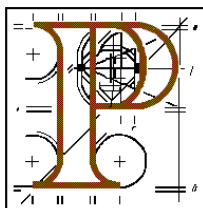


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## An Bord Pleanála



## Inspector's Report

**Development:** Mixed Use Leisure Campus at Noard, Newhill, Leigh & Borris, Two Mile Borris, Co. Tipperary.

### Planning Application

Planning Authority : North Tipperary County Council  
Planning Authority Register Reference : 09/510624  
Type of Application : Permission  
Applicant : Richard Quirke  
Planning Authority Decision : Grant subject to conditions

### Planning Appeal

Appellants : (1) J. Corrigan & M. Clarke  
(2) P. Blake  
(3) P. O'Connor  
(4) An Taisce  
Type of Appeal : 3<sup>rd</sup> Party v. Grant

**Observers** : (1) Annemarie & Aiden O'Brien, Ballydoyle Stables  
(2) Mr. Joe Hernon, Coolmore  
(3) Mr. Austin Broderick, Thurles Chamber  
(4) Mr. Damian McDonald, Horse Sport Ireland

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(5) Mr. Brian Keating, Shannon  
Development  
(6) Mr. Adrian Neilan, Irish Greyhound  
Board

**Inspectors** : Pauline Fitzpatrick (presiding)  
Angela Brereton

**Dates of Site Inspections** : 10<sup>th</sup>, 11<sup>th</sup> & 25<sup>th</sup> February

**Dates of Oral Hearing** : 08/03/11 – 10/03/11

### **Appendices**

1. Report by Ms. Angela Brereton on Landscape, Visual Impact, Cultural Heritage & Ecology
2. Summary of Oral Hearing Proceedings
3. Photographs
4. Extracts from Regional and Local Policy Documents

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## 1.0 SITE LOCATION AND DESCRIPTION

The site, which has a stated area of c.330 hectares, is within the townlands of Noard, Newhill, Leigh and Borris c. 11km to the east of Thurles town centre, 1.8km to the south-east of Twomileborris and c.4km to the north-east of Littleton. The site is bounded by the M8 to the north, the N75 to the north-east, agricultural and Coillte Forestry lands to the east, Bord na Mona boglands to the south and agricultural lands to the west. Of the 330 hectares approx. 110 hectares comprises of agricultural land with the remainder (c.220 hectares) under commercial forestry.

The site, which consists of three discrete parcels of land, is irregular in shape and straddles the R639 (old N8). The main portion of the site which has a stated area of c.298 hectares is located to the south-east of the R639. The other two parcels are located to the north-west of the R639, the larger of the two (c.31.5 hectares) located between the M8, the R639 and N75 and the smaller located between the regional road and the M8.

For ease of reference the fields within the site are numbered on the map attached in appendix 3.

### *Lands to the south-east of the R639*

The southern, eastern and south-western sections of this portion of the site are characterised by commercial forestry of varying maturity served by access tracks.

The northern and western portions of this section of the site consist of agricultural land dissected by drainage channels. In general lands to the west of the access track (fields F1, F7, F9, F10 & F11) are open with little hedgerow delineation save along the western most boundary of the site. Excavations associated with the borehole investigations were noted with water flowing from the boreholes in Field 7. The hedgerows delineating fields F6, F12, F13 and F14 remain. Portions of these fields were noted to be waterlogged on day of inspection. An access track runs through the centre of these lands connecting with the forestry tracks to the rear. The highest point of the site is delineated by a north-south ridge along which the access track runs with the lands generally falling away to the west and east.

The southern portion of the site is drained by the Derheen River which flows in a northerly direction through the planted lands save for the northern part of the site where it runs along the access track adjacent to field 16. Field 16 is level and noted to be wet underfoot and is currently used for grazing. The Clover River also flows through the forested area northwards alongside fields F12, F13 and F14 before joining the Derheen River. The western portion of the site is drained by an unnamed stream.

The topography of the area ranges from 129.5mOD in the north-west sloping to 121mOD in the forested bog in the south of the site.

Noard House occupies the highest point of the site and consists of a two storey hipped roof dwelling with associated agricultural sheds and outhouses. The house is surrounded by mature evergreen trees. The lands immediately to the south-east are used for open storage of materials. There is a derelict dwelling to the south-east of Noard House originally connected

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to same by way of a track which is still evident along the southern boundary of field 5. The said derelict dwelling can also be accessed from a lane which provides access to the R639.

There is single storey red brick dwelling to the north-east of Noard House which is currently occupied. This dwelling and Noard House are served by the one gated access and driveway from the R639. The agricultural lands are served by a further entrances to the north-east and north-west of the said access. The site also includes three single storey dwellings which front onto the R639 immediately to the north-east of the main driveway. All are currently occupied. Their boundaries to the main body of the site are delineated by hedgerows.

The roadside boundary of the north-western portion of the site is delineated by a double hedgerow either side of what would appear to be the route of an old road.

The nearest residential properties to this southern portion of the site consist of three dwellings (two fronting onto the R639 and one from the lane) immediately to the north-east with a dormer dwelling immediately to the west. There are a further two dwellings (one with associated agricultural buildings) accessed from a minor county road further west again.

#### *Lands to north of R639*

The lands to the north of the R639 comprise of two portions. The largest (c.31.5 hectares) is located to the north-east and consists of three fields (fields 17, 18 & 19) all of which are under tillage with the boundaries delineated by hedgerows. The lands are relatively level and are bounded by the M8, N75 and R639. The unnamed stream flows through the western portion of the site. There are two commercial warehouse buildings and associated open yard area (used for vehicular parking) served by an entrance from the R639 in the eastern portion of the site. The nearest residential properties to same consist of a single storey dwelling (with a dormer dwelling under construction behind it) to the south-east with a ribbon of dwellings along the N75 into Twomileborris to the north-east. There is a two storey part red brick dwelling on elevated ground to the west of the site overlooking the lands with a further two storey dwelling (recently constructed) accessed from a private cul-de-sac backing onto the site.

The second portion of the lands to the north of the R639 is narrow and is so shaped so as to allow for the necessary road provision connecting to the flyover of the M8. The said lands slope up steeply from the R639 and are currently in agricultural use. The site intersects a private gated cul-de-sac lane which terminates at the said recently constructed two storey dwelling. The cul-de-sac also provides access to the adjoining agricultural lands. The nearest residential properties consist of a single storey dwelling immediately to the west of the private cul-de-sac road with a line of dwellings on the opposite side of the road.

The R639 in the vicinity of the site is relatively straight with a broken white line along the majority of its road frontage. The 100km/hr speed limit applies. There is turning lane for vehicles turning right onto the N75 at the junction at Turnpike to the north-east of the site.

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## 2.0 PROPOSED DEVELOPMENT

The application, which is accompanied by an EIS, was lodged with the planning authority on the **28/10/09** with further plans and details received **19/07/10** and **20/09/10** following FI and clarification of FI requests.

The proposal is seeking a 7 year permission for a mixed use leisure development with a total ground floor area stated to be 163,091 sq.m.

### *Initial Application*

The proposal as per the initial submission is to comprise of:

- Demolition of 5 dwellings, 1 derelict dwelling, 1 no. commercial warehouse/storage building and agricultural outbuildings.
- 80,577 sq.m. 500 bedroom hotel up to 8 storeys in height over lower ground floor level with an overall height of 38.6 metres. It is to incorporate a health spa with swimming pool, 2 no. ballrooms, coffee shop, 6 no. retail units, 4 no. restaurants, 2 no. bars, 6,000sq.m. casino, conference centre and meeting rooms and other ancillary facilities. The building has two main elements – the eastern block and the curving south-western block. They are linked twice, once in the north with a three floor over semi-basement bedroom accommodation block and in the centre by a 7 storey curved glazed atrium and circulation spine. 516 parking spaces are to be provided at lower ground floor level.
- 1,984 sq.m. banqueting suite and museum linked to hotel. The ‘Hoban Memorial Building’ is 2 storey over basement and is a reproduction of the White House. It is to have a reproduction Lafayette park and subterranean link to the hotel.
- All weather race course (c.23.5 hectares) and greyhound track (c.0.36 hectares) with shared grandstand, working on a back to back basis accommodating bars, restaurants, function rooms and private suites and ancillary facilities. The grandstand is to have a floor area of 32,878 sq.m. with a maximum height of 34 metres. The racecourse would have a 5352 seating capacity with c. 15760 total capacity while the greyhound racing venue would have a 2470 seating capacity with c. 5220 total capacity. Single storey greyhound and stables buildings providing for 140 no. stables and ancillary facilities including 10 no. ensuite ‘grooms’ bedrooms in addition to 3 no. maintenance buildings are proposed.
- A 23,362 sq.m. venue for events and concerts in a 2 storey over lower ground floor level with an overall height of 21.2 metres. It is a semi-underground domed structure. It is to be a flexible space with a seated capacity of c. 9500 and maximum capacity of 15,000. It is to have a retractable roof.
- 5,872 sq.m. equestrian centre to include bar/cafe, lecture rooms and ancillary areas. Stables, hay store and staff building with shop, equipment rental and 2 staff apartment over A 5,000 sq.m. outdoor arena with ancillary facilities is also proposed.
- 2,882 sq.m. 20 retail units
- 18 hole golf course with 3,462 sq.m. 2 storey club house
- Driving range and 484 sq.m. ancillary single storey building

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- Heliport with tower comprising of 4 no. helipads, approach and take off area and ancillary building.
  - 255 sqm. chapel.
  - 1530 sq.m. single storey energy centre
  - 5879 parking spaces (516 in hotel underground as stated above) with 172 spaces for vans/horseboxes.
  - Treatment plant with 2,500 sq.m. wetland area.

