



An
Bord
Pleanála

Inspector's Report ABP-305352-19

Development	Construction of an off-line motorway services station and all associated works
Location	Mayfield, Monasterevin County Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	19732
Applicant(s)	Conor Furey and Associates Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Conor Furey and Associates Limited
Observer(s)	An Taisce.
Date of Site Inspection	19 th February, 2020
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located on lands at the south western side of junction 14 on the M7, approximately 3km to the east of Monasterevin Town. Junction 14 is a grade separated junction with on and off slip roads onto the M7. Currently there is a motorway services area located on the south eastern side of junction 14 which comprises a substantial car and HGV parking area, fuelling area and a service area building containing fast food outlets, restaurant, retail and ancillary services including toilets. This service area operates 24 / 7 and is called 'J14 Mayfield'.
- 1.2. The appeal site has a stated area of 2.3 ha. and forms part of a larger field of approximately 4.3 ha. in area at this location. The site is accessed from a local road that runs south from junction 14 and which is also the access road to and from the existing motorway service area to the east.
- 1.3. The field comprising the wider site is enclosed by hedgerows however the appeal site is not currently bounded by planting. The site is generally flat with a slight fall from the north west corner towards the south east. The adjoining lands to the north east, west and south are currently in agricultural use.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of an off-line motorway services station on the site. The proposed development includes the following elements:
 - A car forecourt fuel area with canopy consisting of 16 no. fuel dispensers and a 2 no. island HGV fuel dispensing area with canopy consisting of 4 no. fuel dispensers;
 - A 2 storey services / amenity building with a gross floor area of 1,656 sq. metres containing 1 No. retail / convenience shop with maximum net floor area of 100 sq. metres inclusive of off-licence area and a food court at ground and first floor level to include restaurant/café and associated communal seating. A drive through access is proposed to the side and rear of the building. The services / amenity building is also proposed to include meeting

rooms, toilet and baby changing facilities and storage areas; and an outdoor seating and play area; (f

- The development will include a new site entrance off the L81760 and on site parking is proposed to accommodate 147 no. cars parking spaces, 33 no. HGVs and 6 no. coach parking spaces. The access road into the development off the L81760 also indicates provision for a future access to adjoining lands to the south east of the appeal site.
- Signage comprising ancillary signage on the amenity building and 2 no. double sided totem signs, both illuminated and non-illuminated on the eastern side of the site to the east of the forecourt area are proposed.
- A new packaged effluent treatment system and associated percolation area is proposed to be installed at the western end of the site and existing power lines that traverse the site are proposed to be undergrounded.
- All ancillary site development works and services including surface water drainage system, site landscaping, boundary treatments.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission for four reasons that can be summarised as follows:

1. That the proposed development is located on lands that are zoned Objective H (Industry and Warehousing) in the *Monasterevin LAP, 2016-2022* and therefore such that a restaurant and hot food takeaway is neither a permissible nor open for consideration use. The proposed development would therefore materially contravene the Monasterevin LAP and be contrary to the proper planning and sustainable development of the area.

2. That the proposed development, taken in conjunction with the existing off line motorway services area in the vicinity would impact negatively on the vibrancy and vitality of nearby Monasterevin Town and would represent a proliferation of off line motorway service areas. The proposed development would therefore be contrary to section 17.13.6 of the *Kildare County Development Plan, 2017-2023*, the Spatial Planning for National Roads Guidelines for Planning Authorities (2012) and the National Roads Authority Service Area Policy (2014).
3. That the proposed development is premature pending an upgrade of the M7 Monasterevin Interchange (J14) and would contravene Policy MO 5 of the *Kildare County Development Plan, 2017-2023*.
4. The proposed development contravenes section 17.7.2 of the Kildare County Development Plan, 2017-2023 which requires a minimum set back distance of 91 metres from the building line to the nearest point of the M7.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes the content of the internal reports and submissions received and those of prescribed bodies, in particular TII which recommends refusal of permission. The report also notes the previous refusal of permission on the site, does not consider that the documentation submitted addresses these previous refusal reasons and recommends refusal of permission consistent with the Notification of Decision which issued.

