



An
Bord
Pleanála

Inspector's Report ABP-309207-21

Development	Service station with shop. (NIS submitted)
Location	Kilbreckan, Doora, Ennis, Co. Clare.
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	20781
Applicant(s)	Pat McDonagh
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	(1) Dewsbury Limited & Others. (2) Maxol Ltd (3) Shane Brigdale
Date of Site Inspection	14 th April 2021
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1. The site is located 2.8 km to the east of the Clareabbey roundabout on the N85, which lies within the southern outskirts of Ennis, and 4.8 km to the south east of Ennis town centre. This site lies to the north east of the Killow East Roundabout, which forms part of Junction 12 on the M18. The southbound exit ramp to this Junction and adjoining extensive motorway verge bounds the site to the west. The eastern extremity of the N85 terminates at the Killow East Roundabout and, to the east of this Roundabout, the L4144 bounds the site to the south. (This local road runs in an east north easterly direction to the R469, the regional road which runs between Kilmurry and Quin and Ennis). Existing access to the site is from the L4144 via a farm gate adjacent to the Killow East Roundabout. This gate serves a vehicular track across the western half of the site to the adjoining field to the north. The site is one of a number of fields that spread out to the north east. Formerly, this site was quarried for stone in connection with the construction of the M18. It is now down to grass and in agricultural use for grazing. The site is of amorphous shape and it extends over an area of 4.2 hectares (7.84 hectares when outline of rising main is included). While overall it is of undulating form, this site slopes gently towards its centre, where a French drain has been laid on a roughly west/east axis to reflect the more pronounced fall in levels towards the south eastern corner of the site. The Killow East Roundabout is elevated above the site and the aforementioned southbound exit ramp and the western extremity of the L4144 rise to meet this Roundabout. The site boundaries with these roads and the northern boundary are denoted by means of timber post and rail fences. The remaining eastern boundary is denoted by means of a tree-lined hedgerow and timber post and wire fences.
- 1.2 The appeal site includes a strip of land that runs to the west of the main body of the site adjacent junction 12. This part of the site traverses the M18 and runs to the north of the N85, traverses the River Fergus and the rail line. This portion of the site facilitates the provision of a rising main to connect to the public sewerage system.

2.0 Proposed Development

- 2.1. Permission is sought to develop a motorway service area and rest area adjacent junction 12 of the M18 motorway, which will include service station building with convenience shop, food court, staff facilities, canopy, fuel facilities, parking and circulation space, children's play area and picnic area and access provision.

The development also includes infrastructural works, public lighting, signage, landscaping, internal fencing, electrical substation, sixteen electric car charging points, roof mounted solar panels, storm water runoff petrol interceptors and attenuation systems, on-site wastewater treatment plant including access road, pumping station and connection to public foul sewer, drainage improvement works, underground fuel storage tanks for fire-fighting purposes, underground rain water harvesting tanks, works to improve visibility at access pints, upgrade to adjacent roundabout and ancillary works.

- 2.2 The connection to the public sewerage system will be by means of a raising main to an existing public sewer. The rising main sewer will cross under the M18 motorway by directional drilling and thereafter underground visa existing road margins/public road and under the River Fergus & railway line through the townland of Kilbreckan, Killow, Skehanagah, Clareabbey & Ballybeg. The inert soil from the directional drilling will be used in landscaping works on the site of the service station building.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 25 conditions. Of note are the following conditions...

Condition no. 2: Details of signage, road markings and management of surface water at the LP-4113 to be agreed in writing.

Condition no. 2: Details of connection to public sewerage system to be agreed.

Condition no. 4: Restriction of net sales area to 100sqm.

Condition 6: Discharge permit under Water Pollution Act required.

Condition 8: Submission of Construction Environmental Management Plan.

Condition 13: Stage 2 Road Safety Audit to be submitted.

Condition 15: Storage tanks conditions.

Condition 20: Archaeological conditions.

Condition 21: Mitigation measures contained in the NIS to be carried out.

Condition 22: Maintenance and management of on-site wastewater treatment system.

Condition 25: Special Development Contribution towards improvement and maintenance of public infrastructure (provision of footpaths and public realm works in Doora along the L4114 necessary to facilitate the development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (16/12/20): The proposal was considered to be consistent with national, regional and local policy, was determined to be an appropriate design and scale, satisfactory in the context of adjoining amenities and acceptable in regards to traffic safety. It was also determined that the proposal would have no significant effects on the integrity of any European Sites. A grant of permission was recommended based on the conditions outlined above.

3.2.2. Other Technical Reports

Environmental Assessment Officer (10/12/20): Sufficient information to conclude no adverse impacts on the integrity of European Sites.

Road Design Office (10/12/20): Conditions in the event of a grant of permission.

3.3. Prescribed Bodies

CIE (27/008/20): CIE are agreeable in principle to the proposal to install a sewer beneath the rail line.

Gas Networks (02/11/20): No comment or objection, noted that there is gas transmission pipeline in the vicinity of the site.

IAA (17/11/20): No observations.

Department of Tourism, Culture, Arts, Gaeltacht, Sports and Media (DAU) (26/11/20): The Council should be satisfied that the directional drilling proposal would not impact on the River Fergus, recommends retention of existing hedgerow on site and use of native planting as well as implementation of mitigation measures.

TII (02/12/20): More details required regarding the M18 cross for the rising main, impacts on the N85 including surface water proposals require clarification, works to the national road network must comply with TII requirements, TII requirements for signage noted.

Irish Water (11/12/20): No objection.

TII (12/03/21): This is a submission of the early submission made to the Local Authority and summarised above.

3.4. Third Party Observations

5 submissions were received...

Dave McClean, Applegreen.

Michael J, Duffy, 1 Clos naEaglaise, Kilfenora, Co. Clare.

Shane Brigdale c/o Michael J.Duffy, 1 Clos naEaglaise, Kilfenora, Co. Clare.

Maxol Ltd c/o P. Coleman & Associates, 5 Bank Place, Ennis, Co. Clare.

Duesbury Ltd & Others, c/o P. Coleman & Associates, 5 Bank Place, Ennis, Co. Clare.

The issues raised can be summarised as follows...

Adverse impact on European sites, contrary local and national policy, traffic hazard, adverse impact on established centres, adverse impact on adjoining agricultural lands to which there is a right of across the site, land use zoning inappropriate, contrary national policy in relation to MSA's, excessive size.

4.0 Planning History

4.1 PL03.246157: Permission refused for the development of the site to provide an off-line motorway service area (MSA). Refused based on three reasons...

1. The local road as it passes the site would be in excess of the advised maximum gradient of 2% and this may result in vehicles approaching the proposed site access/egress at an unsafe speed. Furthermore, the curved horizontal alignment of this local road and the necessary presence of roadside signage mean that the western sightline available at the proposed egress and the forward visibility available to drivers seeking to turn right into the proposed access would both be sub-standard. Thus, right hand turning movements, variously, from this egress and into this access, would be inherently hazardous and contrary to good traffic management practice. It is also noted that analysis suggests that the proposed egress from the site may not be capable of accommodating forecast peak traffic flows in the medium to longer term. It is considered that the use of the proposed access and egress would endanger public safety by reason of traffic hazard or obstruction of road users and that the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The Board is not satisfied that the subject site, having regard to its recent history as a quarry, to its underlying geology and to the adjacent flood-prone low lying lands, is a suitable location in which to utilise a package wastewater treatment plant of the size and scale proposed. Taken in conjunction with the strong reservations expressed concerning the reliability of the user numbers forecast by the Transport and Traffic Assessment and the resulting uncertainty regarding the potential maximum loading on the treatment plant, it is considered that the proposed development would represent an unacceptable risk of pollution to ground and surface waters in the area and would be prejudicial to public health and the quality of the local environment.

3. The Clare County Development Plan 2011-2017 places considerable emphasis both on the value of tourism to the local economy and the importance of maintaining a high quality built and natural environment. The Board considers that the proposed

development, by reason of its design including materials and finishes palette, would not integrate satisfactorily with the rural and predominantly flat landscape in the hinterland of Ennis. The proposed development would, therefore, seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area

4.2 05/375: Quarry for the extraction of clay type materials and rock in connection with the construction of the M18 over a 24 month period on site which included the current appeal site: Permitted.

4.3 06/701: Quarry for the extraction of clay type materials and rock in connection with the construction of the M18 over a 24 month period on site adjoining the current appeal site to the north: Permitted.

5.0 Policy Context

5.1. Development Plan

The operative development plans for the site is the Clare County Development Plan 2017 – 2023 (CDP). The CDP incorporates the Ennis Municipal District Settlement Plan Volume 3a.

Under the CDP policy for service stations is included under Section 8.2.3.2

8.2.3.2 Motorway Service and Rest Areas Motorway service and rest areas are essential for driver safety and to ensure the availability of services and amenities for drivers. Transport Infrastructure Ireland (TII) has identified a need for an on-line Motorway Service Area on the M18 at a location between Junctions 7 (Sixmilebridge/Hurler's Cross) and Junction 12 (Ennis). They have identified a need for a Type 1 Service Area (full service area) at this location. See also Section 7.6.5 Petrol Filling Stations.

CDP8.3 Development Plan Objective: Service and Rest Areas It is an objective of Clare County Council: To collaborate with Transport Infrastructure Ireland 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, having regard to the 'NRA Service Area Policy - 2014' and 'Spatial Planning and National Roads – Guidelines for Planning Authorities 2012.