*Site development works include:*

- Importation of top soil for golf course and racetrack.
- Revised surface water drainage regime including diversion and culverting parts of the Derheen and Clover Rivers. Approx. 750 metres of the Derheen River is to be diverted away from the racecourse track and will be culverted in the vicinity of access road crossings, racecourse sprint track and the racecourse. The Clover River will be diverted to meet the Derheen River approx. 580 metres upstream of their current confluence.
- Surface water from the site will drain to local watercourses via attenuation ponds. One online flood storage area will be constructed on the Derheen River at the southern end of the site.
- Provision of potable water supply
- Surface water from the buildings and car parks to be managed using SUDS.

*Road Works include:*

- New 4-arm roundabout on the R639 at the entrance.
- Emergency, only, access road with priority junction onto the R639.
- Link road from the R639 (via a new 3-arm roundabout) to the Two Mile Borris Grade Separated Junction (junction 5) on the M8.
- Two slip lanes to complete a 'diamond' interchange at junction 5 and provision of segregated left turn lane on the southbound diverge to allow traffic to join the proposed link road in a free flow manner.
- Relocation of an attenuation pond adjacent to the Two Mile Borris Interchange.
- Termination of an existing accommodation road (on the south side of the new Link Road) and creation of a new access onto the northern side of the link road for the existing accommodation road.

*Justification for Project and Location*

The concept underlying the project is linked to the fact that HRI is considering the consolidation of 3 no. existing horse racing venues in the Munster region to provide 1 no. grade 1 all-weather facility that will cater for the whole province. The concept of providing a racecourse and casino on the same campus has been established in other jurisdictions, in particular in USA, where it has substantially contributed to the economic viability of racecourses while at the same time enlarging the facility and ensuring proper conditions for the development of gaming as a leisure pursuit. The range of uses proposed require large amounts of space and it would not be possible to provide these uses within urban areas. By

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integrating the uses into one location and providing shared support facilities (eg. hotel, conference facilities, car parks etc.) multi-purpose trips will be generated.

### *Design*

With the exception of the Hoban Memorial Building the buildings are of a contemporary design and are orientated to minimise the visual impact to the surrounding area particularly the M8 and N8(R639). The memorial building is based on the 1829 White House and has been purposefully sited to address the R639 and is to be framed by formal gardens.

There are to be 3 phases in construction:

1. Horse and Greyhound racing courses
2. Hotel, Hoban memorial building, chapel, retail outlet village, golf course, equestrian centre.
3. Indoor events arena

### *Further Information*

Further Information was requested on **21/12/09** seeking details on matters relating to:

- Site boundaries
- Improvements required to public road network to accommodate traffic generated by major events
- Access arrangements during major events
- Event management plan
- Modelling of traffic flows from major events.
- Re-examination of TIA and the accuracy of the traffic flows predicted in terms of generated traffic, growth factors and trip assignment and development of a local area model.
- Compliance with Smarter Travel
- Mobility management plan
- Heliport and impact on safety of M8 road users
- Revised road safety audit.
- Social Impact Assessment and Economic Impact Assessment
- Childcare facility provision
- Retail Impact Assessment
- Archaeological Impact Assessment
- Flood Risk Assessment
- Health and Safety Risks associated with open attenuation ponds and any mitigation measures
- Maintenance of adequate water supply and long term testing programme with respect to the water supply production boreholes.
- Revised hydrological assessment based on borehole/aquifer test results. Impacts to focus on critical hydraulic/hydrological aspects such as the flows on the Clover River, potential impacts on public/private water supplies, impacts on structures ie. roads, sustainable drainage etc.

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- Installation of rainwater harvesting-grey water recycling system.
  - Information on proposals for containment, treatment and disposal of effluent arising from fire fighting activities
  - Clarification of discrepancies between PE calculation of 2400 for foul water treatment in EIS and design criteria of maximum 4576 PE.
  - Construction management plan/method statement
  - Environmental Management Plan
  - Disposal of animal waste arising
  - Noise and light impact assessments.
  - Boundary treatment to neighbouring properties
  - Phasing Plan

A response to that request received **19/07/10** was accompanied by revised public notices and comprises:

- Retail Impact Assessment
- Economic impact assessment,
- Social impact assessment
- 160sq.m. crèche in hotel building for employees
- Microsimulation Option Testing and Local Model Validation reports
- Event management plan
- Mobility management plan
- Road Safety Audit
- Flooding Risk Assessment
- Borehole long pumping test results
- Details on discharge to surface water
- Archaeology Progress Report
- Amendments to sections of EIS following the FI

#### *Site Services*

- Realignment of stream at southwest boundary of site.
- Water supply - 344 cubic metres of water per day to be pumped when fully operational with less required when there are no events. Pumping test results submitted.
- Revisions to proposed treatment plant with outfall proposed to River Drish at Drish Bridge to the west of Two Mile Borris (new pipe to be laid along N75).

#### *Road Works*

- The proposed roads layout was altered to include a private road and underpass of the R639 from the link road (with associated works to include minor raising of the R639). The road is to be used only during major event scenario.
- Roundabouts and overbridge at the Two Mile Borris interchange to accommodate two way traffic.

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- The additional slips to the interchange and the additional free flow lane on the existing slip have been omitted. 'Phase 1' would allow for major event accommodating up to 9750 persons at either the racecourse or indoor venue during the week and up to 9000 persons on a Friday. The location for the proposed slips form part of the M8 motorway and consent for these additional works are to be progressed separately under the Motorway Order provisions. On foot of these works 'phase 2' will entail the venue operating at a maximum peak capacity of 15,000
  - 49.6 sq.m building to serve gardai during major events.

### ***Clarification of Further Information***

Clarification of FI sought **09/09/10** on the following:

- Appropriate Assessment
- Archaeological assessment
- Significant reduction of retail provision.
- Details in flooding assessment
- Confirmation that design as proposed and all activities meet with current legislation and appropriate codes of practice for noise.
- Water quality status in terms of onsite boreholes and impacts on potable water supply in vicinity
- Use of private access road and accommodation track
- Demonstration that discharge will not impact unduly on operation of Cabragh WWTP and Dew Valley meat plants located downstream of proposed discharge point.

A response accompanied by revised public notices was received **20/09/10** and comprises

- Natura 2000 Site Assessment with a finding of no significant effect.
- Phase 1 and 2 Archaeological Test Excavation Results.
- 2,882 sq.m. 20 exhibition spaces to replace the original retail unit component
- A recommendation that a condition be attached to a grant of permission requiring the written agreement from the user of the existing track that is can be closed for use during major events. An alternative proposal is available whereby the track can underpass the link road (drawing attached).

**Note:** By way of a section 132 request the applicant submitted copies of the said Archaeological Test Excavation Phase 1 & Phase 2. It was circulated to the parties to the appeal prior to the oral hearing.

**Note:** Objections to the proposal received by the planning authority have been forwarded to the Board for its information. The issues raised can be briefly summarised as follows:

- Principle of the casino
- Precedent set
- Compliance with national, regional and local planning policy
- Prematurity in absence of LAP
- Use of the airfield and impact on amenities

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- Noise
  - Impact on water supplies in area.
  - Number of events
  - Light spill
  - Phasing of development and potential impact on integrated nature of project.
  - Flooding of adjoining lands
  - Archaeology
  - Disturbance to flora and fauna
  - Impact on amenities of adjoining property and activities including farms, stud farms, hotels
  - Car dependency
  - Traffic and impact on M8
  - Scale of development and alteration in character of area.
  - Boundary treatment
  - Non compliance with legislation
  - Suitability of ground conditions for racecourse
  - Adequacy of sewerage and drainage proposals.
  - Impact on Thurles
  - Access

### **3.0 TECHNICAL REPORTS**

#### **3.1 Internal Reports**

The **Senior Engineer, Water Services** in a report dated **03/12/09** recommended a FI request including assessment of water supply provision, installation of rainwater harvesting-grey water recycling system, management system relating to water quality and hydrological assessment demonstrating any potential impacts on existing adjoining group water scheme. The report details the requirements for the waste water treatment system and pumping station. A **2<sup>nd</sup>** report dated **06/10/10** states that the application is satisfactory subject to conditions.

The **Executive Engineer, Environment Section** in a report dated **31/12/09** recommends FI on a long term testing programme for boreholes, updated hydro-geological assessment based on borehole/aquifer test results focusing on impact on Clover River flows, impacts on public/private water supplies and impact on structures. The **2<sup>nd</sup> report** dated **03/09/10** recommends clarification of FI on issues including the recharge zone configuration and time-of-travel for potential pollution effluent parameters, an Appropriate Assessment in view of the issue of cumulative negative impact on the assimilative capacity of the Drish River with regard to the downstream (4km) Cabragh wetlands, a revised noise assessment addressing the worst case scenario and a revised light pollution assessment. The **3<sup>rd</sup> report** following clarification of FI dated **13/10/10** considers that the applicant has adequately demonstrated that the proposed treated effluent discharge to the Drish River will not significantly impact on the assimilative capacities of the Suir River at the location of either Dew Valley Meats or Cabragh WWTP or affect the assimilative capacities at such locations to such a degree as to unduly affect the operational capacities of said treatment plants. The issues relating to noise

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are outstanding. Conditions to be attached to a grant of permission are detailed. Subsequent reports dated **15/10/10** & **28/10/10** set out revised conditions.