3.2.2. Other Technical Reports

Roads Transport and Public Safety Department – A number of issues regarding the capacity of the junction, traffic impacts of the development and compatible with TII and national guidance raised. Refusal of permission is recommended.

Environment – further information recommended including that the options for connection to existing foul drainage network would be examined. Further information relating to the treatment system is also required.

Heritage Officer – Recommends further information on biodiversity enhancement measures.

Area Engineer – Recommends further information.

Fire Officer – No objection.

3.3. **Prescribed Bodies**

Irish Water – further information is required including whether it would be feasible to discharge effluent from the proposed development to the existing waste water infrastructure on the adjoining motorway services site. Evidence of the availability of fire fighting water supply.

Health and Safety Authority – No objection.

TII – considers that the development is at variance with the policy for control of development on national roads as set out in the DoECLG Spatial Planning and National Roads as the development would adversely affect the operation and safety of the national road network.

An Taisce – that the number of spaces proposed would lead to displacement of trade and impact on Monasterevin.

3.4. **Third Party Observations**

A significant number of third party observations were received by the Planning Authority and the following is a summary of the main issues raised in these reports:

- Capacity of junction 14 and increased traffic and resulting impacts on traffic safety.
- Negative impact on businesses in Monasterevin town.
- Contrary to NRA policy.
- Overconcentration of similar type developments in one location.

- Contrary to zoning of the site.
- Negative impact on residential amenities.
- Negative impacts from noise, lighting and on site effluent disposal.

4.0 Planning History

The following relates to the appeal site:

- Kildare Co. Co. Ref. 19/282 – Permission refused for the development of a motorway service area on the appeal site. This proposed development was identical to that which is the subject of the current appeal and permission was refused by the Planning Authority for 4 no. reasons that relate to the same issues as the Notification of Decision issued on the subject case.

The following planning history relates to the adjacent lands to the east of the local road:

- Kildare Co. Co. Ref. 06/1881 – Permission granted for the construction of a motorway services area and associated facilities on a site of 6.9 ha. approximately adjoining the Mayfield Interchange on the M7.
- Kildare Co. Co. Ref. 12/888 – Permission granted for retention of the motorway services development as constructed including an increase in building area by c.500 sq. metres over that permitted under Ref. 06/1881. Total truck parking spaces permitted 42 no. and car parking spaces 184 no.
- Kildare Co. Co. Ref. 15/144 – Permission granted for the extension and re configuration of the permitted motorway services area to include a new first floor level and an extension of the floor area of the development from 951 sq. metres to 1,785 sq. metres. The permitted layout includes a convenience shop with floor area of 218 sq. metres, 4 no. café / restaurant units with floor area of 642 sq. metres (seating area associated with these units) and internal and external play areas and toilets. HGV parking unchanged however car parking spaces increased to 226 no. spaces.

- Kildare Co. Co. Ref. 16/858 – Permission granted by the Planning Authority for further amendments to the permitted layout resulting in an increase in the permitted floor area from 1,785 sq. metres to 2,208 sq. metres.

5.0 Policy Context

5.1. Development Plan

The site is located on lands that are within the administrative boundary of Kildare and are within the area covered by the *Monasterevin LAP, 2016-2022*. The entirety of the site is zoned Objective H (Industrial and Warehousing) under the provisions of this plan. A ‘filling station’ use is listed as Normally Permissible on lands zoned H while a shop, restaurant and hot food take away uses are identified as uses that are Not Permitted under the zoning matrix.

Section 17.13.6 of the Plan sets out policy with regard to the location of service areas on the national road network and states that a proliferation of such developments are to be avoided.

Paragraph 17.7.2 of the Plan relates to set back of developments from national, regional and local roads and specifies a distance of 91 metres.

Policy MO5 seeks to ‘*improve the safety and capacity of the M7 Monasterevin interchange (J14) by providing an upgrade to the junction*’.