CDP8.2 Development Plan Objective: Motorways and National Roads It is an objective of Clare County Council:

- a To safeguard the motorway and national roads, and associated motorway and national road junctions, in line with national policy;
- b To support the upgrade and improvement of motorways, national roads and their associated junctions, subject to compliance with requirements of the Habitats Directive;
- c To advocate for the upgrade of National Secondary Routes in the County in order to improve connectivity between the North and West Clare areas, the Hub town of Ennis and the wider Mid-West Region;
- d To advocate for the expeditious completion of the M18 motorway from Gort to Tuam

Section 7.6.5 Petrol Filling Stations

Small shops associated with petrol filling stations can be a cost effective way of providing the equivalent services of a local shop. It is considered appropriate for petrol filling stations to provide limited retail facilities on-site but such facilities should be of a small scale and ancillary to the main purpose of the filling station. The Council will consider proposals on an application-by-application basis and may limit the range of retail goods available for purchase at petrol filling stations in order to protect the viability and vitality of existing retail centres. Facilities will generally not be acceptable in rural areas where the maximum speed limit applies. See also Section 8.2.3.2 Motorway Service and Rest Areas.

Ennis Municipal District Settlement Plan Volume 3a

These plans show the site as lying outside the Ennis Municipal District Settlement Plan boundary and within an area identified as Future Ennis and LAP boundary. The appeal site is however zoned Commercial on the zoning map, Ennis Settlement Map.

“The use of land zoned for ‘commercial’ purposes shall be taken to include the use of the lands for commercial and business uses including offices, service industry, warehousing and the facilitation of enterprise/retail park/office type uses as appropriate. Retailing is open for consideration on this zoning, provided that a sequential test is carried out and the lands are demonstrably the optimum location for the nature and quantum of retail development proposed”.

2.13.4 Kilbreckin (Doora) Area Site COM7 Kilbreckin (Doora) at Junction 12 of the M18 This site is identified for the provision of an ‘off line’ service station and associated uses including restaurant/ café, drive ‘thru’, restrooms, parking, and other facilities to serve those using the M18 Motorway network. No uses that would conflict with the intended primary role of the national route catering for strategic inter-urban and inter-regional traffic will be permitted on the site. Access to the site shall be from the Doora Road to the south. COM7 is not currently served by the public sewer network, therefore satisfactory proposals for the collection and treatment of waste/effluent arising from the activities on the site must be included in any proposals for development. Landscaping proposals will be required to enhance the setting of future developments. There are a number of known Lesser Horseshoe Bat roosts in close proximity to this site, therefore trees and hedgerows on the perimeter of the site must be retained and enhanced as part of future development proposals. Future development proposals should be accompanied and informed by results of bat surveys and light spill modelling studies to demonstrate that lighting design will not increase ambient light levels beyond the perimeter of the development footprint and therefore will not affect bat species in countryside that is under strong urban pressure. Objectives 11.2 and 11.3 of the CDP relate to motorway, national primary and secondary roads and service and rest areas, respectfully. Policies EN13 and

ZL4 of the DP address Western Corridor Working Landscapes and petrol stations. Under the Draft Ennis and Environs Local Area Plan 2015 – 2021 (LAP), the site was identified as a commercial site (COM7). However, this Plan is not proceeding and the aforementioned DP is being reviewed as part of the new Clare County Development Plan 2017 – 2022, a draft of which has been published and shows the site as a commercial site (COM7).

5.2 National Policy

Section 2.8 of the Spatial Planning and National Roads Guidelines (SPNR) addresses service areas.

NRA Service Area Policy (SAP) August 2014

Retail Planning Guidelines (RP)

Development Management Guidelines (DM)

The Planning System and Flood Risk Management Guidelines (PSFRM)

5.3 Natural Heritage Designations

Lower River Shannon SAC (002165)

Newhall and Edenvale Complex SAC (002091)

Old Domestic Buildings (Keevagh) SAC (002010)

Pouladatig Cave SAC (000037)

Poulnagordon Cave (Quin) SAC (000064)

River Shannon and River Fergus Estuaries SPA (004077)

5.4 EIA

The proposal is for an offline Motorway Service Station, an on-site wastewater treatment system, pumping station and provision of a rising main to connect to an existing pumping station with subsequent connection an existing municipal wastewater treatment plant.

For the purposes of EIA Schedule 5 of the Planning and Development Act 2001 (as amended) identifies projects that have a requirement for EIA under Part 1 and under

Part 2. The proposed development does not fall within a class of development either under Part 1 or Part 2 of schedule 5 and does not require the carrying out of an EIA. The proposed development does not constitute a sub-threshold development within the classes identified under schedule 5. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by P. Coleman & associates on behalf of...

Duesbury Limited, Ennis.

Mill Road Motors, Ennis.

Claureen Service Station, Ennis.

Clarkes Daybreak Supermarket & Petrol Station, Crusheen.

- Proposal is contrary National Motor Service Area policy published by the TII in 2014, Spatial Planning and National Road Guidelines for Planning Authorities. The policy identifies the preference for an online service station between junction 7 and 12 with no reference to an off-line service area. The appellant notes that the zoning of the site does not conform to the recommendation of National Policy regarding motorway service stations. The zoning of the site and its identification as a location for a service area does not have adequate regard to national policy.
- The TII are in the process of identifying suitable site for an online MSA along this stretch of the M18 and refer to the TII submission stating that a Type 1 service station is proposed along this stretch of the M18. The current proposal is in conflict with TII objectives regarding the type and location of an MSA between junction 7 and 12. The appellant refers to a number of appeal cases

PL04.242586 and PL17.246554) in which similar issues regarding proliferation of such developments and co-ordinated approach to the provision were reason for refusal.

- The provision of the rising main through lands zoned as 'buffer space' is contrary to this zoning objective settling to provide undeveloped lands for conservation of biodiversity, visual amenity or green space. Some of this land is in Flood Zone A and excavation works through such should not be permitted.
- The proposal would have an adverse impact on the town and village centres and existing businesses. The MSA is an off-line station with access to local roads and will compete with existing town centres and businesses unlike and on-line MSA. The proposal is excessive in scale and will have significant competing impact.
- The level of parking proposed on site is well in excess of what is required. The scale of the area dedicated to restaurant and seating is excessive in scale with concerns regard it use for alternative uses. The scale of the development is excessive in comparison to other off-line MSA's permitted elsewhere. The appellants are concerned that the scale is such that the development will become a destination in its own right and be detrimental to existing town and village centres and existing businesses (examples given of activities at a similar MSA developed by the applicant).
- The visual impact of the proposal is considered to detrimental to visual amenity due to the excessive scale of the proposal and is visible from the M18 and the L-4113. The scale of structures on site is reduced from the previous proposal refused however the scale proposed is still excessive and not significantly changed from the provisos proposal. Screening and landscaping proposed is insufficient to mitigate the adverse visual impact.
- The proposal for the rising main has potential to have significant effects on designated European Sites, potential structural issues in sole proximity to the N85, is through area zoned Flood Zone A, poses a risk to publicly owner infrastructure.

- Surface water drainage is to an existing land drain and an obligation of n the owner and Local Authority to maintain such.
- There are concerns regarding traffic impact and the use of the L-4113. It is considered that the applicant has not addressed the reason for refusal under PL03.246157. The proposal for increased traffic on the L-4113 would be a traffic hazard and there are issues with the layout and gradient of the road. Condition no. 2 requirements traffic detail to be agreed with a failure to address the previous traffic reason for refusal and inappropriate to deal with such by way of condition. The design of the junction onto the L-4113 is inadequate and not accordance TII requirements.
- There is an existing agricultural entrance in close proximity to the site entrance with ongoing rights of access, the proposal will result in a conflict between traffic generated by the proposal and slow moving agricultural traffic and endanger public safety.
- The applicant fails to provide the required sight distances of 160m, with the sight lines in both directions inadequate. The internal road layout is inadequate in terms of capacity for queuing and the Killow West and East roundabouts would be inadequate in capacity for the traffic likely to be generated.
- No condition was attached regarding the removal and replacement of safety barriers to the west of the proposed access point.

6.1.2 A third party appeal has been lodged by P. Coleman & associates on behalf of Maxol Ltd.

- Proposal is contrary National Motor Service Area policy published by the TII in 2014, Spatial Planning and National Road Guidelines for Planning Authorities. The policy identifies the preference for an online service station between junction 7 and 12 with no reference to an off-line service area. The appellant notes that the zoning of the site does not conform to the recommendation of National Policy regarding motorway service stations. The zoning of the site

and its identification as a location for a service area does not have adequate regard to national policy.

- The TII are in the process of identifying suitable site for an online MSA along this stretch of the M18 and refer to the TII submission stating that a Type 1 service station is proposed along this stretch of the M18. The current proposal is in conflict with TII objectives regarding the type and location of an MSA between junction 7 and 12. The appellant refers to a number of appeal cases (PL04.242586 and PL17.246554) in which similar issues regarding proliferation of such developments and co-ordinated approach to the provision were reason for refusal.
- The provision of the rising main through lands zoned as 'buffer space' is contrary to this zoning objective settling to provide undeveloped lands for conservation of biodiversity, visual amenity or green space. Some of this land is in Flood Zone A and excavation works through such should not be permitted.
- The proposal would have an adverse impact on the town and village centres and existing businesses. The MSA is an off-line station with access to local roads and will compete with existing town centres and businesses unlike an on-line MSA. The proposal is excessive in scale and will have significant competing impact.
- The level of parking proposed on site is well in excess of what is required. The scale of the area dedicated to restaurant and seating is excessive in scale with concerns regarding its use for alternative uses. The scale of the development is excessive in comparison to other off-line MSA's permitted elsewhere. The appellants are concerned that the scale is such that the development will become a destination in its own right and be detrimental to existing town and village centres and existing businesses (examples given of activities at a similar MSA developed by the applicant).
- The visual impact of the proposal is considered to be detrimental to visual amenity due to the excessive scale of the proposal and is visible from the M18 and the L-4113. The scale of structures on site is reduced from the previous proposal refused however the scale proposed is still excessive and not

significantly changed from the provisos proposal. Screening and landscaping proposed is insufficient to mitigate the adverse visual impact.

