance and exit for Midway are not typical of an 80 km/h road and this has been confirmed by traffic speed surveys showing recorded average speeds around 50kmph. The view of the TII that the proposal is contrary to DoECLG policy (in terms of intensification of an existing access onto a national road with a speed limit over 60 kph) is misguided and does not reflect the position on the ground.

The entrance and exit for the proposed filling station do not front onto a national road where the speed limit is in excess of 60kmph. The entrance and exit front onto an internal road within the Midway complex itself. Therefore section 2.5 of the DoECLG

guidelines does not apply in this instance. The entrance/ exit on the N77 is used by the Midway complex as a whole.

The Board is asked to refer to precedent at Birdhill, Co. Tipperary (junction 27 on M7) where the access for a proposed off-line MSA was onto a Regional Road with a speed limit in excess of 60km/h. The Board Inspector noted the TII advise to the effect that the design speed of a road is not exclusively related to the mandatory speed limit and observed speeds on the road are a material consideration. Also refer to PL01.244762 on the Wexford Road, Carlow, whereby the TII made a submission stating the proposal was contrary to national and regional planning guidelines, contrary to the development plan, contrary to the TII/NRA policy and has the potential to endanger public safety. The Bord Inspector specifically noted the issue of the entrance onto the N80 with a speed limit in excess of 60km/h, and took into account the actual speed of the traffic is lower because it took into account the close proximity to the roundabout.

Should the Board agree that the development is inappropriate at this location due to the speed limit, a condition would be reluctantly accepted to prevent the opening of the filling station until such time as the speed limit has been changed to 60km/h, e.g. PL25M.248607 at Kilbeggan.

6.11 Impact on Safety of N77 and M7 Junction 17

ATKINS conclude that there is ample capacity for right turning traffic wishing to access Midway and there is no requirement for any additional safety measures. There are no collisions recorded at the Midway access or in the vicinity, there are no material issues arising.

6.12 Impact on operation of N77 and M7 Junction 17

The majority of traffic travelling to and from the Midway originates in Portlaoise itself, and the proposed development is unlikely to change this pattern. In the opening year it is predicted an increase of 20-25% of increased turn in rates from the M7 from the addition of a petrol filling station, and this represents an increase from an existing small number. There is no queuing on the M7 envisaged, and the potential impact to the M7 interchange is small. The proposed development will not be afforded any signage along the M7 as it does not meet with the required criteria of the TII for a

blue or brown sign along the motorway. Signage is a critical factor in encouraging motorists off the motorway.

613 Related Planning Matters

AKTINS are of the opinion that considering the absence of available detail in the Togher proposals, in particular new road infrastructure, it is premature to assess the traffic impacts to it and unreasonable to ask the applicant to effectively carry out a TTA for an entirely separate development.

6.14 Related Planning Matters : Portlaoise LAP 2018-2024

The Portlaoise LAP 2018-2024 was released on 22nd of March 2018. The zoning of the subject site remains unchanged. The only change is the removal of the Enterprise and Employment lands to the west of the site on the opposite side of the N77. This would suggest future traffic flows would be less than anticipated in the previous traffic modelling done for the wider area.

6.15 Vexatious

Mr. **Pat McDonagh's** address is Galway and he is behind Supermacs franchise who are in direct competition to Petrogas Group Ltd. The Board is requested to dismiss his appeal under Section 138 of the Planning and Development Act. Should the Board decide that his appeal is bona fide then the following response is submitted:

- **Traffic Concerns:** ATKINS are of the professional opinion that the 80km/h speed limit is inappropriate based on the actual speeds along the road arising from the proximity to the roundabout junction. The issue of non-compliance with national policy does not arise as the entrance and exit of the filling station are onto an internal road within the Midway and the not the N77.
- **Planning History:** The applicant has indicated a number of 'similar' developments which have been refused by the Board. The proposal is not similar to the previous planning applications that were refused at Midway. Both of the previous refusals relate to a site at the north-east corner of Junction 17. The single reason for refusal was addressed. The future development of the interchange has no bearing on the subject site, and the second element it has been demonstrated there will be no material risk to the

efficiency, operation or safety of the national road network. Also of note is the fact the previous applications related to a much larger filling station (397sq.m.)