5.2. Other Policy

Spatial Planning and National Roads Guidelines for Planning Authorities (DECLG, 2012)

The guidelines advocate the requirement for a forward planning approach to the provision of private sector off-line service areas with reference to the requirements and advice included in the most up-to-date Authority guidance on the location and layout of the Authority’s service areas and also similar type existing or planned privately promoted service facilities within existing towns/settlements and located in the general environs of the relevant road corridor.

In order to avoid a proliferation of service areas, the need for a coordinated approach between planning authorities in consultation with the Authority as part of the drafting of development plans is advocated.

The guidelines stipulate that facilities included in service areas should be of a type that avoids the attraction of short, local trips or the locations becoming destinations for local customers.

National Roads Authority (now TII) Service Area Policy 2014.

The existing facility at Mayfield (J14) on the M7 is identified as one of two existing off line service area facilities at that date of the policy document (2014) that meet the Type 1 service area criteria, see 3.3.2.

A number of permitted and potential future locations for off line service areas are identified where the policy states that it is not the intention of the NRA to provide on line services. A second site at J14 (M7) is not amongst these identified locations.

With regard to the identification of appropriate locations for off line service areas, the guidelines state at section 5.2 that '*Except for the statutory consultee role described in section 1.4, the Authority has no role in determining how off-line developments should be delivered*'.

5.3. Natural Heritage Designations

The site is not located within any European sites. The closest such sites to the appeal site are the River Barrow and River Nore SAC site that runs to the west of the site through Monasterevin. Pollardstown Fen SAC is located c.12km to the north east of the appeal site at the closest point.

5.4. EIA Screening

The development is not accompanied by an EIAR.

The form of development proposed does not fall within a specific class of development set out in the fifth Schedule of the Planning and Development Regulations 2001 (as amended). The nature of the project is such that it would comprise urban development and so come within Class 10(b)(4) of the Fifth

Schedule being urban development. The scale and nature of the project at 3.2 ha. is very significantly below the threshold for such areas of 20 ha. and such that the need for an EIAR can be ruled out at preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal:

- That the assessment of the Planning Authority that the proposed restaurant and hot food take away use are not permitted under the zoning objective is incorrect as it is the primary use of the site as a filling station which should be assessed in terms of its compatibility with the land use zoning. The filling station use is consistent with the zoning objective. The proposed restaurant / hot food takeaway uses are ancillary to the main filling station use and, as per *Rehabilitation Institute vs Dublin Corporation (1988)*, these ancillary uses should be considered as integral elements of the main use of the site and therefore considered permitted in principle.
- Having regard to this the provisions of s.37(2)(b) should not be applicable in this case.
- That the principle of an off line service area at this location is already established and what is proposed is a choice for consumers.
- That the provisions of the SPNR Guidelines (2012) relate to proliferation of facilities where these are in different administrative areas or different junctions / locations on the motorway network.
- That the Togher Masterplan 2018-2024 in Portlaoise has identified two separate landholdings on the same side of the junction 17 for motorway services. Noted that TII did not object to this layout.

- That in case Ref. PL11.303040 the Board granted a motorway service area at junction 17 in the knowledge that Applegreen were recently granted permission for a filling station at the Midway complex turning it de facto into a motorway service area. The inspectors report in this case does not consider that a second facility in this location would constitute a proliferation as envisaged by section 2.8 of the guidelines.
- That there is no rationale provided in the planners report for the stated negative impact on Monasterevin Town.
- That the town is c.3.5 km from the site when accessed via J14 and so it is not realistic that traffic from the M7 would access the town for retail functions. In terms of attraction of trade from residents of the town, all the proposed services at the proposed development are currently available in the town. This point was supported by the Board inspect in the case Ref. ABP-303040.
- The fact that the adjoining development was recently permitted to expand would be an indication that the Council did not consider that the impact on the retail viability of Monasterevin to be a significant issue.
- That the proposed amenity building is more than the specified 91 metres from the M7. The separation distance referred to by the council is to the slip road.
- That motorway services served by on site treatment systems have previously been granted by the Board.
- Conditions relating to archaeology, heritage and lighting are invited in the event that the Board grants permission.