- The proposal for the rising main has potential to have significant effects on designated European Sites, potential structural issues in sole proximity to the N85, is through area zoned Flood Zone A, poses a risk to publicly owner infrastructure.
- Surface water drainage is to an existing land drain and an obligation of n the owner and Local Authority to maintain such.
- There are concerns regarding traffic impact and the use of the L-4113. It is considered that the applicant has not addressed the reason for refusal under PL03.246157. The proposal for increased traffic on the L-4113 would be a traffic hazard and there are issues with the layout and gradient of the road. Condition no. 2 requirements traffic detail to be agreed with a failure to address the previous traffic reason for refusal and inappropriate to deal with such by way of condition. The design of the junction onto the L-4113 is inadequate and not accordance TII requirements.
- There is an existing agricultural entrance in close proximity to the site entrance with ongoing rights of access, the proposal will result in a conflict between traffic generated by the proposal and slow moving agricultural traffic and endanger public safety.
- The applicant fails to provide the required sight distances of 160m, with the sight lines in both directions inadequate. The internal road layout is inadequate in terms of capacity for queuing and the Killow West and East roundabouts would be inadequate in capacity for the traffic likely to be generated.
- No condition was attached regarding the removal and replacement of safety barriers to the west of the proposed access point.

6.1.3 A third party appeal has been lodged by Michael Duffy Chartered Engineer on behalf of Shane Brigdale, Creggan Doora, Ennis, Co. Clare. The grounds of appeal are as follows...

- The appellant has a right of way over the subject site used to access his lands. The applicant should not have been validated without the appellants consent. There are traffic issues that require further information including demonstration of adequate sightlines/concern to facilitate such, provision of pull-in-bay on the right of way to avoid conflict.
- Potential traffic hazard due to existing agricultural access and layout and gradient of the public road, and inadequate sightline available for the proposed development.
- Flawed Appropriate Assessment with inadequate acknowledgement of objectivity to European Sites. The Clareabbey wastewater treatment plant does not have storm water overflow with such occurring directly to the adjacent SAC. The proposal will increase pollution to the SAC. Irish Water
- The zoning of the site as COM7 is considered inappropriate and reference is made to National policy regard MSA's.
- Inadequate detail on wastewater treatment. Proposal requires a discharge licence. Is a material contravention of several polices in the current development plan. Pumping wastewater effluent 3km through an SAC has potential to have adverse effects (leakage).
- Adverse impact on Ennis town centre and existing business.

6.2. Applicant Response

6.2.1 Response by the Connellan & Associates on behalf of the applicant Pat McDonagh.

- The provision of an off-line service station at this location is plan-led with Development Plan policy having regard to National Policy and the appeal site was identified as a suitable site for an off-line MSA. Development Plan policy has adequate regard to national policy in relation on-line MSA's. The Boards

decision to refuse PL03.246157 did not include reference to the principle of the proposal at this location or national policy regarding provision of MSA's.

- There is a need for an MSA between junction 7 and 12 and despite proposal for an on-line MSA, this project is well behind timescale for delivery and there is no guarantee of approval given the nature of the location identified for such.
- Current policy does allow for the provision of off-line service stations. The applicant has a track record of providing such developments and the provision of an off-line MSA would eliminate the need for an on-line MSA at Newmarket on Fergus.
- The proposal is not anticipated to have significant impact on Ennis due to its distance from the town, the existing strength of the town base and the nature of trade likely to be generated by the proposal.
- In relation to scale the guidance from the TII relates to on-line MSA's and no off-line ones. The appellant notes there is a wide variety in scale of existing off-line MSA's in the country and there are permitted ones comparable in size and that each should be assessed on its merits. In the case of the proposal there is an identified need for an MSA to cater for traffic on the M18 and the proposal would meet the level of service required at a Type 1 MSA. It is considered that the proposal is appropriate in scale and would not have an adverse impact on existing centres and businesses.
- The proposal for a rising main through lands zoned 'buffer' zones would not be contrary land use zoning policy as the proposal is for infrastructural elements that will have no visual impact or alteration to the nature of use of lands.
- In relation to land ownership the consent of the landowner to make the application has been submitted with the application. There is a right of way on site and provision has been made in the design to facilitate preservation of such.
- In relation to an appellant's; claim of project splitting it is noted that Irish Water has stated that would construct certain parts of the infrastructure required. The proposal is not project splitting as the proposed development is not an

EIA project, the plans submitted clearly show the development and works proposed and the fact that Irish water will be responsible for implementation does not constitute project splitting.

- It is noted the one of the appellants owns lands and to the north of the site and has right of way through the site, which is will not be interfered with. The applicant also identifies that the appellant has an alternative access to his lands from Quinn Road. It is contended that the proposal will not impact upon the appellant's agricultural activity at this location. The applicant were willing to facilitate better access to the appellant's lands however they failed to reach agreement with the appellant.

6.3. Planning Authority Response

6.3.1 Response by Clare County Council.

- National policy does not preclude MSA at motorway junctions and the site is identified and zoned for such under the County Development Plan.
- The floor space of the retail unit is only 100sqm and the distance between the site and Ennis would mean no adverse impact on the existing settlement.
- The application is valid and in relation to land ownership note Section 34(13) of the Planning Act.
- The TTA and its conclusion are noted. In relation to road gradient it is noted that the L4144 is a low speed due to traffic travelling to or from the roundabout and that sufficient visibility is available to cater for the proposed development in addition to visibility improvement works that can be carried out on site and on Local Authority owned lands.
- It is noted that the existing wastewater treatment plan serving Ennis is operating within capacity and the proposal to connect to it with rising main. It is noted that a screening assessment required a Stage 2 AA and that such has conclude that no significant effects on any designated Natura 2000 sites.

- In terms of impact on existing centres the level of retail is less than 100sqm and the proposed development is significantly removed from settlements in the area. In relation to existing service stations it is noted that national policy identifies the requirement for a motorway service station between junction 7 and 12 of the M18.

6.4. Further Responses

6.4.1 Further response by the appellants...

Duesbury Limited, Ennis.

Mill Road Motors, Ennis.

Claureen Service Station, Ennis.

Clarkes Daybreak Supermarket & Petrol Station, Crusheen.

- The response outlines concerns impact on existing settlements and the excessive scale of the proposal.
- Impact of the rising main in relation to the buffer zone around the River Fergus and an area subject to flood risk, potential for leakages, surface water issues.
- The response reiterates concerns regarding traffic impact and provision of adequate sightlines.

6.4.2 Further response by Maxol Ltd.

- The response outlines concerns impact on existing settlements and the excessive scale of the proposal.
- Impact of the rising main in relation to the buffer zone around the River Fergus and an area subject to flood risk, potential for leakages, surface water issues.
- The response reiterates concerns regarding traffic impact and provision of adequate sightlines.

6.4.3 Shane Brigdale, Creggan Doora, Ennis, Co. Clare.

- The response reiterates concern regarding the right of way and impact on adjoining agricultural land, project splitting, inadequate appropriate assessment, traffic safety concerns and adequacy of foul sewerage infrastructure.

7.0 **Assessment**

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

Principle of the proposed development, Development plan policy, MSA policy,

Traffic, access, and parking,

Design and scale

Water

Right of way

7.2 Principle of the proposed development, Development plan policy, MSA policy:

7.2.1 The current proposal is the second proposal for a Type 1 offline motorway service station (MSA) on this site with a previous proposal refused under appeal ref no. PL03.246157. The reason for refusal for this previous proposal are set out above and relate to traffic concerns, suitability of the site for operating of a wastewater treatment facility and design/visual impact concerns.

7.2.2 TII 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.

7.2.3 Section 2.8 further advises that a proliferation of private off-line MSAs at motorway junctions should be avoided and, to this end, a co-ordinated approach between the NRA/TII and planning authorities should be pursued in the drafting of development plans. It also advises that facilities that would generate short local trips should be avoided, in order to protect both the primary role of motorways in meeting the needs of long-distance traffic and the viability of town centre businesses.

7.2.4 The aforementioned NRA Service Area Policy identifies the need for a Type 1 MSA on the section of the M18 between Sixmilebridge and Ennis. This Policy states that “The location of this service area will require particular consideration due to the complexity of this section of the route and the Authority, in consultation with Clare County Council, will lead its development.” In April 2016, the TII was advised by consultants of a preferred site for an on-line MSA. This site is denoted as 1E and it is located to the north west of Newmarket-on-Fergus between Junctions 10 and 11 of the M18. The consultants recommend that the site be adopted and that the TII progress to the next stage, that of preliminary design. It is not clear where these plans stand at present time.

7.2.5 It is notable that under the previous proposal PL03.246157 the Inspector recommend refusal based on two reasons. The first reason was on the basis that the site was not identified for the purposes of a MSA under Development Plan (either CDP or Ennis Environs plan) or the TII Service Area Policy (2014). The development of an MSA at this location was deemed to be contrary Section 2.8 of the Spatial Planning and National Roads Guidelines and Objective 11.3 of the County Development Plan and a material contravention of the countryside zoning objective of the site under the CDP. This reason was not used as a reason for refusal in the final decision on this application.