- **Planning Policy:** The issue regarding traffic safety has been dealt with comprehensively. There is no evidence provided by the appellant to support his inaccurate claim that the arrangement from the N77 into Midway is substandard. The issue of the development been premature prior to the adoption of a new LAP is no reason to prevent the development from been permitted. The draft Lap went on public display on 22nd of March 2018, the zoning for the site remains unchanged

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6.16 Paul Dunne's appeal

- **Vexatious;** Mr Dunne operates a local filling station on the Abbeyleix Road 900metres form the subject site. He claims the development will have a devastating impact on his business. This is vexatious and the appeal should be dismissed under Section 138 (a)(i) of the Act.
- **Precedence for Refusal :** This issue is dealt with previously. This is not an identical application to two previous refusals, in fact it relates to a different site. The potential impact to the interchange has been addressed.
- **TII Submission :** The issues have been addressed previously
- **Creation of an MSA:** The appellant has argued the proposal will create an MSA on the N77 and the exclusion of HGV fuel filling area will not stop other uses related to MSAs. The predicted fuel purchase figures are considerably lower than should be. The proposal does not meet the criteria for an MSA as it only opens from 6am to 11pm and is not eligible for signage along the motorway.
- **Effect on Existing Businesses:** It is not the Board's function to inhibit competition.

6.17 Planning Authority Response

Laois County Council has stated in response to the appeals that:

- The subject site is zoned 'Enterprise and Employment' in the Portlaoise LAP 2012-2018.
- Roads Design considered the development is acceptable.
- The submission from TII was considered during the planning application assessment.

6.18 Further Responses

The TII has no further comment to make on the two additional third party appeals submitted.

7.0 Assessment

- 7.1 The proposed development is for a modest petrol filling station consisting of four pumps, canopy and a retail kiosk at the *Midway* facility along the M7 motoway at Junction 17 interchange giving access to Portlaoise town. The proposal will form part of an existing commercial complex (90 bedroom Maldron hotel, leisure and large foodcourt) known as *Midway* and will cater for customers of the existing complex along with passing motorists from Portlaoise. The Midway complex has a large surface carpark catering for 290No. cars and 6No. bus parking spaces, and acts as a meeting point and service area to passing traffic from Portlaoise town, and the M7 Dublin – Limerick motorway providing a variety of restaurants within the large foodhall and with seating for 280 No. people. It is not a motorway service area, as there are 3No. nationally recognised motorway service areas along the M7 which are, Birdhill, Moneygall and Mayfield.
- 7.2 It is acknowledged the Board has previously refused 2 planning applications for petrol filling stations on a site within the Midway facility, however these planning applications related to a site positioned alongside the N77 at the western extremity of the large surface carpark serving Midway. The previous development proposals

relate to a larger scale petrol filling station along the N77, positioned between the Interchange and the entrance to Midway. Having regard to the scale of the proposed development, the proposed location within and attached to the Midway Foodhall facility, I consider the points raised on appeal by the third parties relating to precedent, planning history, and a possible Motorway Service Station, to be irrelevant in this instance and are obscuring the main planning issues relating to this proposal which are assessed below.

7.3 Compliance with Development Plan Policies

The subject site is located on the southern outskirts of Portlaoise adjoining lands which have been designated in the Laois County Development Plan 2017-23 for a National Enterprise Park. The bulk of the lands designated for a National Enterprise Park are located to the west of the Midway site, however the Midway site itself is included in the designation.. The proposed petrol filling station kiosk/ retail outlet relating to the petrol filling station, is attached to the large Midway foodhall building. The proposal is integrated seamlessly into the Midway facility by attaching the shop unit to the foodhall area, with direct access to the petrol/ diesel pumps from the large surface parking area associated with Midway. Therefore, the proposal is in line with the Enterprise Park designation, whereby it will create employment, support other economic activities on the site and on undeveloped lands.

The proposed development has been designed to integrate into the existing Midway site in a coherent manner in order to achieve a sustainable outcome. It should be noted the proposed retail outlet has a floor area which is in line with the *Retail Planning Guidelines for Planning Authorities (DECLG 2012)*. The shop includes for less than 100sq.m. net retail spaces providing for convenience goods.