6.2. Planning Authority Response

Response received from Kildare County Council states that they have no further comments to make and the Board is requested to refer to the planners report already on file.

6.3. Observations

An observation has been received from An Taisce which considers that the site is unsuitable for the proposed development for the following reasons:

- The creation of a traffic hazard,
- Damage to the vitality of Monasterevin town centre,
- Lack of a justifiable need for the development of an additional HGV service station in the area,
- Contravention of the zoning objectives in the LAP.

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of the proposed development:

- Principle of Development, Zoning and Material Contravention Issue
- Compliance with National Planning Guidance and TII Policy
- Traffic and Access Issues
- Design, Layout and Site Servicing
- Other Issues
- Appropriate Assessment

7.2. Principle of Development, Zoning and Material Contravention Issue

7.2.1. The site is located on lands that are zoned H under the provisions of the Monasterevin LAP which relates to 'Industry and Warehousing' use. Reason for refusal No. 1 of the notification of decision issued by the Planning Authority relates to material contravention of the zoning objective on the basis that restaurant and fast food uses are listed as 'Not Permissible' on lands zoned Objective H. The first party appellants contend that this interpretation is incorrect on the basis that it is the primary use of the site as a filling station which should be assessed in terms of its

compatibility with the land use zoning and that the other uses (restaurant and fast food use) are ancillary to the main use of the site as a service area. Reference is made to Rehabilitation Institute vs Dublin Corporation (1988) on this issue and that ancillary uses should be considered as integral elements of the main use of the site and therefore considered permitted in principle.

- 7.2.2. Firstly, there is no use class identified in the zoning matrix in the LAP that relates specifically to a service area or motorway services. A 'filling station' is listed as a 'Permissible Use', however this is not clearly the same in scope as a motorway services area. Paragraph 7.3.4 of the LAP does state that proposed land uses not listed in the zoning matrix will be considered on their merits, with reference to the most appropriate use of a similar nature indicated in the zoning matrix and to the general policies and zoning objectives of the area. In the case of the proposed development, the site is such that a motorway service area is a feasible use given the proximity to the motorway and the closest uses listed in the zoning matrix are filling station, HGV parking and car park which are all either Permitted in Principle or Open for Consideration uses. I note however that the case made by the first party appellant is that the filling station element of the overall development which is permitted and which is argued to be the primary use of the site. In the context of the overall development proposed for the site the filling station element is not particularly significant comprising the pump islands and petrol forecourt as well as the accompanying retail area (convenience) within the main building.
- 7.2.3. With regard to the ancillary retail area, I note and generally agree with the assessment contained in the report of the Planning Officer which notes that the area of this retail floorspace is stated not to exceed 100 sq. metres net and is therefore within the limit identified in the Retail Planning Guidelines as being ancillary to the normal use of a site as a filling station or service area. With regard to the restaurant and fast food uses there are in my opinion a number of issues that should be noted.
- 7.2.4. I consider it appropriate that a motorway service area would have, as part of its normal ancillary facilities, a significant element of food court and seating area with a range of outlets, potentially including fast food. Such uses are in my opinion integral to a motorway services area and are such that they could reasonably be considered to be ancillary to the primary use of the site as a service area. It should however be noted that the use which is permitted on the Industry / Warehousing zone is a filling

station rather than a motorway service area and that the extent of this filling station use is limited relative to the overall development proposed on the site.