7.2.6 Having inspected the statutory plans for the county the relevant development plan in this case is the Clare County Development Plan 2017-2023. This plan includes the Ennis Municipal Plan (Volume 3a). The zoning map with this plan includes the municipal plan area and a wider area including the environs of the town in an area labelled Future Ennis and Environs LAP. Within this area some of the land has been zoned under the current development plan with the appeal site identified as COM7 which is a Commercial Zoning with a stated objective 'to '. Under Volume 3a Section 2.13.4 (outlined above) the site is identified as being suitable for a Type 1 Offline MSA. I would consider that the Development plan policy does identify the site as being suitable for an off-line MSA and the site is zoned commercial and is zoned for this purpose with a clear designation for the use proposed. The principle of the proposed development on this site was examined previously and such was not ruled out on the basis of principle. The proposal is consistent with Development Plan policy and there is an identified need for an MSA between junction 7 and 12 under the TII policy. I would note that the principle of the proposal at this location was previously examined and was not ruled out with the refusal reason relating to other issues. On this basis I would consider that the principle of the proposed development is acceptable at this location.

7.3 Traffic Impact:

7.3.1 The proposal is located adjoining junction 12 of the M18. The appeal site is to be accessed from the Doora Road, with an existing roundabout junction part of the M18 interchange located to the south west of the site. A new entrance is proposed off the Doora Road and there is an existing entrance to agricultural lands within the curtilage of the site that facilitates access to lands to the north of site. The previous proposal on site was refused on the basis of traffic concerns. The reason for refusal related to the fact that...

1. The local road as it passes the site would be in excess of the advised maximum gradient of 2% and this may result in vehicles approaching the proposed site access/egress at an unsafe speed. Furthermore, the curved horizontal alignment of this local road and the necessary presence of roadside signage mean that the western sightline available at the proposed egress and the forward visibility available

to drivers seeking to turn right into the proposed access would both be sub-standard. Thus, right hand turning movements, variously, from this egress and into this access, would be inherently hazardous and contrary to good traffic management practice. It is also noted that analysis suggests that the proposed egress from the site may not be capable of accommodating forecast peak traffic flows in the medium to longer term. It is considered that the use of the proposed access and egress would endanger public safety by reason of traffic hazard or obstruction of road users and that the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 7.3.2 The application is accompanied by a Traffic and Transport Assessment (TTA). The TTA outlines the background and scope of the proposal with assessment including a traffic capacity analysis of 4 junctions during the am and pm peak periods in the projected year of opening (2021) and in the design year (2036)
- the proposed development access.
 - the Killow East roundabout (after the proposed works to the L4114).
 - the Killow West roundabout.
 - the R469/L4114 crossroads (to the north east of the site)

The TTA outlines the existing conditions and development plan policy noting the site is zoned COM7 and identified as being suitable for an offline MSA under the Clare County Development Plan 2017-2023. The TTA outlines NTRA Service Area policy and the requirement of a Type 1 area being required in the general area of Junctions 7 to 12 on the M18.

- 7.3.3 The TTA outlines pre-development traffic flows based on traffic counts at the 4 points outlined above, description of the development including the nature of uses and the anticipated nature of service and delivery trips.

The estimation of traffic generation is based on a turn in rate of 10.6%

Of main line M18 traffic with such using the TII traffic counter located on the south of Junction 12 due to higher traffic flows than the one to the north. A sensitivity test

was also carried out based on a 12% turn-in rate off the mainline with traffic flows obtained from the TII website.

- 7.3.4 Future traffic growth was forecast based on levels recommend in the TII Project Appraisal Guidelines. The TTA includes detail of modal split, trip assignment and trip distribution. Traffic generation is assessed using the TRICS modelling while assessment of impact on junction is based on PICADY and ARCADY analysis for each of the junctions assessed. Assessment of queuing at the junctions is also deal with. The junction analysis for each of the four junctions includes the results based on a turn in rate of 10.6% and the sensitivity test of 12%. The assessment is based on...

2020 Base year peak AM and PM hour flows without the development in place

2021 Opening year peak AM and PM hours without and with the proposed development in place.

2026 Opening year + 5 years AM and PM hours without and with the proposed development in place.

2036 Open year + 15 years AM and PM hours without and with the proposed development in place.

The results of the junction analysis is that all junctions assessed will be operating within capacity by the design year of 2036 for both the AM and PM peak and that queuing impact at the various junctions is minimal.

The TTA includes an assessment of M18 merge and diverge with the flows at junction 12 determined to be relatively low and a significant increase not reducing the level of service of the junction merge/diverge with the mainline.

- 7.3.5 The TTA includes a section on construction stage traffic noting that during this phase traffic volumes would be small in comparison to the operational phase and does not require a quantitative traffic analysis. A number of measures are proposed

to minimise impact including a wheel wash, confined works hours and a construction traffic management plan.

- 7.3.6 In relation to road safety the TTA states that some works are required to provide full visibility of 160m east of the proposed access and that forward visibility on the L4114 is restricted approaching the Killow East Roundabout. This could be improved by cutting within local authority lands. It is noted a separate Road safety audit is included. Details of the internal layout include parking provision and is based on the TII publication 'The Location and Layout of Service Areas (based on a % of the total two-way light vehicle ADDT flow on the motorway, at the year of opening. The TTA notes that the proposal exceeds the TII requirements with 137 car parking bays provided (108 required), 5 coach bays (5 required), 8 motorcycle bays (8 required) and 15 HGV bay (5 required).
- 7.3.7 Mitigation measures to deal with the increased volumes on the L4114 include an increase carriageway width of the L4114 in advance of and at the roundabout to add extra capacity by providing increased length for the dual entry lanes. The improvements along the frontage to aid visibility is also included as a mitigation measures.
- 7.3.8 As noted above the previous proposals on site was refused on the basis of a number of traffic issues with a number of issues including the gradient of the local road as it passes the site would be in excess of the advised maximum gradient of 2% and this may result in vehicles approaching the proposed site access/egress at an unsafe speed. Furthermore, the curved horizontal alignment of this local road and the necessary presence of roadside signage mean that the western sightline available at the proposed egress and the forward visibility available to drivers seeking to turn right into the proposed access would both be sub-standard. Thus, right hand turning movements, variously, from this egress and into this access, would be inherently hazardous and contrary to good traffic management practice. It is also noted that analysis suggests that the proposed egress from the site may not be capable of accommodating forecast peak traffic flows in the medium to longer term. It was considered that the use of the proposed access and egress would

endanger public safety by reason of traffic hazard or obstruction of road users and that the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

7.3.9 In response to the reason for refusal regarding the gradient of road passing the site, the applicant refers to the TII documents 'The Location and Layout of On-line Service Areas' Geometric design of Major/Minor Priority Junctions and Vehicular Access to National routes and the requirement that the gradient of major road approaches to the junction or access should not exceed 2% either uphill or downhill. The applicant makes the point that the L4114 is a low speed road is not a national route and that the 2% standard relates to high speed roads. In addition the applicant makes the point that the junction is located close to a roundabout junction from which vehicles will be travelling at lower speeds downhill towards the site. In the case of uphill traffic it is noted that the roundabout junction will be clearly visible and that the level of traffic approaching the roundabout from the east (not including traffic generated by the proposed development) is low.

7.3.10 In the case of sightlines the refusal reason raised concerns regarding the level of sightlines at the proposed entrance in particular sightlines to the west for traffic exiting and forward visibility for traffic seeking to turn right into the proposed access due to the alignment of the public road. In response to this the applicant has indicated that a sightline of 160m x 3m is available to the east of the entrance and although it crosses lands not within the site is over lands under the control of applicant or in the case of land under Local Authority control, consent has been obtained. In relation to sightlines to the east it is noted that 120m (road design speed) is achievable and that such is sufficient based on the traffic speeds of the road. In the applicant response junction visibility drawing is included illustrating sightlines availability and works proposed to improve such. In relation to design speed the applicant states that traffic speed determines the requirement for sightlines with a survey showing maximum speed of traffic at 68.5kph. The applicant notes that they have a letter of consent that ensures maintenance of sightlines can be carried out on lands outside of the applicant control/ownership. The response indicates that the TTA demonstrates that the capacity of the existing roundabout and

road network at this location is sufficient to cater for the proposed development. In relation to alteration of safety barriers to the west of the entrance it is proposed to re-profile the embankment to a suitable gradient.

- 7.3.11 The applicants response in relation to the existing right of way and the vehicular entrance providing access to the appellants agricultural lands is that the usage of such is low/limited in the context of overall traffic movements at this location . The operation of the MSA would have no impact on use of the right of way and the shared element of the right of way is 50m with pull in locations at each end. The applicant notes the permitted width of the right of way is 3m and it will only be fenced on the MSA side.
- 7.3.12 Having inspected the site and the associated documents, I would note a number of factors for consideration. The proposed development is located adjacent junction 12 of the M18, which is laid out in a manner that provides sufficient access and egress for motorway traffic wishing to use the proposed development. The appeal site is off the L4114, which is local road with speed limit of 80kph. I am satisfied that sufficient sightlines have been demonstrated to be available at the proposed entrance point with 160m x 3 to the east of the entrance and 120m to the west. This level of visibility is sufficient for a road of this design speed (speed limit). I am satisfied that sufficient forward visibility is available for traffic approaching the site from the east and that signage and road markings would also be sufficient to alert traffic of the presence of the development at this location. In relation to the gradient issue, I am satisfied that the presence of the roundabout to the west of the site does have a sufficient impact in slowing down traffic speeds of traffic that is approaching the development from the west and the M18. The applicant has submitted a comprehensive Traffic and Transport Assessment. I am satisfied with the scope and methodology used to carry out this TTA and that such demonstrates that the existing road network has sufficient capacity to cater for the traffic likely to be generated by the proposed development in addition to the proposed new entrance. I am satisfied that the proposal is sufficient car parking and HGV parking and is in keeping with the recommended standards for Type I MSA's as set out by the TII.