A report by **Roadplan Consulting** on Roads and Traffic Aspects was received **18/12/09**. It recommended FI including an assessment of the scenario of the provision of the Link Road without the M8 southern slips and without the segregated left lane and determination if that layout can provide adequate traffic capacity for the development. A 2<sup>nd</sup> access should be provided. An event management plan is required. The impact of construction traffic on local road pavements should be assessed. The **report** following the FI dated **August 2010** considers that there are certain problems in the applicant's interim proposal seeking permission to construct a full size venue with a capacity of 15000 but a condition limiting the permissible attendance to 9750 persons until the phase 2 infrastructure. It would be preferable that the application be amended so as to seek permission for a venue capacity of 9750 (9000 on a Friday) with a subsequent application for the 2<sup>nd</sup> phase. The applicant is not in a position to give certainty that the necessary traffic management measures will be put in place by the authorities who have the powers to do so. Conditions are recommended should the PA grant permission.

An **email** following the FI from **M. Devery** dated **09/09/10** notes that the accommodation track crosses the private access road and both cannot be used during major events. The applicant should submit evidence of agreement with the relevant users/owners regarding the private road's closure during major events.

The **1<sup>st</sup> report** from the **Road Design** dated **15/12/09** reiterates a number of the points made in the 1<sup>st</sup> report by Roadplan Consulting and details a number of points in the 1<sup>st</sup> letter from the NRA which should form part of the FI request.

The **2<sup>nd</sup> report** from **S.E.E. Road Design** dated **24/07/10** notes that the TIA and the subsequent modelling demonstrate that there is inadequate capacity to deal with the vehicular traffic generated by a 15000 capacity major event without excessive queuing including onto the M8 motorway. It is proposed to hold a major event every 6-8 weeks which would be unacceptable. Such frequent queuing on the motorway at junction 5 would give rise to an unacceptable increased traffic hazard. The modelling indicates that the road infrastructure could accommodate an event of 9750 and 9000 on a Friday. VMS signage on the M8 motorway will be required to regulate arriving traffic. A special contribution for same is necessary. It would be a matter for the local authority to pursue the provision of the signage with the NRA to be paid for from the levy. A series of conditions are detailed should permission be granted. Any additional works to provide 'phase 2' infrastructure should be by way of a new planning application. It is noted that the said works are entirely dependent on the agreement of the NRA and most likely require a motorway order. As such the exact layout of this additional infrastructure is uncertain at this time and there is no guarantee that it can ever be provided. A **further note** detailed **08/10/10** gives the estimate cost for VMS signage.

The **1<sup>st</sup> Senior Planner's** report dated **21/12/09** considers that the proposal does not contravene the County Development Plan (2004 plan pertained). Reference is made to the National Development Plan, National Spatial Strategy, Mid West Regional Planning Guidelines and Failte Ireland's Environmental Action Plan. Given the size and scale of the

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proposal it is accepted that it is not a viable proposition to locate it within an existing settlement. It is located within close proximity to a number of existing settlements which can provide the services to support it and it is considered that the proposal, by virtue of its location, can support a number of settlements rather than just a single settlement. Greater emphasis should be placed on public transport use. The proposal would have a regional, national and international tourism dimension. The status and importance of the scheme to Ireland should not be underestimated. In order to assess the nature of the proposed retail units and their potential impact on the surrounding town a retail impact assessment is required. The question arises as to whether the new facilities may or may not have a negative social or economic impact on surrounding urban areas. Economic and social impact assessments of the development are required. The architects have been sympathetic in their design. While the site is not within a flood plain it is located within an area identified as being benefitting lands. A flood risk assessment is considered appropriate. The issues pertaining to roads and traffic as expressed by the NRA are noted. A FI request is recommended.

The **2<sup>nd</sup> planner's** report dated **09/09/10** sets out how it is considered the proposal complies with the 2010 County Development Plan save for the proposed retail component. Outside of the units in the hotel the retail provision should be omitted. Reference is made to 2010 Mid-West Regional Planning Guidelines. It is noted that due to the phasing of the infrastructural works a condition limiting the size of events pending a successful Motorway Order will need to be attached. The Phase 2 works providing slip roads from the M8 (when approaching from south) were dropped by the NRA due to financial constraints. It is considered that in general the proposal would have a positive social and economic impact on the area. The archaeological assessment to date is considered insufficient. An appropriate assessment is considered necessary due to the discharge point to the Drish River 5km upstream of River Suir SAC. It is considered that while the site is located within a rural area and, as such, would appear to contradict the concept of sustainable transportation, there are a number of positives to the location ie. site's position in centre of country, its location relative to Thurles and the M8 and the potential bus routes that serve the site. Should the proposals outlined in the mobility management plan be put in place it is considered that the development would comply with the spirit of Smarter Travel. A request for clarification of further information is recommended. A **Habitats Directive Assessment screening report** was drawn up by the Senior Planner dated **09/09/10** and concluded that significant effects are certain, likely or uncertain and as such a Natura Impact Statement (Lower River Suir SAC 9km to the west of the site) is required

The **3<sup>rd</sup> Senior Planner's** report dated **29/10/10** following the clarification of FI notes the comments on archaeology from the DoEHLG and its concerns that only 110ha of the 330ha have been assessed. The 110ha comprises the majority of the area in which development is proposed to take place (ie. phases 1 & 2) with little significant finds. Much of the remainder of the 220ha is proposed for vegetation and passive use although part is to be used for the race track and golf course. In view of same it is considered that the PA is not prevented from making a decision given the nature of the uses proposed on the remaining 220ha. The issue of the site access road and rights of way along the private access track can be adequately addressed by condition. A grant of permission subject to conditions is recommended.

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### 3.2 Prescribed Bodies

The following were notified of the application by the PA:

- Failte Ireland
- Waterways Ireland
- Southern Regional Fisheries Board
- EPA
- Office of Public Works
- Irish Aviation Authority
- DoEHLG
- NRA
- South Tipperary County Council
- Environmental Health Services
- An Taisce

The following submissions were received.

The **Irish Aviation Authority** in a letter dated **10/11/09** states that should permission be granted the developer should liaise with same on details of proposed heliport.

**An Taisce** in a letter dated **26/11/09** notes that the 26 existing racecourses in Ireland represent the highest per capita ratio of racecourse numbers to population in the world. Similar figures apply to greyhound racing courses. There are opportunities to develop additional activities complimentary to existing racecourses and to reduce car dependence and promote organised rail and bus access. The energy conservation design features and renewable sourcing of energy are undermined by the car, helicopter and aviation emissions generated by the proposal. The application has failed to address 'Smarter Travel'. The need for and sustainability of the proposal has not been justified. The **2<sup>nd</sup> letter** dated **17/08/10** poses questions arising from issues addressed in the FI namely the underpass provision, retail impact, limitations in terms of attracting tourist based revenue between the proposal and Cashel, road safety audit, visual impact, the site location upstream of the Lower River Suir cSAC, and backup plans should the waste water treatment system fail. A **3<sup>rd</sup> letter** dated **21/10/10** queries certain aspects of the clarification of further information namely the exhibition spaces, the Natura 2000 Site Assessment and archaeology.

The **Southern Regional Fisheries Board** in a letter dated **30/11/09** states that it is prepared to consider the diversion or re-alignment of the watercourses within the site with the re-establishment of salmonid habitat in the diverted/re-aligned channel. No instream works to be undertaken without its approval. Riparian habitat should be provided within the confines of the race course. Comments are also made on the proposed water features, fire fighting and care for the aquatic environment during the construction phase

The **Department of the Environment, Heritage and Local Government** in a letter dated **02/12/09** considers that due to the size, extent and location of the proposal it is considered necessary that archaeological impact assessment involving geophysical survey and archaeological testing be carried out in advance of any decision. The **2<sup>nd</sup> letter** dated

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**27/07/10** following FI notes that the required archaeological assessment has not been completed and no detailed report submitted for comments. An archaeological assessment progress report is not considered to be a sufficient response. A **3<sup>rd</sup> report** dated **20/10/10** considers that clarification of FI should be sought. A schedule of conditions are detailed should permission be granted.

The **Environmental Health Service** in a letter dated **02/12/09** details what it considers to be shortcomings in the EIA process undertaken and the non-technical summary. Should permission be granted the applicant must meet Environmental Health Service with regard to the statutory requirement for the design and layout of all food premises and facilities for smoking.

The **OPW** in a letter dated **18/12/09** considers that the hydrological analysis appears to underestimate the 100 year flood and that a more detailed flood risk assessment is advised.

The **EPA** in a letter dated **22/07/10** following FI notes that the proposed development is not a licensable activity and has no observations to make.