7.4 In the Development Standards section of the current Laois County Development Plan, there is a section **DM30** relating specifically to **Petrol Filling Stations** which is noted. The development plan design standards for new petrol filling stations substantially relate to roadside sites. The existing site has no road frontage, and is accessible and visible from an existing development and its associated carparking area, therefore section DM30 development plan requirements are not relevant to this current proposal, however their content is noted.

- 7.5 The Portlaoise Local Area Plan 2012-2018 is currently under review. The existing zoning for the subject site under the current Local Area Plan is **Enterprise and Employment**. The purpose of the zoning is to generate employment and encourage enterprise. This zoning objective should also be viewed in the context of the **Togher National Enterprise Park** designation in the plan, which includes the Midway facility site, where part of the petrol filling station is proposed. It is my opinion, a petrol filling station at Midway has the potential to help attract more business to the area, boost the economy of the area, by providing fuel to customers of the Midway facility and the future Enterprise area. It is clear from aerial photographs, site layout drawings and my site visit, the bulk of the Midway site is surface carparking (290No. spaces and 6No. bus spaces). The entire facility is car dependent. It acts a stop off, a gateway, a setdown, car pool location for many users. The proposed petrol filling station compliments the adjoining carparking use. In addition, I noted on site the existing electric car charging points located at the proposed petrol filling kiosk and will later be relocated to a designated parking area within the filling station forecourt.
- 7.6 The retail area is in compliance with the retail Planning Guidelines in terms of the proposed net floor area is less than 100sq.m.

7.7 **Traffic Issues**

The Board has previously refused permission for a filling station elsewhere within the Midway complex on the basis of the potential increased traffic and volumes on the national road and at the Togher Interchange. In fact, the majority of all three third party appeals focus a bulk of their grounds of appeal on traffic and transport issues. There is a right turning lane into the Midway site off the N77. The existing access and exit arrangements will be used to access the proposed development, and there are a one-way system. Traffic heading north towards Portlaoise town from Junction 17 interchange roundabout need to turn right across the N77 to access the Midway facility, and there is a queue lane with associated bollards to ensure only traffic entering the site use the northernmost access point. The exit from Midway is further to the south along the N77, and in closer proximity to the interchange roundabout. Traffic exiting the Midway site can only turn south towards the interchange

roundabout. There are excellent pedestrian crossings and cycle lanes at the entrance and exit locations to Midway, however it is clear from the extent of the carparking area, that Midway is a car dependent facility. In my opinion, the junction arrangements and layout, cater satisfactorily for the level of traffic and the speed of traffic flow at this location. The exit only enables traffic to turn south towards the interchange roundabout, and not towards Portlaoise. There is a change in the speed limit from 80km/hour to 60km/ hour adjacent to the Midway entrance. Given the close proximity of the entrance and exit points to the Junction 17 interchange, the traffic generally moves at a slow pace and is unlikely to accelerate within the Midway junctions envelop.

7.8 As part of the planning application, an assessment of existing traffic flow was carried out between the dates 14-18th of March 2018. The results showed 85% of traffic heading north towards Portlaoise was at 61.9km/hour and southbound was 64.4km/hour. The studies demonstrate the proposed development would have no material adverse impact on the safety of the national road as the speeds are low in the vicinity of Midway due to the existing road layout and proximity to the interchange. The entrance to Midway is located directly at the 60km/hour speed limit. Right turning movements into the site off the N77 imply traffic crossing over the road, which may imply queuing to get into the site during peak times, were addressed using a Vissim Microsimulation. The right turning lane is approximately 75metres in length, which can accommodate 13No. cars, yet the majority of traffic entering Midway during peak times is from the Portlaoise direction and would not impact on the existing queuing. In my opinion, there will be no adverse impact on the safety capacity or the operation of the N77 as a result of the proposal, as traffic prediction have indicated a minimal increase in traffic entering Midway as a result of the proposed development.