7.3.13 In relation to the existing access and right of way to agricultural lands, I am of the view that the proposal does not interfere with use of the existing access. I am satisfied that the exist design and layout of the proposal has adequate regard to the issue of traffic safety, the carrying capacity of the national road network and the capacity of the local road network. The conditions of the grant of permission includes a special contribution in relation specific improvement works to be carried out along the L4114 to facilitate the development and include works that will facilitate sightlines, footpath provision along the local road, widening of the road into the roundabout and road markings.

7.4 Design and scale:

7.4.1 The previous proposal on site as refused on the basis of design. The Board considered that the proposed development, by reason of its design including materials and finishes palette, would not integrate satisfactorily with the rural and predominantly flat landscape in the hinterland of Ennis. The proposed development was considered to seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area. The previous proposal was similar in nature and scale to the current proposal.

7.4.2 The current proposal has been altered in design in some aspects. The layout is similar to the previous refusal with the main changes to the design of the structure proposed and the level of landscaping to be provided on site. The main structure on site is a flat roofed two-storey structure with a gross floor area of 2089sqm. The previous proposal on site also two-storeys but with a marginally larger floor area of 2126.9sqm. The ridge height of the structure has been reduced from 10.826m at its highest to 8m. In my view the proposal is consistent with development typical of a Type 1 MSA in terms of scale and design and its location adjacent a major junction off a motorway is not unusual in terms of its setting. I would consider that if the principle of the proposal is acceptable at this location is acceptable at this location, an aspect of the proposal that is dealt with in previous section of the report, the overall design and scale of the proposal would be acceptable in the context of visual amenity and landscape character. The appeal site is a low lying flat site. The site is

not part of a landscape designated as of special character or outstanding natural beauty.

- 7.4.3 The application documents include a visual assessment with views from number of viewpoints in the surrounding landscape (6 viewpoints). I am satisfied that the overall scale and level of landscaping proposed are sufficient to ensure that the proposal would have no significant or adverse visual impact at this location.
- 7.4.4 The third party appeals raised concerns regarding the scale of the proposal and nature of uses with it considered that such would be detrimental to existing settlements. The appeal site is located adjacent junction 12 a short distance from Ennis. The development is an off-line motorway service station consisting of a petrol station forecourt, parking for vehicles including HGV's and a building with a gross floor area of 1,500sqm. The building contains retail/convenience element and restaurant consisting of a seating area and kitchen. The structure also includes ancillary accommodation such as storage, office and sanitary facilities. In regards to the potential impact of the development on existing settlements and their viability, the level of retail/convenience space is 99.9sqm of the floor area of the overall structure and would accord with the restrictions for retail use within petrol filling stations as set out by the Retail Planning: Guidelines for Planning Authorities (April 2012). The proposal is the equivalent of a Type 1 MSA as defined under the TII Service Area Policy.
- 7.4.5 The Service Area Policy does identify the need for a Type 1 MSA between junction 7 and junction 12 of the M8. The provision of such a development at this scale, which is consistent with the type and scale of development defined as being a Type 1 MSA would be acceptable in the context of impact on adjoining settlements. The nature of the uses proposed and scale of such is consistent with national policy with net retail floor space within the limits recommended. In terms of restaurant use the scale and nature of this use is not out of keeping with the scale to be expected within a development of this type. The third party appeal speculate about alternative use for this area however the proposal is being assessed on its merits and what is proposed, not on the basis of possible uses that are not specified or part of the

development description. I would consider that the issue of impact on existing settlements and town centre is not an issue of concern with the proposal conforming to the definition of a Type 1 MSA and with an identified need for such between junction 7 and 12 of the M8. I would consider the main issue of consideration is the principle of development in terms of national policy and the intentions of the TII to provide an off-line MSA between junction 7 and 12. This issue was explored in an earlier section of this report.

7.5 Water

7.5.1 The previous proposal on site was refused in part due to issues of concern regarding wastewater treatment. The second reason for refusal referred to the fact that “the Board is not satisfied that the subject site, having regard to its recent history as a quarry, to its underlying geology and to the adjacent flood-prone low lying lands, is a suitable location in which to utilise a package wastewater treatment plant of the size and scale proposed. Taken in conjunction with the strong reservations expressed concerning the reliability of the user numbers forecast by the Transport and Traffic Assessment and the resulting uncertainty regarding the potential maximum loading on the treatment plant, it is considered that the proposed development would represent an unacceptable risk of pollution to ground and surface waters in the area and would be prejudicial to public health and the quality of the local environment”.

7.5.2 Surface water drainage will be collected by a new surface water drainage system and flow by gravity to an attenuation tank to the south of the site. Outfall from such will be controlled by a hydro brake and discharged to the existing land drain within the site. In relation to foul water drainage the previous proposal provided for an on-site wastewater treatment system with discharge of treated effluent on site. The current proposal differs in that it is proposed to install an on-site wastewater treatment system and pumping station. Treated effluent is to be taken by a 3km long rising main to the Westfield Pumping Station which in turns pumps wastewater to the Clareabbey Wastewater treatment plant.

7.5.3 The application was accompanied by a Flood Risk Assessment (FRA). Based on flood mapping the part of the appeal site (south eastern corner is within Flood Zone A with the remainder of the site is Flood Zone C. No physical development is proposed within the portion of the site within Flood Zone A with all physical infrastructure includes access road, vehicular entrance, structure internal roads and parking within Flood Zone A. The rising main to cater for effluent does traverse areas that are prone to flood risk (fluvial flooding associated with the River Fergus) however it is noted that the main is underground and will not be impacted by flooding exacerbate existing flood risk. The development, which is commercial in nature is classified as less vulnerable development and as the main development is on lands within Flood Zone C a justification test is not required. The FRA includes details of flood mitigation measures including ground levels set above the estimate floor level the worst case scenario flood level of 5.5m AOD, a storm drainage system and provision of a runoff discharge rate at or below existing greenfield runoff levels, isolation of flood water drainage from the hydrological environment. It is noted that drainage for the M18 is separate from the site and the proposed development.

7.5.4 The proposal entails provision of an on-site wastewater treatment plant and pumping station with treated effluent to be connected by a rising main to Westfield Pump Station which connects to the Clareabbey Wastewater Treatment Plant. One of the main reason for refusal previously related to the use of an on-site wastewater treatment system and discharge to groundwater. The current proposal entails the provision of a connection to a municipal wastewater treatment system. The appellant question the impact of the proposal in relation to the Clareabbey Wastewater treatment plant and its implications for discharges from such. Based on the information on file including a no objection from Irish Water, the existing wastewater treatment plant to which the development is to discharge has sufficient capacity to cater for the proposed development and the fact that the proposal is connecting to a municipal wastewater treatment plan designed to cater for the urban settlement of Ennis is a reasonable arrangement. Based on the information available the plant has been subject to upgrades in recent times. The grounds of appeal include reference to the fact the development requires a discharge licence under Water Pollution Act. This fact is acknowledged by the applicant and was a condition of the grant of

permission. This issue is not a planning consideration. I am satisfied that the adequate provision is made to service the proposal development in terms of foul sewerage and that such can be catered for by the existing municipal wastewater infrastructure.

7.5.5 The provision of the rising main and the fact that it crosses through an area subject to flooding is noted in the grounds of appeal. The proposed rising main is a subsurface intervention and its construction is to be carried out by excavation of trenches along existing road infrastructure and horizontal directional drilling where the main crosses under existing water courses (River Fergus) and a railway line. The nature of the infrastructure would not constitute vulnerable development in regards to the definition under the Flood Risk Guidelines. I would be of the view that the works in question can be carried out with construction management measures and application of the required engineering standards for infrastructure of this type. I would consider that adequate construction management measures and standards would ensure that the construction phase of such can be managed without any detrimental impact. In terms of the operational phase there is potential risk of leakage, however the risk of such exists for all subsurface pipe works and does not rule out the provision of such. In this case subject to the application of the relevant best practice standards for such infrastructure, I am satisfied such would be acceptable in the context of drainage and flood risk. The issue of appropriate assessment and potential significant effects on designated European sites is examined in a separate section of this report.

7.5.6 The issue of project splitting is raised by one of the appellants and the fact that works are to be carried out by Irish Water to facilities the development. As noted in the section regarding EIA the proposed development does not constitute an EIA project as set out under Schedule 5, Part I and II of the Planning and Development regulations 2001 (as amended). I am satisfied that the proposal does not constitute project splitting and that the carrying out of works by another agency such as Irish water or the Local Authority to facilitate the proposal is not unusual and that the development proposal gives a full description of the nature of works to be carried out.

7.6 Right of way:

7.6.1 One of the appellants (Shane Brigdale) owns land that adjoins the site to the north and he has a right of way across this site. The right of way crosses the western portion of the site on a north west access with a vehicular access east of the Killow roundabout. The design of the proposal is such that the development proposal is located to the east of the right of way with only the wastewater treatment plant and pumping station located to west of such. The issues raised include validation of the application without the appellant's consent, traffic impact in terms of use of the existing right of way and its associated entrance and traffic issues concerning the proposed development. The traffic issues concerning the operation of the proposed development and its proposed entrance/traffic layout are dealt with under a previous section. In relation to validation the applicant has consent of landowner to make the application and this issue was raised under the previous proposal on site with reference to Article 22(2)(g) of the Planning and Development Regulations, 2001 – 2015, which only requires that an applicant obtains a landowner's consent and not that of someone with a right of way across a site.