The **NRA** in a letter dated **03/12/09** considers that insufficient data has been submitted with the planning application to demonstrate that the proposed development will not have a detrimental impact on the capacity of the national road network in the vicinity. It is not convinced that the case for the proposals to upgrade the M8 interchange junction 5 and to provide a new access link road from junction 5 to the R639 has been properly made and substantiated. The report details what it considers to be the inadequacies in the information provided. It also details the legislative requirements in terms of additional connectivity to the national road network, namely a Motorway Order under the Roads Act. It is considered that the additional connectivity to the national road has not been demonstrated. A **2<sup>nd</sup> report** dated **23/08/10** following FI remains of the opinion that insufficient data has been submitted to demonstrate that it will not have a detrimental impact on the capacity of the national road network. As in the earlier letter it details what it considers to be inadequacies in the information submitted. The **3<sup>rd</sup> letter** dated **28/09/10** following the clarification of FI states that the observations are as outlined in the previous letter dated 03/12/09. It notes that the new link/access to the M8 motorway remain in a number of documents and that the previous comments with respect to additional connectivity to the national road network apply.

#### **4.0 PLANNING AUTHORITY'S NOTIFICATION OF DECISION**

The planning authority decided to grant permission for the above described development subject to 63 conditions. Of note:

**Condition 2:** the venue to operate to a maximum capacity of 9750 persons until such time as slip roads off the M8 have been provided and written consent of the PA has been obtained. Subsequent to this the maximum capacity of the Venue shall be 15,000 persons.

**Conditions 5-8:** Archaeological assessment and excavation requirements.

**Condition 18:** Protection of riparian zones.

**Condition 19:** Detailed mobility management plan to be agreed prior to opening of complex.

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**Condition 20:** Details of use of the undercover exhibition space/exhibition festival stall area to be agreed. Should the PA have any concerns about the nature of the use the developer shall submit proposals for the landscaping of this area.

**Condition 21:** Submission of detailed design drawings and specifications for certain elements of the road and access infrastructure.

**Condition 24:** submission of detailed design and specification for the VMS east of junction 4 to conform with NRA specifications.

**Condition 25:** Jct 5 overbridge to retain two-way operation during events at the site.

**Condition 26:** All of phase 1 infrastructure to be provided and be operational prior to the opening of the concert venue or racecourse unless otherwise agreed with PA.

**Condition 27:** The access roundabout, link road and underpass to be carried out by a public works contractor.

**Condition 28:** the developer to make formal application to the County Council for the reduction of the regulatory distance to the water supply abstraction point in which landspreading of organic waste should not take place.

**Condition 32:** submission of detailed construction management plan to include leak detection and long term maintenance proposal in relation to the treated foul effluent and rising main to the Drish outfall and full details of the borrow pit proposal.

**Condition 34:** submission of nutrient management plan to include maps of proposed spreadlands where it is intended to dispose of organic wastes.

**Condition 40:** Submission of detailed designs/specifications and drawings in relation to the underpass proposed.

**Condition 43:** where PA considers it appropriate the developer/operator shall be responsible for the rectification of interference will all other water supplies as a result of the development.

**Condition 45:** Installation of a vent stack on the gravity side of the silt pit prior to discharging to Drish River.

**Condition 62:** €145,000 special contribution towards VMS on M8.

**Condition 63:** €4,103,755.34 development contribution

## **5.0 GROUNDS OF APPEAL**

### **5.1 Jacqueline Corrigan & Michael Clarke**

The submission can be summarised as follows:

- Their dwelling faces the proposed development and is the nearest to the heliport.
- The link road to the motorway, which adjoins their dwelling, will impact on their privacy.
- The noise arising from the proposal including that from the heliport will impact negatively on their horses.
- The rural amenities of the area are in jeopardy.
- The proposal could have a negative impact on Mr. Clarke's health.
- They have put their property up for sale. While the property may become desirable on completion of the project no one will want to live on a building site for 3-4 years.

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## 5.2 Pádraig & Janet O'Connor

The submission can be summarised as follows:

- The proposal is contrary to the current Planning Bill.
- The application is incomplete, inadequate and not in compliance with the EU Directive regarding Strategic Assessment.
- The proposal is contrary to national, regional and local planning policies for the area.
- The proposal is not supported by an adequate economic appraisal or integrated tourism and leisure plan for such a large undertaking.
- The lands are not suitable for a racing venue due to boggy ground.
- As there is no legislation in place to allow for the casino it is queried how it can obtain planning permission.
- The issues of sewerage and drainage are inadequately addressed.
- Thurles has a racecourse, dog track and national stadium. It is also at a critical transport node with a railway station and a new motorway and proposed ring road linking the national road network. A scheme of a more suitable scale should be considered in Thurles town thereby enhancing its existing leisure and tourism offering. The proposed development would have a detrimental impact on the town in planning and economic terms.

## 5.3 Pat Blake

The submission can be summarised as follows:

- The proposal runs contrary to the national spatial strategy. The growth in the region is supposed to be generated through the Limerick/Shannon gateway which has the appropriate infrastructure to ensure sustainable development. The infrastructure does not exist in the area and, by its very nature, is duplicating facilities and using non renewable resources to establish itself.
- The objective in the current Development Plan for the site was only included following the receipt of the application. A strategic location would be a location of such stature and infrastructural development that it would stand on its own merits rather than being included in the development plan because a planning application has been received for the site.
- The protection of rural identity is emphasised in various plans and strategies. The size and scale of the proposal will alter the rural character of the area.
- The proposal will dominate the entire locality, cause excessive traffic, use resources in a non-sustainable manner and would be contrary to the development plan objective to protect and develop rural areas.
- There are greyhound and racecourse tracks in Thurles with similar facilities in easy driving distance. It is difficult to see how providing further facilities is considered sustainable even if the existing facilities in Thurles are to be subsumed into the proposal.
- There is an oversupply of golf courses in the country with courses in Thurles, Clonmel, Dundrum, Cashel and Kilkenny.

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- There are existing event venues in the country with Semple Stadium and Nolan Park in the region.
  - There is an oversupply of hotel bedrooms in the region as well as the country.
  - The inclusion of a casino could give rise to serious social difficulties.
  - The provision of a forward pumping station, which will discharge into the Suir catchment area, is less than ideal as the said catchment area is described as having poor status and, in some parts, is defined as bad. The proposal is not in any way protecting the water resources of the region as required by the regional planning guidelines.
  - The proposed water supply by borehole will lead to pressure on the aquifer.
  - The additional road works on the R639 constitute ad-hoc planning. The recent construction of the M8 and associated works was planned and delivered without any reference to the proposed development. Ad-hoc additions will interfere with the free flow of traffic on the M8 and on local roads including the R639. There will be tailbacks on local roads and the M8 when large events occur.
  - The addition of roundabouts is a very unsatisfactory attempt to cope with the additional volumes.
  - The quality of life of residents will be seriously disrupted by reason of noise emissions from the proposed traffic.
  - Having regard to the size of the site the destruction of natural habitat, hedgerows, flora, fauna etc. will be considerable despite development plan policies to protect same.
  - During the M8 construction significant archaeological finds were made in the area adjacent to the development. It is cause of concern that such a large development can take place in an area that has assumed a greater archaeological importance than was hitherto understood.

#### **5.4 An Taisce**

The submission, which is accompanied by supporting details including a copy of a letter from the NRA to the planning authority, can be summarised as follows:

- The application is based on an unsustainable development model of air and car dependence.
- At national level the policies set out in the NSS need to be reinforced including the consolidation of the regional gateways. The proposal fails to do so while it fails to address the 2010 'Implementing the National Spatial Strategy 2010 Update and Outlook'. A number of the uses proposed, particularly the arena, would be more appropriately located in one of the regional gateways in the NSS, three of which are located in Munster namely Limerick, Cork and Waterford City.
- The outline strategy for enhancing the promotion of tourism and outdoor recreational activity in County Tipperary (copy accompanying the appeal) has the benefit of distributing economic and employment benefit across the entire county while maintaining and enhancing the natural and cultural endowment.
- Neither the applicant nor the planning authority have properly assessed the compliance of the mix of uses proposed within the regional planning guidelines.

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Most of the uses contained in the scheme do not require a green field site unconnected to an urban centre or an existing development.