7.2.5. The three food concession areas at ground floor level together with the ancillary storage areas and seating take up more than half of the proposed floor area at ground floor level and the bulk of the first floor layout is taken up by additional seating and a fourth concession. In addition, as noted by the Planning Officer in their report, the fast food outlet is also served by a drive thru arrangement and is an integral part of the overall layout of the site. In my opinion this layout is such that it is not clear that the restaurant and particularly the fast food element of the layout is ancillary to the main use as a filling station. While the referenced case, *Rehabilitation Institute vs Dublin Corporation (1988)*, is noted, this relates to a situation where a minority use (training) was ceased and the use of this area of the building for the expansion of the main office use was deemed acceptable as the training use was ancillary to the main office use and therefore no material change of use had occurred. It is also however potentially the case that there can be multiple uses on a site rather than a primary use and related ancillary uses. Given the fact that only the filling station element of the overall development complies with the land use zoning objective and the scale of the restaurant and fast food uses, I would agree with the general interpretation of the Planning Officer that the nature and scale of these uses is such that they comprise stand alone uses on the site and such that they should be assessed against the zoning matrix. 'Restaurant' and 'Fast Food' are clearly identified as uses that are Not Permitted on Industrial and Warehousing lands and I therefore consider that the proposed development would constitute a material contravention of the development plan and such that the provisions of s.37(2) of the Act are applicable in this case.

7.2.6. In the event that the Board does not agree with the above interpretation it should be noted that the following sections identify a number of other issues with regard to the proposed development which comprise other substantive reasons for refusal.

7.2.7. The following comprises an assessment of the proposed development under the criteria set out in s.37(2)(b) of the Act. The proposed development is not of strategic or national importance. As set out in the following sections, the site is not clearly compatible with the NRA Service Area Policy or with the Spatial Planning and National Roads Guidelines for Planning Authorities. With regard to development

plan objectives, I do not see that there are any objectives in the plan that are contradictory or not clearly stated. There are not in my opinion any provisions of the regional spatial and economic strategy that would promote the proposed development and the development is not consistent with the provisions of the s.28 guidance on Spatial Planning and National Roads. Finally, I do not consider that there is evidence that the form of development proposed should be permitted having regard to the pattern of development permitted since the adoption of the development plan in 2016. On the contrary, since the adoption of the current LAP work has commenced on the extension of the existing service area on the adjoining site to the east. Having regard to the above, I do not consider that it is open to the Board to overturn the refusal of permission issued by the Planning Authority.

7.3. Compliance with National Planning Guidance and TII Policy

- 7.3.1. ***Reason for Refusal No.2*** as attached to the Notification of Decision to Grant Permission relates to the impact of the development on the vibrancy and vitality of the adjacent Monasterevin Town and compliance with the policies of the Department and TII as they relate to service areas on motorways. On the issue of vitality and viability of existing retail and service outlets in Monasterevin, the first party contend that there is no rationale provided in the planners report for the stated negative impact on Monasterevin Town. The point is also made by the first party that all of the services available at the proposed development are also available within Monasterevin Town and that there is not therefore considered to be any clear basis for trade to be diverted from the town.
- 7.3.2. While the proposed development may not contain any new retail or service uses relative to the existing offer in Monasterevin, the scale of the restaurant and fast food outlets proposed combined with those in the existing Junction 14 Mayfield development have, in my opinion the potential to result in the developments at junction 14 becoming a destination in their own right and to attract trade from the town centre. The first party contends that the report of the Planning Officer does not provide a rationale for the concerns regarding trade diversion from the town, however the report does clearly identify the scale of the proposed non filling station uses proposed on site and the fact that the existing Junction 14 Mayfield centre is

currently the subject of redevelopment which will further increase the range and scale of non fuel sales uses in this location. Given the scale of development proposed together with the existing J14 Mayfield development and the separation of c.3.5km between the site and the town centre via the R445 I consider that the concerns expressed by the Planning Authority are valid and that the onus is on the applicant to provide greater detail regarding the likely retail impact and impact on the vitality and viability of existing outlets in Monasterevin Town and to demonstrate that the proposal would not impact such outlets as specifically required by Paragraph 2.8 of the departmental guidance document *Spatial Planning and National Roads*.