The Board should note the small scale of the proposed petrol filling station, it includes 4No. pumps and a small kiosk attached to the existing building envelop of Midway. This is not a motorway service station. The majority of traffic using the existing Midway facility originate in Portlaoise and does not comes off the M7 motorway. The proposed development will not serve HGVs, and because the

proposed scale is small, the overall development does not qualify for advance signage along the M7. Therefore, it is important to re-iterate the point the proposal is unlikely to have a significant impact of existing traffic patterns and distribution as it will not attract additional traffic off the M7 motorway. The VISSIM traffic studies indicate the M7 ramps and the Junction 17 interchange, are working well within their capacity, and any future increase will be associated with increase in traffic in general terms and not solely related to the proposed development. The turn-in rates from the M7 have been calculated between 2 -2.5% which is reasonable , and the turn -in rates form the N77 are 12-13% as the development will primarily service traffic along the N77 and the Portlaoise area.

Finally, the proposed development includes an additional, 24No. surface carparking spaces which will compliment the existing landuses at the Midway site, and embellish the level of existing carparking at the Midway site which is entirely car dependent.

7.9 Visual Impact

The proposed elevation addressing the carpark and entrance to the site is for a glazed unit attached to the northern elevation of the foodhall building. The side elevation is for an angled monopitch roof. The proposed canopy for the forecourt area is low profile. The significant setback of the proposed development from the N77 and the physical link of the building to the existing building envelop, implies the development will combine seamlessly with the existing Midway development, and it will not stand out or upstage the existing buildings or land uses on the site. The proposal hs been designed as an ancillary to the existing and original landuses which were permitted in 2004. The primary function of the Midway site is and will remain a hotel and foodhall landuse, with the proposed development facilitating the customers of the primary landuse.

The proposed new totem sign at the existing entrance as per Drawing PL-08 will create the greatest visual impact, and will inevitably attract passing traffic along the N77 travelling towards the M7. There is an existing large totem sign at the entrance,

and this will be replaced by a new 'Applegreen' sign. The replacement of an existing totem sign with a new one involves minimal visual impact to the overall area.

7.10 Flooding

The applicant prepared a Flood Risk Assessment Stage 1 (Atkins), and the subject site is removed from any identifiable flood zone. The surface water will be collected and disposed of to greenfield run off rates prior to discharging to the existing storm drainage system. In response to the further information requirements Aktins designed a comprehensive surface water drainage system.

7.11 Appropriate Assessment

I note the screening process submitted with the planning application on 4th of October 2017. The site is not located in a Natura 2000 site or adjacent to a Natura 200 site. The closet site is the Slieve Bloom Mountains SPA which is circa 9.2km from the site. There is no direct ecological link to any of the Natura sites within a 20km radius.

The submission documents indicate interceptors are proposed to prevent any oil entering the surface water drainage, and the development is connected to the foul sewer. No Appropriate Assessment issues arise and it is not considered the proposed development would be likely to have a significant effect individually or combined with other projects on a European site.

8 Recommendation

8.1 I recommend planning permission be granted for the following reasons and considerations.

9 Reasons and Considerations

Having regard to the Enterprise and Employment zoning objective and other provisions of the Portlaoise Local Area Plan 2012-2018 and to the design and layout of the proposed development and the pattern of development in the area on the immediate Midway site to the south, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or have an adverse impact on the traffic safety of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

10 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The total net retail sales area, as defined in Section 4.11.9 of the Guidelines for Planning Authorities Retail Planning issued by the Department of the Environment, Community and Local Government in April 2012, shall not exceed 100 square metres. The floor area dedicated as an off-licence shall be reduced in extent so as not to exceed 10% of the floor area of the retail shop, and therefore shall be a maximum of 10 square metres. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity.

3. Apart from the signage shown on the submitted drawings, as modified by condition 4 of this Order, no further advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of the visual amenity, and to allow the planning authority to assess any further signage through the statutory planning process.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety.

5. The internal road network serving the proposed development, including junctions, parking areas, cycle parking, directional signage, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works. The two car parking spaces adjacent to the retail unit shall be omitted.

Reason: In the interests of amenity and of traffic and pedestrian safety.

6. Receptacles for waste shall be provided and available for use at all times on the premises in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for a satisfactory standard of development.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Caryn Coogan
Planning Inspector

24th of July 2018