- The proposal contravenes the County Development Plan in terms of policy ECON12 relating to commercial development in rural areas. It would change the landscape of the area including the setting of archaeological site TN042-054. It contravenes the plan provision on tourism and recreation including Policy ECON13 on large scale integrated tourism-leisure-recreational complexes. The proposal is not integrated into the setting nor complements any existing urban area.
- The proposal because of its car based nature and provision of 5743 parking spaces contravenes the provisions of Smarter Travel. Condition 19 of the decision provides a retrospective mobility management plan and does not resolve the car based nature of the development.
- The proposal fails to address or comply with the NRA policy on maintenance of safety and operational integrity of national roads. Extensive issues have been left to post consent which cannot resolve the fundamental issue of capacity.
- The proposal fails to address Failte Ireland's Environmental Action Plan, Tourism and the Environment 2007-2009. It is predicated on unsustainable international aviation travel generation which has not addressed the future impact of oil peak on current aviation cost of the impact of aviation emissions to global greenhouse gas generation.
- The EIS refers to local climate only and fails to calculate and mitigate greenhouse gas emissions generated through land based transport, helicopter use and international aviation.
- The application needs to be addressed in terms of cumulative as well as individual impacts. Any rationale for re-locating the existing Thurles racecourse and greyhound track to a rural green field does not justify the range of hotel, arena and other development proposed. There is an overcapacity of hotel bedroom accommodation in the country. Any provision of hotel bedroom capacity additional to that permitted or held in the NAMA portfolio is going to further undermine the appropriate long term management of existing hotel accommodation.
- Any consideration of the need for additional arena capacity for concerts and other events in Ireland and particularly in Munster should give priority to a well serviced public transport accessible location in an urban area with complimentary walkable access to hotels and other facilities. The site is unsuitable for such a use because of its green field location c. 9km from the nearest railway.
- The need for a major equestrian centre in this location has not been justified. There are facilities at the RDS, Punchestown and at Millstreet (the latter in immediate proximity to the railway station).
- The country is well supplied with championship quality golf courses. The last two decades have seen a significant level of new golf course development particularly in country house estate parklands and demesnes in combination with hotels, conference facilities and short term let housing or golf lodges. The same considerations apply as with hotel and hotel development sites in the NAMA portfolio.
- The country has an extensive network of high quality wedding venues and attractive historic churches. Therefore there is no need for the chapel.
- James Hoban has already been commemorated at Dysart near Callan. The proposed White House replica is an American inspired concept reflected in theme park development over a number of decades. Building a full scale replica would be an ill

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advised investment of resources at this time when there are a multiplicity of genuine historic buildings needing investment and new uses. The banqueting facilities to be housed in it are amply provided for elsewhere.

- There is a high per capita ratio of racecourses to population. There are 26 courses in Ireland. Similar figures apply to greyhound tracks. There are opportunities to develop additional activities complimentary to existing racecourses and to reduce car dependence and promote organised rail and bus access. If there is an argument for providing an additional all weather racing track then the 1<sup>st</sup> consideration should be to do this at an existing racecourse combined with enhanced public transport.
- The only other all weather track in Dundalk is underutilised.
- The proposal for the development a new racecourse/greyhound track at this location needs to be justified as a standalone and sustainable proposal. No such justification has been provided in this instance and instead the development of a new racecourse has been entangled with a whole series of other developments.
- Alternative options of grading and enhancing existing race courses have not been assessed or evaluated.
- Helicopter use is problematic in terms of noise and emissions.
- Future applications seeking modifications to the development, if granted, should consider cumulative environmental impacts.

## **6.0 APPELLANTS' COMMENTS ON OTHER APPEALS**

The appeals were circulated for comment. A response from An Taisce was received which states that it concurs with the issues raised in the other appeals.

## **7.0 APPLICANT'S RESPONSE TO GROUNDS OF APPEAL**

Two submissions were received in response to the 4 appeals, one which is accompanied by a report by Mott MacDonald. The submissions can be summarised as follows:

### **7.1 Justification of Proposal**

- The concept underlying the proposal is linked to the fact that Horse Racing Ireland (HRI) is considering the consolidation of three existing horse racing venues in the Munster Region to provide one Grade 1 all-weather facility that will cater for the whole province. The site has been approved by HRI on the grounds that it is in a suitable rural location, is of a suitable size and has appropriate site conditions. It has the potential to host race meetings in facilities not otherwise available in Munster.
- The objective of the proposal is to bring together horse and greyhound racing with a high end casino in a single venue. The development has the potential to become a world class leisure facility offering a wide range of users several forms of leisure activity in one campus attracting both domestic and foreign visitors. The concept of providing a racecourse and a casino on the same campus is established in other jurisdictions where it has substantially contributed to the economic viability of

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racecourses while at the same time enlarging the facility and ensuring proper conditions for the development of gaming as a leisure pursuit.

- It would not be possible to provide a development of this scale within the urban area of Thurles. The scale of the development requires a substantial landbank which can only be provided at an out of town location.
- Thurles is not expected to be negatively impacted upon as set out in the Social Impact Assessment and Economic Impact Assessment and will, in fact, benefit from the proposal as a result of both direct and indirect employment generation and economic activity in the area. The proposal would be a major year round tourist attraction.
- All the best enterprise, tourist and employment generating schemes are speculative in nature. In a time where the economic outlook is bleak it is considered that the planning system should encourage and endeavour to facilitate all forms of development which are shown to have positive socio-economic impacts. The economic and social impact assessments show such impacts at local, regional and national levels. The development is considered strategic in nature
- Whilst it is accepted that there is an oversupply of hotel rooms nationally there are a limited number of Failte Ireland registered hotels in Tipperary. The lack of high end hotel provision suggests a significant market share is by-passing the County at present. The integrated sporting and leisure concept based around the 5 star hotel provides an opportunity to compete nationally and internationally with the main tourist centres. It would not compete with local hotels that are based mainly around established tourist centres such as Cashel and Lough Derg and which are expected to continue operating successfully within their tourist niches.

## **7.2 Compliance with Policy Provisions**

- The National Development Plan outlines measures for supporting the development of the rural economy and the sustainable economic and social development of rural areas. It seeks to promote enterprise and employment within rural locations which is considered vital to sustaining the economy. It also outlines support for the development of rural tourism and specialist interest products.
- While there is a strategy in place to channel development to regional gateways it is not the sentiment of government policy that other areas outside of these gateways be denied development opportunities. There is a general desire to facilitate the development of rural areas in the interests of securing social and economic stability for rural communities.
- The NSS states that the strengthening of the rural economy is essential and this can be done by developing sectors such as tourism, enterprise, local services and other sources of off-farm employment. It seeks to provide opportunities to facilitate the emergence of new tourism centres in some of the less developed tourism areas, based on new major visitor attractions which have potential to develop a critical mass of visitor numbers with a strong overseas component.
- The regional planning guidelines state that there is a need to explore alternative tourist proposals for other rural areas (outside established tourist resources and locations based around heritage and scenic landscapes) as recommended by the NSS. Opportunities may be related to national and international accessibility, the availability of appropriate land banks and the relative robustness of the location from

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an environmental impact point of view. The guidelines states that the Thurles/Templemore/Roscrea corridor is an important part of a more extensive corridor that links Athlone/Portlaoise with Clonmel/Waterford/Rosslare. These transport connections provide a real opportunity to North Tipperary to develop as a multi-point hub with economic and social linkages in many directions. The potential of the area in terms of tourism is underdeveloped and is one sector that can bring additional social and economic activity and benefit to the county and to the region. The guidelines state that it is a perfect location for recreation based tourism and visitor developments that do not need to rely on natural or man-made resources but that will benefit from the county's easy access to the rest of the country.

- The proposal complies with the vision of the current County Development Plan and its policies relating to employment growth and promotion (ECON1), strategic employment (ECON2), tourist accommodation (ECON14), large scale integrated tourism-leisure- recreational complex (ECON17), eco-tourism (ECON18), large scale industrial/commercial uses in the open countryside (ECON30), Mid-West Area Strategic Plan (TRANS 1) and preserving road capacity (TRANS7).
- Policy ECON12 which relates to commercial uses in rural areas is not considered to be relevant as it relates to commercial and industrial development.
- While policy ECON 16 seeks to provide tourist facilities within existing settlements it is submitted that the scale of the facilities proposed cannot be provided within an existing urban settlement. It is considered that the location can support a number of settlements rather than just one.
- It is considered that the proposal complies with the outline strategy for tourism

### **7.3 Transport and Access**

- The site is located within the centre of the country rather than at one of the peripheral city locations and given that the site will have a national catchment, the distances to be travelled are likely, on average, to be less.
- The majority of patrons to the existing racecourse and greyhound track in Thurles would arrive by private vehicle and not by train. This is due to the fact that the catchment for these leisure facilities is extensive (regional).
- What is important is to ensure that patrons arriving to the development do so in a sustainable manner. That is to say that traffic congestion should be minimised; the highest reasonable levels of traffic free flow on the national and local road network should be maintained; facilities for more sustainable bus travel should be provided and efficient links should be delivered between the development and the rail services at Thurles. The proposal can facilitate this type of sustainable mobility management.
- While the proposed development is not located within an urban area this does not mean that traffic generated by the proposal is unsustainable. By locating the development outside of the urban area there will be less traffic congestion. This will in turn minimise traffic related air pollution. It will be easier to maintain traffic free flow when traffic is arriving directly off one of the 3 no. M8 interchange junctions (nos. 4-6).
- The road works to serve the proposal will be provided in two phases:
  - Phase 1 is an interim phase. It will include the provision of a link road to connect the M8 at Junction 5 to the R639. In addition an event, only, access