- 7.3.3. A number of permitted and potential future locations for off line service areas are identified in the ***NRA (TII) Service Area Policy document*** where it is stated that it is not the intention of the NRA to provide on line services. It is noted that a second site at J14 (M7) is not amongst these identified locations where additional off line service areas may be considered.
- 7.3.4. With regard to compliance with the provisions of the ***Spatial Planning and National Roads Guidelines for Planning Authorities (SPNR), 2012***, I note that the guidelines advocate a forward planning approach to the provision of privately developed off line motorway services such as the subject development, and that, in order to avoid a proliferation of service areas, the need for a coordinated approach between planning authorities in consultation with the Authority as part of the drafting of development plans is advocated. In this regard, the appeal site is not specifically identified for the development of a motorway services area in either the Kildare County Development Plan or the Monasterevin LAP. The Guidelines are in my opinion clear regarding the avoidance of proliferation of off line motorway service facilities along the network and I do not agree with the interpretation of the first party that this only relates to a proliferation of facilities across local authority areas or boundaries. Rather, I would agree with the Planning Officer on this point that this interpretation does not make sense and that the provision of a second service area at the same junction and on adjacent sites would be contrary to the provisions of the Guidelines and the TII Service Area Policy to ensure that facilities are spaced along the network.

7.3.5. As noted above, the existing J14 Mayfield service area is currently the subject of redevelopment and expansion at this location and the case made by the first party that the provision of an additional service area would facilitate competition is not accepted as a valid basis to contravene the departmental guidance. I also note the fact that the reports on file from both TII and the Roads and Transport Department of the Council state that the proposed development is contrary to the departmental guidance.

7.4. **Traffic and Access Issues**

7.4.1. Policy MO5 of the *Kildare County Development Plan, 2017-2023* states that it is and objective of the council to improve safety and capacity at the M7 Monasterevin Interchange (Junction 14) by providing an upgrade of the interchange. The report of the Roads and Transport Department note that there would appear to be potential for future vehicle conflicts and queuing that would impact on the interchange arising from vehicles entering the proposed development combined with those attempting to access the existing Mayfield services. Refusal of permission on the basis of endangerment of public safety and creation of a traffic hazard is recommended.

7.4.2. The application is accompanied by a **Traffic Impact Assessment** undertaken by TPS. This assessment extrapolates trip generation projections contained in a historical TIA undertaken for the existing service area to the east, and combines this information with new survey data collected in the environs of the site in February, 2019 and TII traffic counter survey data. The capacity of the junctions at J14 and with the R445 are estimated having regard to the collected survey data and projected traffic growth of 6 percent up to 2022 and 37 percent growth up to 2037. The conclusion of the TIA submitted states that the ARCADY analysis of the junction undertaken shows that both the northern and southern roundabouts at junction 14 can accommodate the projected traffic growth by 2037 with limited queuing at peak periods. There are indications of some high ration of flow to capacity (RFC) values and low level of service (LOS) particularly at arm 2 of the northern roundabout in the southern peak, but the results presented are generally indicative of a development that would not have a very significantly negative impact on junction capacity by the design year of 2037.

7.4.3. There are a number of issues with regard to the submitted TIA that are worth highlighting to the Board. Firstly, the historic traffic survey projections for the existing service area are stated to be based on a TIA submitted with the initial application in 2006. The scale of the development on the adjacent site has subsequently been significantly increased on foot of permissions granted under Refs. 12/888, 15/144 and 16/858 and such that it is not clear that the background trip projection data used in the assessment is accurate. In my opinion of potentially more significance, the issue raised in the report of the Roads and Transportation section regarding the impact of vehicle conflicts and queuing due to traffic accessing and egressing the existing and proposed development is not clearly addressed in the TIA. I note the comments of the Roads and Transportation report on this issue and note that traffic exiting the existing development and turning right towards J14 currently have largely free access to make this cross road manoeuvre due to the very low traffic volume on the local road to the south. With the proposed development in place, traffic exiting the existing development would have to find a gap in traffic already on the local road which has exited the proposed development. Similarly, when access the two developments from J14, the volume of traffic and the necessity to make a right turn into the proposed development could result in queuing along the local road south of J14 and impact on the junction itself. This issue of potentially conflicting accesses and the potential impact of queuing has not in my opinion been adequately addressed in the development and it is not clear that the proposed access arrangements would not lead to the creation of a traffic hazard in the immediate vicinity of the site. In addition, the wording of Policy MO5 makes clear that the rationale for seeking the upgrade of junction 14 relates to traffic safety as well as capacity and in addition to potentially impacting on junction capacity and congestion it is apparent that there is already judged to be a safety issue at this location.