7.6.2 In relation to the right of way the design and layout of the application appears to be facilitating the continued use of the right of way and does not appear to be impinging on its continued use with the route of such clearly set out and as per the layout of the existing right of way evident on site. The applicant has noted that they endeavoured to facilitate alternative access to the appellants lands however has not been able to agree such.

8.0 **Appropriate Assessment**

8.1. This section of the report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the submitted Natura Impact Statement (NIS) and Appropriate Assessment Screening submitted with the application.

8.2. I have had regard to the submissions of prescribed bodies in relation to the potential impacts on Natura 2000 sites.

8.3. The Project and Its Characteristics

8.4. See the detailed description of the proposed development in section 3.0 above.

8.5. The European Sites Likely to be Affected (Stage I Screening)

8.5.1 The development site for the service station itself is not within or directly adjacent to any Natura 2000 site. The route of the rising main does overlap the Lower Shannon SAC (002165) at the N85 River Fergus Bridge. The main body of the site is located to the east of Ennis and beside junction 12 of M18 and on the northern side of the L4114, which links into the Killow East roundabout junction serving the M18 to the west of the site. The predominant habitat on the site itself is made up of improved agricultural grassland (GA1) and includes the south and east of the site and along the field margins, wet grassland (GS4) elsewhere, in particular the central field area where ground conditions are damper. The eastern field boundary comprises a broken treeline (WL2) towards the south eastern corner. Moving northwards this treeline becomes a broken well-established hedgerow (WL1). The other field boundaries are fenced with stretches of linear gorse scrub (WS1) and/or broken hawthorn hedgerow (WL1). Managed grass verge along the adjacent roadways are dry meadow and grassy verges (GS2). Outside of the main site agricultural lands to the north and north-east. There is a derelict stone farm building location c.40m east of the eastern boundary bordered by a mature linear stand of ash woodland. Wet grassland (GS4) and willow scrub (WS1) extend away to the south and east towards Lough Naslatty.

8.5.2 The proposal requires a rising main that travels westward from the site for a distance of 3k as far as Ennis town. Habitats recorded within the rising main development corridor included mosaic of scrub (WS1), with willow, gorse, bramble or a mix of these species usually dominant, reed and large sedge swamp (FS1), typically dominated by common reed (*Phragmites australis*), and wet grassland (GS4) which sometimes occurs in mosaic with other habitats. Other habitats associated with construction of the road network include recolonising bare ground (ED3), dry meadows and grassy verges (GS2) and buildings and artificial surfaces

(BL3). Reed and large sedge swamps (FS1) dominated by common reed occurs on both banks of the River Fergus at the location of the N85 bridge. The tidal river (CW2) has a brackish influence at the bridge location. Tidal fluctuation and heavily depositing conditions of the river are evident at the location. No evidence of any terrestrial Annex 1 habitats for the Lower River Shannon SAC recorded on the banks of the river within the development footprint. Along the overall route the rising main will travel through several existing culverts/drainage ditches (FW4) which are associated with the existing road network. Minor areas of improved agricultural grassland (GA1) and hedgerow (WL1) also occur.

8.6. I have had regard to the submitted Appropriate Assessment screening, which identifies that the site overlaps with one of the designated sites, the Lower Shannon SAC (002165). In relation to other designated sites, the appeal site is not located within or directly adjacent to any Natura 2000 areas, there are a number Natura 2000 sites sufficiently proximate or linked to the site to require consideration of potential effects. These are listed below with approximate distance to the application site indicated:

- Lower Shannon SAC (002165) site overlaps SAC at the N85 River Fergus Bridge ;
- Newhall and Edenvale Complex SAC (002091) 1.9km to SW ;
- Old Domestic Buildings (Keevagh) SAC (002010) 3km to E;
- Pouladatig Cave SAC (000037) 3.8km to W;
- Ballyallia Lakes SAC (000014) 3.9km to N;
- Poulmagordon Cave (Quin) SAC (000064) 5.2km to SE;
- Knockanira House SAC (002318) 7km to SW;
- Toonagh Estate SAC (002247) 7.4km to NW;
- Lough Gash Turlough SAC (000051) 7.6km to S;
- Dromore Woods and Lough SAC (000032) 8.1km to N;

- Newgrove House SAC (002157) 8.6km to NE;
- Old Domestic Buildings, Rylane SAC (002314) 9.1km to NE;
- Ballycullinan, Old Domestic Buildings SAC (002246) 10.1km to NW;
- Old Farm Buildings, Ballymacrogan SAC (002245) 11km to N;
- Ballycullinan Lake SAC (000016) 11km to NW;
- East Burren Complex SAC (001926) 11.8km to N;
- Kilkishen House SAC (002319) 11.9km to N;
- Moyree River System SAC (000057) 12.5km to N;
- Ratty River Cave SAC (002316) 12.7km to N;
- Ballyogan Lough SAC (000019) 14km to N;
- River Shannon and River Fergus Estuaries SPA (004077) located 1.07km to south (approx.. 1.3km downstream of N85 River Fergus Bridge);
- Ballyallia Lough SPA (004041) 4.8km to N;
- Slieve Aughty Mountains SPA (004168) 8.5km to NE
- Corofin Wetlands SPA (004220) 13km to NW.

8.7. The specific qualifying interests and conservation objectives of the above sites are described in the submitted screening report. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie), as well as by the information on file, including observations on the application made by prescribed bodies and I have also visited the site.

I concur with the conclusions of the applicant's screening, in that there is the possibility for significant effects on the following European sites (associated with impact to species of conservation interest),

Lower River Shannon SAC (002165)

Newhall and Edenvale Complex SAC (002091)

Old Domestic Buildings (Keevagh) SAC (002010)
Pouladatig Cave SAC (000037)
Poulnagordon Cave (Quin) SAC (000064)
River Shannon and River Fergus Estuaries SPA (004077)

8.8. Potential Effects on Designated Sites

The appeal site overlaps the Lower River Shannon SAC (002165) with potential for direct effects and several watercourses draining the site into the SAC area. In the case of the River Shannon and River Fergus Estuaries SPA (004077) such is 1.3km downstream of the site where it overlaps the river area with a potential significant effects due to minor watercourses draining the site into the designated site. In the case of...

Newhall and Edenvale Complex SAC (002091)
Old Domestic Buildings (Keevagh) SAC (002010)
Pouladatig Cave SAC (000037)
Poulnagordon Cave (Quin) SAC (000064)

These areas have qualifying interests relating to bat species and the appeal site is situated within the foraging range (6km) for the bat species in question, the lesser horseshoe bat (Newhall and Edenvale Complex SAC and Old Domestic Buildings (Keevagh) SAC, Pouladatig Cave SAC).

8.9. Significant impacts on the remaining SAC sites are considered unlikely, due to the distance and the lack of hydrological connectivity or any other connectivity with the application site in all cases. As such, it is reasonable to conclude that on the basis of the information on 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 any designated Natura 2000 site apart from five sites identified for which significant effects cannot be ruled out at screening.

8.10. The qualifying interests of all Natura 2000 Sites considered are listed below:

Table 8.1: European Sites/Location and Qualifying Interests

Site (site code) and Conservation Objectives	Distance from site (approx.)*	Qualifying Interests/Species of Conservation Interest (Source: EPA / NPWS)
<p>Lower River Shannon SAC (002165)</p> <p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected</p>	<p>The site overlaps the designated site where the N85 crosses the river Fergus</p>	<p>Sandbanks which are slightly covered by sea water all the time [1110]</p> <p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Coastal lagoons [1150]</p> <p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</p> <p><i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Tursiops truncatus</i> (Common Bottlenose Dolphin) [1349]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>

<p>Newhall and Edenvale Complex SAC (002091)</p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected</p>	<p>1.9km to SW</p>	<p>Caves not open to the public [8310]</p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p>
<p>Old Domestic Buildings (Keevagh) SAC (002010)</p> <p>To restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>3km to East</p>	<p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p>
<p>Pouladatig Cave SAC (000037)</p> <p>To maintain the favourable conservation condition of Lesser Horseshoe Bat in Pouladatig Cave SAC, which is defined by the</p>	<p>3.8km to West</p>	<p>Caves not open to the public [8310]</p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p>

following list of attributes and targets.		
<p>Poulnagordon Cave (Quin) SAC (000064)</p> <p>To maintain the favourable conservation condition of Lesser Horseshoe Bat in Poulnagordon Cave (Quin) SAC, which is defined by the following list of attributes and targets:</p>	3.9km to North.	<p>Caves not open to the public [8310]</p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p>
<p>River Shannon and River Fergus Estuaries SPA (004077)</p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SPA has been selected.</p>	1.07km to South (approx.. 1.3km downstream of N85 River Fergus bridge)	<p>Cormorant (Phalacrocorax carbo) [A017]</p> <p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Shoveler (Anas clypeata) [A056]</p> <p>Scaup (Aythya marila) [A062]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Lapwing (Vanellus vanellus) [A142]</p> <p>Knot (Calidris canutus) [A143]</p> <p>Dunlin (Calidris alpina) [A149]</p> <p>Black-tailed Godwit (Limosa limosa) [A156]</p> <p>Bar-tailed Godwit (Limosa lapponica) [A157]</p> <p>Curlew (Numenius arquata) [A160]</p>

		Redshank (<i>Tringa totanus</i>) [A162] Greenshank (<i>Tringa nebularia</i>) [A164] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]
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8.11. Table 8.1 above reflects the EPA and National Parks and Wildlife Service (NPWS) list of qualifying interests for the SAC/SPA areas requiring consideration.