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- road is proposed to provide a connection from the link road under the R639 and directly into the site.
- Phase 2 which is the long term objective for the site will comprise of additional upgrade works to the M8 at junction 5 to facilitate the completion of a full interchange with a segregated left turn from the M8 southbound off-ramp that will be in use for events only. While these works do not form part of the planning application they have been assessed in terms of traffic impact and design requirements. Consent for these works will be the subject of a separate Motorway Order.
  - The location of the site off the M8 ensures that the development will be accessible to an extensive catchment including air and sea ports and ensures that patrons will have an uncongested route for a significant part of their journey
  - A micro-simulation model with dynamic assignment and inclusive of junctions 4, 5 & 6 on the M8 was developed. It demonstrated the impacts of queues on adjacent junctions and event departure scenarios during the PM peak and night time peak. It modelled traffic volumes on the M8 and at the merge and diverge points at junctions 4, 5 and 6. The 20% non-car based trips is defended by research into public transport usage at other large event sites. The model reviewed year 2026 peak hour, NRA high growth scenarios with peak seasonal traffic. It was assumed that the model provided a worst case assessment and accounted for more than sufficient background traffic growth and thus projected very conservative network traffic operations.
  - The proposed access arrangement and proposed road works for phase 1 can satisfactorily accommodate an event of 9750 persons generally or 9000 on a Friday (ie. medium event). Under phase 2 there will be minimal delay on the motorway due to the additional benefit of the segregated left turn at M8 junction 5 and direct access into the development. Overall phase 2 was found to be able to manage a complete major event of 15,000 attendees (peak periods average working day and Friday PM peak). The proposed road works were considered to be acceptable by the Roads Department of NTCC. The applicant acknowledges the requirement for a motorway order to complete the development to a 15,000 capacity.
  - The two additional slip roads to the M8 (proposed under phase 2) were originally included in the design of junction 5 but were excluded by the NRA due to financial constraints. Therefore the proposed works cannot be considered to be ad-hoc. The provision of the said slip roads at the applicant's expense would complete the interchange junction and should be considered to be a positive benefit.
  - Thurles has perhaps the best rail connectivity outside Dublin. The proposal will be able to take advantage of this proximity.
  - There are a number of potential bus routes which could serve the site. The mobility management plan seeks to provide bus links to the rail station at Thurles.
  - Mobility management plans are only written for day to day use of a development and are not supposed to be provided for events. Mobility management at events should be included in the Event Management Plan. An EMP has been prepared for Phase 1 and 2 infrastructure plans.
  - In terms of dependence on air travel the NSS encourages opportunities to facilitate the emergence of new tourism centres in some of the less developed tourism areas based on new major visitor attractions which have potential to develop a critical mass of visitor numbers with strong overseas component.

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- The proposed helicopter final approach and take off area (FATO) runs parallel to the M8. Aircraft coming from the north-west would cross the M8 but their final approach before landing or initial take off after departure from the FATO should be aligned with the extended centreline of the FATO and therefore should not be crossing the M8 at low altitude. There are many existing airports close to motorways. The distraction of motorists by helicopters should be limited. Any floodlighting provided for the helicopter stands can be controlled to avoid any light spill or glare.
  - The NRA report accompanying the An Taisce appeal related to the initial proposal and does not take into account the revised access scheme, the phased development approach or subsequent traffic and transport assessments.

#### **7.4 Amenities of Adjoining Property**

- Ms. Corrigan & Mr. Clarke's property is to the south-west and will not directly face the development. The proposed link road is c.176 metres to the north of their property boundary. Traffic travelling on the proposed link road will be travelling in a north-west/south-east direction and will not be afforded direct views of their property. A screening strategy along the southern edge of the proposed link road to restrict any potential overlooking is proposed. The Board could attach a condition requiring same. The new M8 is c.615 metres from their rear wall. A similar baseline noise environment to that recorded at N3 is expected to exist at their dwelling characterised by traffic along the R639 and M8. The predicted noise levels in both construction and operational phases will not have a significant adverse impact. Only on major event days will noise impact rise to moderate levels.
- Ms. Corrigan & Mr. Clarke's property is over 780 metres from the proposed heliport and 692 metres from its associated final approach and take off area. The noise impacts arising from the proposed heliport will be minimized as a result of stringent mitigation measures that are proposed in terms of flight cruise operations. The claims that it will negatively impact on their quality of life and on the wellbeing of the animals they keep are unsubstantiated and unwarranted.
- The only works that the appellant will be aware of during the construction phase will be the proposed road works on the local road network which may be a cause of temporary inconvenience.

#### **7.5 Visual Impact**

- The change in land use from agriculture and forestry to large scale commercial recreational development does not automatically mean that the scheme will have a negative visual impact. The proposal consists of many different components, some of which are intentionally designed to be visually stimulating while others are intended to recede as though they have grown out of the existing landscape. The Hoban Memorial building, the casino hotel and racecourse stadium have been deliberately designed as landmark buildings. The visual impact of same is expected to be positive and moderate.
- A large proportion of the existing woodland and hedgerow will be retained. Save for some of the existing river courses which are to be realigned the riverbanks will be, for the most part, enhanced.

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- A key design aspect is the generous open space given around each building such that the landscape becomes the most dominant feature which binds the entire development together. This is unlike other development of this scale where the hard landscape elements dominate visually.
  - The development proposes to allow the area of the site, which consists of cutaway bog, to revert to its natural state with established native plant species.
  - Overall the development will create an attractive immediate visual environment and its cumulative landscape effects will be positive.

## **7.6 Climate Impacts**

- Emissions arising from traffic generated by the proposal will not have a significant negative impact.
- Given the fact that the proposed development is seeking to provide a Grade 1 racecourse facility which will be of both international and national importance, it is considered appropriate to provide heliport facilities to safely cater for helicopter traffic that will be generated.
- Given the small number of helicopter trips that will be made to the development it is not considered that the assessment of emissions from same is necessary.
- The impact of greenhouse gases generated by international aviation traffic does not come within the remit of this development and it is unreasonable to expect that such impacts should be considered as part of this application.
- The issues relating to aviation go beyond the remit of the planning application

## **7.7 Water Supply and Site Drainage**

- A high quality water supply has been located and the available water resources exceed the requirements of the development. The exploitation of these resources will not have a significant impact on either the Clover River, or adjacent groundwater water supplies.
- The wastewater from the site will be collected and treated at an on-site treatment plant. The effluent will be treated to a high standard and will have only a slight negative impact on the chemical water quality of the Drish River, while not exceeding the current water quality standards.

## **7.8 Archaeology**

- The archaeological context of the site was examined in detail. The assessment identified some potential archaeological sites and has recommended that a full archaeological excavation of these sites be carried out under licence. The assessment also suggests that there is a possibility that other archaeological features may be identified during construction and that if this happens then it is recommended that such sites be recorded and excavated under licence. The proposal has been considered by the DoEHLG and North Tipperary County Council.
- Conditions 4, 5, 6 & 7 are standard conditions which are attached to grants of permission.

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## 7.9 Other Issues

- There is a lack of pertinent data which illustrates the link between problem gambling and the presence of gambling services. Gambling services have a wide-spread and long term presence in Ireland and take many forms. The advent of the private members casino club has established a similar gambling service to the proposed casino.
- The Board has no role in the adjudication of issues relating to gaming legislation.
- The issue of the financial standing of the proposal is not a matter for comment by the Board.
- An appropriate assessment has been carried out.
- The application is accompanied by Economic and Social Impact Assessments with chapter 5.8.4 addressing tourist impact assessment.
- The soil and geological conditions of the site have been examined in detail and HRI has approved the site on the basis (among other positive qualities) of appropriate site conditions.
- The chapel is considered acceptable in terms of the mix of uses to cater for weddings.
- Condition 20 attached to the decision regulates the uses of the 20 exhibition spaces.
- If significant amendments were to be proposed in the future and it was expected that such modifications would have a significant environmental impact such impacts would have to be addressed in accordance with relevant legislation.

## 8.0 PLANNING AUTHORITY'S RESPONSE TO GROUNDS OF APPEAL

The planning authority has no further observations on the file and requests the Board to uphold its decision.

## 9.0 OBSERVATIONS

Observations were made by the following to the oral hearing with written submissions provided in each instance.

- Annemarie and Aidan O'Brien, Ballydoyle Stables
- Joe Hernon, Coolmore
- Austin Broderick, Thurles Chamber
- Damian McDonald, Horse Sport Ireland
- Brian Keating, Shannon Development
- Tim Gilbert on behalf of Adrian Neilan, Irish Greyhound Board

All support the proposal. The issues raised can be summarised as follows:

- Importance of the equestrian sector to the economy
- Potential use of racecourse and equestrian centre by international meetings and events.

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- Potential use of racecourse as training facility
  - Shared resources between racecourse and equestrian centre making proposal more sustainable.
  - The greyhound track would bring the sport to a new audience and would be of benefit to greyhound industry.
  - Employment prospects of the proposal
  - Positive impact on tourism in North Tipperary and Shannon region.
  - Use of indoor venue for variety of sporting events thereby widening the sporting facilities.

## **10.0 SECTION 131 and 132 NOTICES**

The **National Roads Authority** was invited to comment on the proposed application by way of section 131. Its response can be summarised as follows:

- It has no objection in principle to the proposed development and acknowledges policy ECON2 – Strategic Employment of the current County Development Plan. The Authority engaged in the planning process in terms of the development plan review.
- It is important to maintain the safety and efficiency of the M8 and N75 with the development in place.
- The NRA notes and agrees with the comments made by Mott MacDonald in its ‘Microsimulation Option Testing Report’ that during the PM peak the model forecasts some significant capacity issues on the south bound off slips of M8 junctions 4 and 5 under assessment for a full scale 15,000 attendance event scenario.
- Section 46(1) of the Roads Act 1993, as amended, precludes planning authorities and An Bord Pleanala from granting permission for development that would permit or involve direct access to or from a motorway. It is its understanding that the proposal to construct slip roads to/from the M8 junction 5 would require the making of a motorway scheme under section 47 of the 1993 Act, as amended and consideration/determination of the matter by the Board in accordance with sections 49 and 51 respectively of that Act.
- The means by which the maximum capacity figures as imposed by condition 2 are to be ensured have not been detailed.
- It is unclear to the Authority how the slip roads concerned and, by association, the maximum operational capacity specified (15000) can be realised other than through the making and approval of a motorway scheme.
- Specific criteria considered to be applicable if the case for the proposed link road/connectivity to the M8 was to be substantiated was detailed in its letter dated 03/12/09. No response to same has been received.
- The County Council has been contacted regarding aspects of the permission. It was noted that the approach generally adopted in the conditions on proposed improvement works on national roads in the environs of the development including junctions on the M8 and traffic management issues generally defer detailed design and other specifics of the works and measures concerned to agreement between the planning authority and the developer in the post grant of permission phase. The appropriateness of this approach is open to question. The conditions make no provision for consultation with

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the NRA nor to the securing of authority agreement to road works and other measures affecting national roads.