7.4.4. I note reference in the report of the planning officer to paragraph 17.7.2 of the development plan and to the requirement for a **minimum set back** of 91 metres from the near edge of a motorway. Drawing AI-002 indicates the line of 91 metres separation and how the proposed service area building would be located outside of this line. The Planning Officer contends that this line is inaccurate as the relevant measurement should be taken from the slip road of the motorway. This would appear to me to be an unreasonable interpretation of the requirements of Paragraph

17.7.2 of the plan and I also note the references by the first party to existing developments at J13 (Kildare Village) and the retail warehouse development at J10 which are within the 91 metre zone.

7.5. Design, Layout and Site Servicing,

- 7.5.1. The **design** and scale of the proposed development comprises a two storey main service building of contemporary design and a maximum overall height of c.12.5 metres above ground level. The location and layout of the development is such that it would not be visible from the M7 and the development would be set in the context of the existing motorway services area on the eastern side of the junction.
- 7.5.2. The development is proposed to be connected to an on site **effluent treatment system** that is located at the western side of the site. The application is accompanied by a percolation test report that notes the good ground conditions observed and there was no water or rock observed in the trial holes. The T test recorded on site shows a value of 5.6 which is indicative of fast percolation and is consistent with the observation of sand in the trial hole below approximately 400mm. The installation of a Conder waste water treatment system discharging to 3 no. tertiary filters is proposed.
- 7.5.3. The report of the Environment Section on file reflects the recommendation of Irish Water that the option of connection of the development to the existing effluent treatment system which serves the existing development to the east should be examined. This option has not been addressed by the first party in the response to the grounds of appeal, and in the event that the Board is considering a grant of permission in this case it is considered appropriate that the comments of the first party on this issue would be obtained.
- 7.5.4. **Water supply** is proposed to be from an existing public supply under the management of Irish Water. The report of the Fire Officer on file sets a minimum available supply requirement for fire fighting purposes and a similar issue is raised in the report received from Irish Water. The Irish Water submission indicates that it is not clear that adequate water supply is available for fire fighting purposes and that some testing and possible amendments to the water supply system may be required.

In the event that consideration was being given to a grant of permission it is recommended that this issue would be clarified with the first party.

- 7.5.5. **Surface water** disposal from the site is proposed to be by way of infiltration to ground, however a number of issues with regard to the surface water design are noted in the report of the Water Services Section of Kildare County Council. The absence of specific infiltration testing to verify the surface water design is noted and the capacity required for on site surface water storage would be dependent on the results of such an assessment. The report of the Water Services Department also raise a number of queries with regard to the potential additional use of SuDS drainage measures, accommodation of the underground electricity cable across the site in the drainage design and the discharge rate and account for climate change presented in the surface water calculations as well as noting that the surface water design proposes discharge to a drainage channel / stream that would appear to be a tributary of the Grand Canal. In the event that a grant of permission was being considered it is recommended that these issues would be clarified with the first party.

7.6. Other Issues

- 7.6.1. I note the fact that there is record of a number of **archaeological sites** on lands to the north west of the site connected with a Fulacht Fia and that these features were largely lost as a result of the construction of the M7 motorway. This issue is discussed at section 8.6 of the Planning Report prepared by DM Planning Consultants and submitted with the application. The appeal site is on a different landholding though adjoining the lands on which the above features were recorded. In the event of a grant of permission it is considered appropriate that a condition relating to archaeological monitoring of the site would be attached.

7.7. Appropriate Assessment

Appropriate Assessment Screening

- 7.7.1. The proposed development comprises the construction of an off line motorway services area that incorporates fuel sales, parking (cars and HGVs), a service area amenity building containing convenience retail outlet (max. 100 sq. metres net floor

area) and 4 no. food concession areas together with seating areas and ancillary services including play area and toilet facilities. The ancillary building is proposed to be over two levels and have a floor area of 1,656 sq. metres.