8.12. AA Screening Conclusion

The site overlaps with the Lower River Shannon SAC (002165) and is located 1.07km north of the River Shannon and River Fergus Estuaries SPA (004077). The applicant has identified that the appeal site is within the foraging range (6km) for the lesser horseshoe bat, a main qualifying interest of Newhall and Edenvale Complex SAC (002091), Old Domestic Buildings (Keevagh) SAC (002010), Pouladatig Cave SAC (000037) and Poulmagordon Cave (Quin) SAC (000064). I conclude that the impacts as described above cannot be ruled out, and if they occurred, would be significant given the hydrological links and proximity to these Natura 2000 sites. As such, likely effects on cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required.

8.13. In relation to the remaining designated sites considered, due to the distance between the proposed development site to these designated conservation sites and the lack of either direct hydrological pathway or the distance and dilution effect with other effluent and surface runoff, it is concluded that this development would not give rise to any significant effects to those designated sites. The construction and operation of the proposed development will therefore not impact on the conservation objectives of features of interest of any other designated sites.

8.14. Stage 2 – Appropriate Assessment

8.15. The Qualifying Interests/Special Conservation Interests of...

Lower River Shannon SAC (002165)

Newhall and Edenvale Complex SAC (002091)

Old Domestic Buildings (Keevagh) SAC (002010)

Pouladatig Cave SAC (000037)

Poulnagordon Cave (Quin) SAC (000064)

River Shannon and River Fergus Estuaries SPA (004077)

are outlined in table 13.1 above.

8.16 The NIS contains a detailed description of the appeal site, the nature of the works proposed and a description of the designated sites listed above. In relation to the proposed rising main such is to facilitate pumped effluent to a connection point north of the Clareabbey roundabout and will allow connection to the Clareabbey Wastewater Treatment Plant. The installation of the rising main requires crossing various watercourses, roads, a railway and undeveloped lands with a construction method comprising a combination of open trench installation and horizontal directional drilling (HDD).

The submitted Natura Impact Statement (NIS) with the application provides a detailed description of the aforementioned SAC and SPA areas. The NIS includes an identification of the qualifying interests of each site for impact assessment. These are listed below for each designated site.

Site (site code) and Conservation Objectives	Distance from site (approx.)*	Qualifying Interests for impact assessment
Lower River Shannon SAC (002165)	The site overlaps the designated	Estuaries [1130] Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachion vegetation [3260]

To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected	site where the N85 crosses the river Fergus	Petromyzon marinus (Sea Lamprey) [1095] Lampetra fluviatilis (River Lamprey) [1099] Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355]
Newhall and Edenvale Complex SAC (002091) To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected	1.9km to SW	Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]
Old Domestic Buildings (Keevagh) SAC (002010) To restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.	3km to East	Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]
Pouladatig Cave SAC (000037)	3.8km to West	Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]

To maintain the favourable conservation condition of Lesser Horseshoe Bat in Pouladatig Cave SAC, which is defined by the following list of attributes and targets.		
<p>Poulnagordon Cave (Quin) SAC (000064)</p> <p>To maintain the favourable conservation condition of Lesser Horseshoe Bat in Poulnagordon Cave (Quin) SAC, which is defined by the following list of attributes and targets:</p>	3.9km to North.	<p>Caves not open to the public [8310]</p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p>
<p>River Shannon and River Fergus Estuaries SPA (004077)</p> <p>To maintain the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SPA has been selected.</p>	1.07km to South (approx.. 1.3km downstream of N85 River Fergus bridge)	<p>Cormorant (Phalacrocorax carbo) [A017]</p> <p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Shoveler (Anas clypeata) [A056]</p> <p>Scaup (Aythya marila) [A062]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p>

		Lapwing (<i>Vanellus vanellus</i>) [A142] Knot (<i>Calidris canutus</i>) [A143] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Greenshank (<i>Tringa nebularia</i>) [A164] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]
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8.17 Assessment of potentially significant effects on Natura 2000 sites

8.17.1 The NIS outlines the potential impacts of the construction and operational phase of the development without mitigation measures. The potential impacts are identified under a number of headings.

8.17.2 Habitat loss/alteration fragmentation

There will be no direct habitat loss within any designated site however there is a risk of indirect effects via potential impacts on water quality.

8.17.3 Water quality

Potential effects of the construction phase on water quality identified include erosion and runoff of silt from excavation/construction vehicles, discharge of fuel/oils/polluting substances, run-off of suspended solids from excavation works, stored material, contamination from drilling fluid, potential impact of overland flow directly into the River Fergus or existing drainage network. The proposal has potential to impact water quality in the Lower Shannon SAC and the River Shannon and Fergus SPA overland flow directly into the River Fergus or via existing drainage network/minor watercourse draining into the river. The rising main is partially located

within a designated flood zone with potential for impact on groundwater through excavation. The shallow nature of excavation works require no pumping of groundwater. Open trench installation and horizontal directional drilling poses a risk to water quality through run-off of suspended solids. Drilling activity in the vicinity of the River Fergus poses risk of riverbank slippage, contamination of water with drilling fluid.

During the operational phase, there is a risk of surface water quality to receiving watercourses from run-off with potential for pollutants and accidental spillages. During operation there is potential risk of pipe failure in relation to the rising main and seepage of treated effluent impacting surface water and groundwater quality. The risk is considered low and in terms of flood risk such infrastructure suitable for use in such areas (sub-surface).

8.17.4 Species disturbance/displacement

Potential impacts identified include effects on water quality with a number of qualifying interest dependent on aquatic habitats, increase noise, light levels and human disturbance, effects of directional drilling on spawning fish, impacts on prey availability and alteration of habitat.

In the case of the Lower Shannon River SAC the development has potential to have significant effects on a number of qualifying interest identified as Sea Lamprey, River Lamprey, Salmon and Otter. The directional drilling under the River Fergus is not anticipated to have a significant effect on spawning lamprey and salmon due to the location of such not being suitable for spawning. In relation to otter the site survey (location of service station development) does not identify such as habitat for the otter including the watercourses draining the main site. The works for the rising main (directional drilling) does have the potential to cause disturbance of displacement of otter with the River Fergus a foraging/commuting habitat for such. The impact is noted as being temporary and will be conducted during daylight hours when otter species are less active.

In the case of the River Shannon and River Fergus Estuaries SPA the potential effects relate to decrease in water quality and subsequent impact on prey availability with indirect impact on the water birds identified as qualifying interests (list above). Other water quality impairment for such species include increased turbidity due to discharge of suspended solids impairing underwater visibility for the qualifying interests.

The development has the potential to disturb the lesser horseshoe bat, which is a qualifying interest of four SAC's in the surrounding area ranging from 2.5km to 6km from the site). The site and surrounds was subject to surveys (details in the Ecological Impact Assessment). No lesser horseshoe bat activity was recorded within the development site however the surveys indicate that that the bats utilise the established hedgerow and treeline bounding the main development site to the east for foraging and commuting. The development has the potential to disturb bats using this both during construction and operation due to increased light levels and disturbance.

8.18 Mitigation Measures

8.18.1 Mitigation measures are set out in section 10 of the NIS. Mitigation measures proposed during the construction phase include supervision by an Environmental Clerk of Works and implementation of a detailed Construction and Environmental Management Plan.

Specific measures are proposed for protection of water quality during construction including, management of excavation materials, soil and surface water management, storage of materials, fuels/oils/refuelling, use of concrete and dust suppression measures.

8.18.2 The mitigation measures include construction management measures relating to works on the rising main in particular works where the rising main overlaps the River Fergus (Lower River Shannon SAC). The measures include dewatering of excavations with no silt laden water to be discharged (use of settlement tanks), provision of buffer zone from embankment of the river in relation to horizontal directional drilling (HDD), use of non-toxic drilling gel, monitoring measures to

ensure no leakages, emergency procedures in the event of spillages/leakages, use of inert soil from HDD in landscaping works on-site measures are proposed where crossing minor watercourses occurs with works carried out in accordance with the CEMP, storage of excavated material managed and appropriate buffer from the watercourse, appropriate gradients to avoid trench collapse.

8.18.3 A number of mitigation measures are proposed in relation to the lesser horseshoe bat both during construction and operational phase. It is proposed to plant trees and shrubs of sufficient height and maturity and density at the outset to mitigate light-spill from the development onto the bat sensitive habitats adjoining the site. No lighting to be used after daylight hours during construction phase. During the operational phase lighting is to be directed away from the bat sensitive location with appropriate cowlings and shields.

8.18.4 To determine the appropriate mitigation measures to be applied, consideration of the potential impacts is required in light of the site specific conservation objectives for the SACs. The NIS confirms the potential sources of chemical contamination that would be from the release of hydrocarbons (oils, fuels) from construction plant, equipment and removal of home heating system. Hydrocarbons can affect water quality, potentially resulting in toxic conditions for aquatic flora and fauna. Oil films on the water surface can disrupt oxygen diffusion from the atmosphere, resulting in de-oxygenation of waters. Another source of contamination would be from the release of uncured concrete which would alter the pH level of the water locally, potentially leading to the death of aquatic flora and fauna and an alteration to the waterbody substrate.

8.18.5 Mitigation measures identified are set out in detail in section 8 of the NIS. These refer, for the most part, to best practice construction measures which seek to ensure *inter alia* the protection of water quality during construction phase, along with precautionary measures and actions to be taken in the unlikely event of a spill from

the site. Dust control is also outlined with measures to reduce, suppress and clean dust generated from construction activities on the site.