- The funding of agreed road works and other road related measures pertaining to national roads would be a matter for the developer.

**Note:** Certain correspondence attached to the NRA's submission would not appear to relate to the subject site and appears to have been attached in error.

**Note:** The Heritage Council did not respond to the section 131 notice issued 23/12/10.

By way of a **section 132** request the applicant submitted copies of the Archaeological Test Excavation Phase 1 which was submitted to the planning authority. A copy of the document was circulated to the **Department of the Environment, Heritage and Local Government** for comment. The response notes that the Department had previously commented in detail on the application, copies of which accompany the submission. It was noted that a request of clarification of further information was considered preferable to a grant of permission as a number of archaeological issues needed to be addressed.

## **11.0 ORAL HEARING**

An oral hearing was held in the Horse and Jockey Hotel on the 08/03/11 to 10/03/11. A brief summary of the proceedings (which were recorded) is given in Appendix 2.

## **12.0 RELEVANT PLANNING HISTORY**

I am not aware of any previous applications on the site

## **13.0 POLICY DOCUMENT PROVISIONS**

The relevant sections are provided in Appendix 4 for the Board's information. The following provides a brief synopsis of what are considered to be the most pertinent sections.

### **13.1 National Development Plan 2007-2013**

The plan states that given the changing market trends and conditions for tourism and the competition from urban destinations, tourism growth in rural areas will depend to an increasing extent on the quality of the tourism product on offer in the future. Support for developing rural tourism will be maintained and developed in addition to support towards the marketing of niche special interest products (eg. walking, cycling, golf, equestrian, angling) – particularly those that have a strong regional and rural impact.

Chapter 8 details the tourism programme for the plan period.

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## 13.2 National Spatial Strategy 2002-2020

The site is within the Mid-West Area. Section 4.5 states that the contribution to balanced regional development of the mid-west will require the enhancement of the performance of the Limerick-Shannon gateway at the national/international level. Limerick-Shannon will be supported by Ennis as a hub taking advantage of the latter's relationship with the Limerick-Shannon gateway and its strategic location between Limerick and Galway. Other towns and rural areas should be supported in developing complementary roles which avail of the spin-off benefits which the performance of the Limerick-Shannon gateway will bring to the region.

Section 3.5.1 addresses the strengthening of the rural economy. Efficient agricultural, marine and natural resource sectors together with significant and developing sectors such as tourism, enterprise, local services and other sources of off farm employment, will be the mainstays of a strong rural economy. However the mix and concentration in any one of these sectors will vary according to the potential of different places. This calls for tailored responses to the particular issues in various types of places.

It will be necessary to diversify rural employment options and stabilise population through...tourism development through quality market-responsive products, enhanced access and co-ordinated promotion of a tourism product which offers a range of complementary visitor experiences.

Section 5.2.2 addresses Employment in Tourism. It is noted that underdeveloped tourism areas frequently offer a different type of resource base... the appropriate spatial response to developing the potential of such areas is to look to strategic opportunities in tourism niches. This will seek to build upon locations with potential such as the Midlands and Border which, in the context of NDP improvements to transport infrastructure, will be more accessible from major centres of population and tourism demand than in the past.

Strategic Tourism Opportunities include opportunities to facilitate the emergence of new tourism centres in some of the less developed tourism areas, based on new major visitor attractions which have potential to develop a critical mass of visitor numbers with a strong overseas component.

**The NSS 2010 Update and Outlook, October 2010** sets out pointers for future action including:

- successful countries and regions need successful cities at the core and that in order to support the Government's Smart Economy Policy objectives for economic renewal there must be clear and co-ordinated investment in key Gateways and Hubs, which have strong potential and critical mass of population to drive regional and national economic progress.
- There is scope to better harness the potential of rural areas and create new employment therein, particularly in ...tourism sectors.
- Significant Government investment in major social regeneration projects in Gateway cities must be supported by an integrated series of coherent policy initiatives which prioritise development and investment in those locations.

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- Economic development strategies within the regions urgently need to address the requirement to provide new and diversified types of local employment in rural areas, especially in small towns and villages, and to recognise the increasingly important potential and unique opportunities within these areas to drive Ireland's future economic progress.

### **13.3 Smarter Travel – A Sustainable Transport Future**

There are 5 key goals:

- (i) To reduce overall travel demand,
- (ii) Maximise the efficiency of the transport network,
- (iii) Reduce reliance on fossil fuels,
- (iv) Reduce transport emissions
- (v) Improve accessibility to transport

To achieve these goals and to ensure sustainable travel and transport by 2020 the following targets are set:

- Future population and employment growth will predominantly take place in sustainable compact forms, which reduce the need to travel for employment and services.
- The total share of car commuting will drop from 65% to 45%
- Alternatives such as walking, cycling and public transport will be supported and provided to the extent that these will rise to 55% of total commuter journeys to work
- The total kilometres travelled by the car fleet in 2020 will not increase significantly from current levels
- A reduction will be achieved on the 2005 figure for greenhouse gas emissions from the transport sector.

### **13.4 Mid-West Regional Planning Guidelines 2010-2022**

That Limerick/Ennis/Shannon would be developed in a co-ordinated way as a single integrated agglomeration that acts as the core driver of the region and principal mechanism for attracting investment into the area.

Section 2.4.3 states that while the RPGs rightly place great emphasis on the need to secure and maintain the established tourist resources and locations based around heritage and scenic landscapes, there is also a need to explore alternative tourist proposals for other rural areas as recommended by the NSS.

While many parts of the Region have natural resources that form the basis of their tourism industry, other parts of the Region are less provided with such natural advantages. Opportunities for tourism-related development can also exist in these areas. Such opportunities may be related to national and international accessibility, the availability of appropriate land banks and the relative robustness of the location from an environmental impact point of view. Particularly in areas where the environmental quality or cultural heritage do not, on their own, provide the basis for the establishment of such an industry Planning Authorities should give consideration to the adoption of policies to facilitate the

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accommodation of significant visitor, tourism and recreation-related developments that would form the basis of a tourism sector. RPG Zones 4 (West Limerick), 5 (East Tipperary) and 8 (South Limerick) are such rural areas that have significant scope to develop alternative tourism enterprises and are within easy reach of Limerick. East Tipperary, for instance, is served by the M8 and is only 60 minutes drive from Limerick and approximately 90 minutes from Dublin City and Cork City. Furthermore, many of these alternative rural locations are not proliferated by EU environmental protection sites or sensitive landscapes which would restrict the development of tourist facilities

The potential of North Tipperary in the area of tourism is underdeveloped and this is one sector that can bring additional social and economic activity and benefit to the County and to the region as a whole. As well as making use of the County's natural and man-made resources for this purpose, the County can also capitalise on its location at the centre of Ireland and on the wide variety of transport linkages it contains. It is, therefore, a perfect location for recreation-based tourism and visitor developments that do not need to rely on natural or man-made resources but that will benefit from the County's easy access to the rest of the country and to a variety of national and regional airports and sea-ports.

Section 3.1 details the potential and needs for the 9 sub-regions to advance the growth of the region as a whole. The site in question is within the North Tipperary - Thurles Area in which there is the tourism potential based on high quality rural landscape in the south of the zone.

Section 7.4 addresses open spaces and recreation and notes that there are a number of regional scale facilities that might be provided such as a regional theatre, either by the expansion of existing facilities or the development of new greenfield site facilities. A Joint Regional Recreation Strategy is being developed. When this strategy is adopted its policies and strategies should form the basis of the approach to provision of such facilities. Pending the adoption of this strategy major new facilities should generally be provided within the Gateway/Hub area and specific sites should be reserved for them through the coordinated development processes.

Section 7.6.2 states that the provision of regional scale cultural facilities should be made in accordance with a strategy for such provision. Such a strategy should recognise the importance of the Gateway and Hub but should also identify the criteria through which the location of such facilities would be decided.

### **13.5 Tourism Strategy for the Shannon Region 2008-2010**

The strategy includes specific actions in terms of product development in specific areas including North Tipperary. It details its support behind strategic projects which will grow Limerick, Shannon, Ennis as a tourism gateway including proposals for a regional conference centre and securing a new internationally significant 'attractor' project (or 2-3 projects) for the region which offer the potential to attract substantial additional visitor flows to the Shannon.

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## 13.6 North Tipperary Development Plan 2010-2016

The North Tipperary Development Plan 2010-2016 came into effect on the 16/08/10 subsequent to the lodgement of the application and prior to the PA's decision.