- 7.7.2. The site is not located within any European sites. The closest such sites to the appeal site are the River Barrow and River Nore SAC site that runs to the west of the site through Monasterevin. Pollardstown Fen SAC is located c.12km to the north east of the appeal site at the closest point and the Moulds Bog SAC site is located approximately 14km to the north east.
- 7.7.3. A brief screening assessment was submitted with the application which concludes that there are no pathways between the site and any European site and that therefore a Stage 2 appropriate assessment is not required.
- 7.7.4. The main potential impacts arising from the proposed development on European sites relates to the potential for discharges to surface and groundwater from the surface and foul drainage systems. In the case of surface water, the surface water system on site is proposed to discharge to a stream or drainage channel to the south of the site. The exact route of this channel is not entirely clear, however it appears to cross under the M7 and the railway line to the north west of the site and to ultimately discharge to the Grand Canal to the north of Monasterevin Town. There does not therefore appear to be any direct hydrological link between the surface water discharge from the site and any European sites.
- 7.7.5. In the case of foul drainage, while the percolation (T test) rate on the appeal site is relatively fast at 5.6, it is within the normally accepted range for a large scale package treatment system and is such that there would not appear to be likely significant discharges to groundwaters arising from the proposed development. It is also noted that the option of connection to an existing drainage system may be available in the case of the proposed development. On the basis of the design of the treatment system proposed, the characteristics of the site and the separation distances to the Moulds Bog and Pollardstown Fen sites which are also located on the opposite side of both the M7 and railway line, I do not consider that there is a clear pathway between the appeal site and these listed European sites.
- 7.7.6. Having regard to the above, it is not considered likely that the proposed development would have significant effects on any European sites.

8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission be refused for the proposed development based on the following reasons and considerations:

9.0 Reasons and Considerations

1. The proposed development is located on lands that are zoned Objective H (Industry and Warehousing) in the *Monasterevin LAP, 2016-2022*. A 'petrol station' is a permissible use on lands zoned Objective H, however the restaurant and hot food takeaway uses proposed as significant elements of the development, and which are not considered to be clearly ancillary to the proposed filling station use, are both identified as 'Not Permitted' on lands zoned Objective H. The proposed development would therefore contravene the land use zoning objective for the site contained in the Monasterevin LAP and be contrary to the proper planning and sustainable development of the area.
2. Taken in conjunction with the existing off line motorway services area on the adjacent site to the east, which is currently in the process of being extended, the scale and nature of the uses in the proposed development are such that it would have significant potential to impact negatively on the vibrancy and vitality of nearby Monasterevin Town and would represent a proliferation of off line motorway service areas in a limited geographical area. The proposed development would therefore be contrary to section 17.13.6 of the *Kildare County Development Plan, 2017-2023*, to the guidance for planning authorities regarding the siting of motorway service areas contained in the *Spatial Planning for National Roads Guidelines for Planning Authorities (2012)* and the *National Roads Authority Service Area Policy (2014)* and would be contrary to the proper planning and sustainable development of the area. .

3. The site is located in close proximity to junction 14 on the M7 which it is a policy (Policy MO5) of the *Kildare County Development Plan, 2017* to upgrade with the aim of improving safety and capacity. Notwithstanding the content of the Traffic Impact Assessment submitted with the application, the Board is not satisfied that, when taken in conjunction with existing traffic levels at J14 and in the vicinity of the site and likely increased traffic arising from the current expansion of the existing motorway services area, the additional traffic generated by the proposed development proposed development would not have a significant negative impact on the capacity and safety at this junction and the local road network in the immediate vicinity of the site. The proposed development is therefore considered to be premature pending an upgrade of Junction 14 and to be such that in advance of such an upgrade would result in potential traffic conflicts and a negative impact on traffic safety. The proposed development would therefore be contrary to Policy MO 5 of the *Kildare County Development Plan, 2017-2023*, would endanger public safety by reason of a traffic hazard and would be contrary to the proper planning and sustainable development of the area.

Stephen Kay
Planning Inspector

4th March, 2020