8.18.6 Following a complete review of the mitigation measures outlined in section 10 of the submitted NIS, alongside consideration of the site specific conservation objectives and potential impacts upon these, I am confident that with the incorporation of the described mitigation, the project would not adversely affect the integrity of the Lower River Shannon SAC (002165), Newhall and Edenvale Complex SAC (002091), Old Domestic Buildings (Keevagh) SAC (002010), Pouladatig Cave SAC (000037), Poulmagordon Cave (Quin) SAC (000064) and River Shannon and River Fergus Estuaries SPA (004077). This is based on a complete assessment of all implications of the project.

8.19 In-Combination / Cumulative Impacts

8.19.1 Section 9.8 of the NIS considers in combination effects, informed by a review of Clare County Development Plan 2017-2023, as well as proposed and permitted development in the area proximate to the subject site. The NIS identifies a service station constructed at the Clareabbey roundabout, the Ennis Flood Relief Scheme, Clareabbey Wastewater treatment Plant, road infrastructure (lighting along the M18), agricultural activity, the Doora landfill as projects with the potential for in-combination effects. Significant interaction and effects are not anticipated in relation to the service station. In the case of the Flood Relief Scheme such has been subject to Appropriate Assessment, which concluded no significant effects with no potential cumulative effects anticipated with the proposed development. The Clareabbey Wastewater treatment plant has been upgraded with further upgrades planned with a screening assessment identifying no significant effects. There is potential for cumulative effects in terms of lighting in conjunction with lighting along the M18. The proposal includes specific mitigation measures to ensure no additional lighting impact. The proposal is not anticipated to have cumulative effects in conjunction with the landfill operation and agricultural activity in the area with sufficient mitigation measures to prevent any impact on water quality. I am satisfied with the assessment of potential cumulative impacts described in the NIS.

8.19.2 With the implementation of the mitigation measures outlined in this report, I conclude that the proposed development is not likely to lead to any cumulative impacts upon the integrity of the Lower River Shannon SAC (002165), Newhall and Edenvale Complex SAC (002091), Old Domestic Buildings (Keevagh) SAC (002010), Pouladatig Cave SAC (000037), Poulmagordon Cave (Quin) SAC (000064) and River Shannon and River Fergus Estuaries SPA (004077) when considered in combination with other developments.

8.20 AA determination – Conclusion

8.20.1 The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

8.20.2 Having carried out for a Stage 1 Appropriate Assessment Screening of the proposed development, I concluded that likely significant effects on the Lower River Shannon SAC (002165), Newhall and Edenvale Complex SAC (002091), Old Domestic Buildings (Keevagh) SAC (002010), Pouladatig Cave SAC (000037), Poulmagordon Cave (Quin) SAC (000064) and River Shannon and River Fergus Estuaries SPA (004077) could not be ruled out, due to either proximity or hydrological link. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

8.20.3 Following a Stage 2 Appropriate Assessment, with submission of a NIS, I would consider that subject to mitigation (which is known to be effective) the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, the Lower River Shannon SAC (002165), Newhall and Edenvale Complex SAC (002091), Old Domestic Buildings (Keevagh) SAC (002010), Pouladatig Cave SAC (000037), Poulmagordon Cave

(Quin) SAC (000064) and River Shannon and River Fergus Estuaries SPA (004077), or any other European site, in view of the sites Conservation Objectives.

8.20.4 This conclusion is based on a complete assessment of all aspects of the proposed project, both alone and in combination with other plans and projects, and it has been established beyond scientific reasonable doubt that there will be no adverse effects.

9.0 Recommendation

9.1. I recommend a grant of permission subject to the following conditions.

10.0 Reasons and Considerations

Having regard to...

(a) the provisions of the Clare County Development Plan 2017-2023 including the zoning objective for Commercial and the COM7 designation of the site,

(b) the “Spatial Planning and National Roads Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government in January 2012,

(c) Transport Infrastructure Ireland’s Service Area Policy issued in August 2014,

(d) the site’s location at a strategic interchange at an intersection between the M18 motorway and the N85 National Primary Road,

it is considered that, subject to compliance with the conditions set out below, the proposed development:-

(a) would meet a need for motorway services provision serving cars and HGVs at this strategic intersection of two national roads,

(b) would not give rise to an over proliferation of private off-line service facilities at national road junctions,

(c) would not negatively impact on the level of service and carrying capacity of the national road network,

(d) would not endanger public safety by reason of traffic hazard or obstruction of road users,

(e) would not result in the creation of a retail destination that would adversely impact upon existing settlements in the vicinity,

(f) would not interfere with the use or existing amenities of adjoining properties,

(g) would not adversely affect the visual amenities of the area,

and (h) would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, the Natura Impact Statement Report submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, that the proposed development the of likelihood of a significant effects on Lower River Shannon SAC (002165), Newhall and Edenvale Complex SAC (002091), Old Domestic Buildings (Keevagh) SAC (002010), Pouladatig Cave SAC (000037), Poulmagordon Cave (Quin) SAC (000064) and River Shannon and River Fergus Estuaries SPA (004077) in view of the designated sites' conservation any European Site in view of the conservation could not be ruled out at screening.

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on Lower River Shannon SAC (002165), Newhall and Edenvale Complex SAC (002091), Old Domestic Buildings (Keevagh) SAC (002010), Pouladatig Cave SAC (000037), Poulmagordon Cave (Quin) SAC (000064) and River Shannon and River Fergus Estuaries SPA (004077), in view of

the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- a) the site-specific conservation objectives for the European sites,
- b) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and in particular the risk of impacts on surface water and ground water quality,
- c) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the sites' conservation objectives. In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European Site in view of the sites conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of the Lower River Shannon SAC (002165), Newhall and Edenvale Complex SAC (002091), Old Domestic Buildings (Keevagh) SAC (002010), Pouladatig Cave SAC (000037), Poulmagordon Cave (Quin) SAC (000064) and River Shannon and River Fergus Estuaries SPA (004077).
- Detailed assessment of in-combination effects with other plans and projects including current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Lower River Shannon SAC (002165), Newhall and Edenvale Complex SAC (002091), Old Domestic Buildings (Keevagh) SAC (002010), Pouladatig Cave SAC (000037), Poulmagordon Cave (Quin) SAC (000064) and River Shannon and River Fergus Estuaries SPA (004077).

11.0 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The retail area of the proposed development shall contain a convenience shop with a net floor area not exceeding 100 square metres.

Reason: In the interest of the orderly development and to protect the viability of shops in nearby village settlements.

3.

(1) The landscaping scheme submitted as part of the proposal shall be implemented in full. Prior to commencement of development, the developer shall submit landscaping/screening proposals for the site to the planning authority for written agreement based on such and include details such as

- (a) a programme of works,
 - (b) a mixture of deciduous species trees/hedging/shrubs,
 - (c) proposals for maintenance and replacement (in the event of failures) of planting,
 - (d) lighting scheme proposals throughout the site—lamp standards and/or wall mounted lights, and
 - (e) boundary treatments throughout the site including heights and finishes of same.
- The landscaping scheme shall be carried out, maintained and renewed as necessary.

(2) The landscaping and tree planting scheme shall be carried out before or during the first planting season or part thereof occurring after the occupation of the premises. Any plants that become seriously damaged shall be replaced by others of similar size and species.

Reason: In order to assimilate the development on this site into the surrounding area, in the interest of visual amenity and the proper planning and sustainable development of the area.

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:

- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
- (b) location of areas for construction site offices and staff facilities,
- (c) details of site security fencing and hoardings,
- (d) details of on-site car parking facilities for site workers during the course of construction,
- (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,
- (f) measures to obviate queuing of construction traffic on the adjoining road network,
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (i) provision of parking for existing properties during the construction period,
- (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,

(k) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,

(l) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil, and

(m) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interests of amenities, public health and safety.

5. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

6. During the development works, material from the site shall not be spread or deposited along the public roadway. The developer shall be responsible for maintaining the roadway in a neat, tidy and safe condition.

Reason: To prevent any traffic hazard or nuisance arising from such material in the interest of traffic safety.

7.

(1) Noise levels from the site, during either construction or operation of the proposed facility, shall not exceed the following limits- (a) 55dB LAeq, 1 hour between 0700

and 1900 hours Monday to Sunday (b) 50 dB LAeq, 1 hour between 0700 and 1200 hours Monday to Sunday (c) 45 dB LAeq, 1 hour between 1200 hours and 0700 hours Monday to Sunday as measure at any point along the boundary of the subject site.

(2) There shall be no tonal or impulsive noise present during night time.

Reason: In the interest of proper development and to prevent noise nuisance.

8. Details of signage and all lighting proposals for respective signage, advertising structures, logos and similar, shall be submitted for the written agreement of the planning authority prior to commencement of development. No sign, symbols, nameplate or advertisement other than as indicated shall be erected on the site without the prior written agreement of the planning authority.

Reason: In the interest of proper planning and visual amenity.

9. Details of road signage/markings, warning the public of the entrance, proposals for traffic management at the site entrance, details of alterations to existing safety barriers, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual amenity.

11. 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.

12. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

13.

(1) No surface or storm water run-off shall be allowed to discharge onto the public road or to adjoining properties.

(2) All surface waters drainage from the site shall be discharged to the surface water drainage system via a class 1 Petrol Interceptor. Interceptor shall be alarmed and outfall shall be capable of being blocked in the case of an emergency where there is an accidental spillage on the forecourt.

Reason: To avoid interference with other properties and to prevent damage to the public road with consequent traffic hazard in the interest of traffic safety.

14. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

15. Mitigation and monitoring measures outlined in the plans and particulars, including inter alia the Natura Impact Statement, Engineering Planning Report, outline Construction and Environmental Management Plan and submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

16. 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.

17. The developer shall pay the sum of €35,000.00 (thirty five thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of improvement works along the L4114. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Colin McBride
Senior Planning Inspector

04th August 2022