The site is identified as open countryside on the county designation map

### 2.7.1 Economic Strategy

It is an aim of the Plan to build on and enhance the competitiveness and attractiveness of North Tipperary as a location for investment and employment generation by promoting and developing the Vision of North Tipperary as 'Being a Green County with a Green Future'.

At the same time North Tipperary has a key role in supporting the Limerick / Shannon Gateway under the NSS in order to promote the economic strength of the Mid-West Region. The manner in which this strategy is to be addressed includes;

- (i) To facilitate the provision of adequate land for employment uses, including sites at suitable locations for industrial, enterprise, office, retail and other small business uses having regard to spatial planning, infrastructural, environmental and transportation requirements and compatibility with adjoining uses;
- (ii) To secure the county's role as a location for economic growth in the Mid- West Region in support of the Limerick / Shannon Gateway and to ensure that the employment benefits are better balanced across the whole county;
- (iv) To encourage all forms of economic and employment development throughout the county, in particular within settlements, at a scale and nature appropriate to the chosen location and subject to normal planning considerations, and the proper planning and sustainable development of the area;
- (xi) Promote land use planning measures which facilitate transportation efficiency, economic returns on transport investment, minimisation of environmental impacts and a general shift towards the use of public transportation throughout the County. This will also be achieved by locating quality employment and residential development in proximity to each other, reducing the need to travel and the dependence on the private car and by further developing and enhancing the availability and attractiveness of public transport;
- (xii) Continue to protect and preserve motorways, national primary and national secondary, Class 1A (downgraded national primary roads) Regional Roads and Class 1 Regional Roads from inappropriate development and access points onto them;

### 2.7.2 Environmental Strategy

A key aim of this Plan is to ensure that as far as possible the future growth of the County takes places in a manner which impacts in a minimal way on the environment and which has regard to the proper planning and sustainable development of the County.

The manner in which this strategy is to be achieved includes;

- (i) To encourage the continued sustainable development of rural communities without compromising the physical, environmental, natural and heritage resources of the County;
- (ii) To support and promote the sustainable social and economic development of rural areas with a particular focus upon those areas particularly disadvantaged;

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(iv) To promote, encourage and facilitate the development of the tourism industry through sustainable means, including the conservation, protection and enhancement of the built and natural heritage, the protection of sensitive landscapes, cultural and community environments in order to maximise the economic benefits arising from the industry;

### *Chapter 6 – Economy*

#### *Policy ECON 1: Employment Growth and Promotion*

It is the policy of the Council to promote, encourage and facilitate enterprise and employment throughout the County and to co-operate with other agencies including the private sector in order to provide employment opportunities.

#### *Policy ECON 2: Strategic Employment*

It is the policy of the Council to identify land in key strategic locations that is suitable for different employment and economic activity. These lands will be protected from inappropriate development that would undermine the future development of economic and employment activity.

Such locations include:

1. Land at Gortlandroe, Nenagh, situated east of the N52 between the Portroe Road and Dromineer Road
2. Shannon Development lands west of Dublin Road, Nenagh
3. Master plan area identified in the Ballycurrane LAP including the former Sugar Factory, Thurles
4. Lisheen Mine Site, Moyne Templetuohy
5. Shannon Development land at Archerstown, situated southeast of Thurles.
6. Shannon Development lands at the Dublin Road Roundabout, Roscrea.
7. Land at M7/N62 interchange
8. Lands at Noard, New Hill and Leigh the subject of Planning Application 09/51/0624

#### *Policy ECON 7: Economic Development Lands*

It is the policy of the Council to seek to promote and diversify the local economy as prescribed under the National Spatial Strategy, Mid West Regional Planning Guidelines and in accordance with the County's agreed settlement hierarchy which provides for balanced development.

#### *Policy ECON 7(a): Economic Development Lands*

It is the policy of the Council that future economic development throughout the County be largely based on the County's settlement hierarchy having regard to the following:

- each towns/areas role within the hierarchy;
- its existing size;
- its function within the hierarchy;
- its capacity for sustainable growth.

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However, there is a positive presumption throughout the County in terms of employment creation and growth, and consequently the Council will examine all proposals within other locations on a case by case basis.

The County Council and the Town Councils have zoned a significant amount of land in towns and settlement centres for commercial and industrial activity. In order to encourage the better sustainable use of land and influence travel patterns, the Council will seek to provide the majority of new land for commercial/industrial development in close proximity to existing settlements and on the main road transport network. However, the Council recognises that certain commercial / industrial activities may need to be accommodated in areas outside of existing settlements. These areas should be identified after extensive consultation with the Council.

### *6.11.2 Rural Tourism*

#### *Policy ECON 14: Tourist Accommodation*

It is the policy of the Council to facilitate the sustainable development of tourist accommodation, provided that such development:

- a) is sited in or adjacent to a marketable tourist product;
- b) protects and enhances the amenities of the area;
- c) preserves and enhances the safety and free flow of public roads; and
- d) is compatible with the relevant land uses for the area in nature and extent.

#### *Policy ECON 16: Location of Tourist Facilities*

It is the policy of the Council to ensure that new tourist facilities, including sport and recreation facilities, are located in existing settlement centres where they can be supported by, and provide support for, existing services.

#### *Policy ECON 17: Large scale Integrated Tourism-Leisure-Recreational Complexes*

It is the policy of the Council to encourage the sustainable development of major integrated Tourism-Leisure-Recreational complexes on large land holdings provided that a full planning application is submitted, and includes an 'Integrated Tourism Plan' that provides for:

- a) the preservation of the rural character of the landscape,
- b) the integration of the development into the open countryside,
- c) significant and intensive landscaping of the site
- d) traffic impact assessment
- e) adequate treatment of effluent.

Such development will not generally be considered in areas considered unsuitable in the County Landscape Character Assessment.

Suitable sites for such development shall include:

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Existing Golf Courses; Sites to be identified along the lake shore; Expansion of the Marinas and tourist facilities at Ballina, Dromineer, Terryglass, Coolbawn and Garrykennedy; on large landholdings within the County.

#### *6.11.4 Specific Objectives*

**E4** The Council will co-operate with appropriate agencies in promoting tourism and securing the development of tourism based enterprises in suitable locations;

**E6** It is an objective of the Council to seek an overall increase in the provision of bed spaces in the County in the life of the Plan and to work closely with all interest groups to seek this end.

#### *Policy TRANS 1: Mid-West Area Strategic Plan*

It is the policy of the Council to support and facilitate the findings and recommendations of the Mid-West Area Strategic Plan and to co-operate with other local authorities in achieving these findings and recommendations as appropriate.

#### *Policy TRANS 6: Access onto Motorways, National Primary and National Secondary Routes*

It is the policy of the Council to restrict all development accessing out on National route corridors which is likely to compromise the capacity and efficiency of national routes and lead to the premature reduction of the carrying capacity of the road.

#### *Policy TRANS 7: Preserving Road Capacity*

It is the policy of the Council to resist development along strategic route corridors, as identified on Tables 7.3 and 7.4, which would reduce traffic, safety or carrying capacity except in exceptional circumstances where the development is strategic in nature and a regionally significant employment generator.

With regard to Integrated Land Use and Transportation Planning, it is considered important that the growth centres identified in this Plan are adequately serviced with good transport links. Along the National Primary Routes, existing and proposed transport links under the National Development Plan will cater for planned growth between major urban centres. However, the intra-county links and route corridors identified in this Plan will need to be protected to ensure safe and efficient movement and access within the County. The Council, therefore, recognises that there is a need to restrict development, which impinges on the carrying capacity and safety of the corridors listed in Table 7.3 and Table 7.4. The M8 and R639 are listed.

#### *Policy TRANS 8: Transport Interchanges*

It is the policy of the Council to resist development along all strategic route corridor interchanges, except where development can be accommodated in accordance with employment policies and in particular Policy ECON 2. Development proposals shall be designed to protect the carrying capacity of the roads, and contain significant improvements

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in amenities in accordance with the requirements of policies contained in the Employment Section of the Plan.

Section 10 sets out the Development Management Guidelines and Standards.

#### **14.0 ENVIRONMENTAL IMPACT ASSESSMENT**

Article 94 and Schedule 6 of the Planning and Development Regulations 2001 sets out the information to be contained in an EIS and, in my opinion, the document accompanying the application technically accords with the said details with the subjects to be addressed set out therein. The EIS was supplemented by further detail submitted by way of further information and clarification of further information.

In accordance with the requirements of Article 3 of the European Directive 85/337/EEC, as amended by Council Directives 97/11/EC and 2003/35/EC and Section 171A of the Planning & Development Act 2000-2010, the environmental impact statement submitted by the applicant is required to be assessed by the competent authority, at this juncture the Board. In this assessment the direct and indirect effects of the proposed project need to be identified, described and assessed in an appropriate manner, in accordance with Articles 4 to 11 of the Directive. I wish to advise the Board that I endeavour to flag where there is some repetition between the following section and my assessment of the project carried out in section 16 below.

Section 5.0 of the EIS refers to *human beings* and is supplemented by further information by way of an Economic Impact Assessment and Social Impact Assessment. While the proposal would result in increased local employment and local economic activity I submit that due to its regional and national context, specific elements of the scheme could have a material direct and indirect impact on comparable uses both in the immediate vicinity and in the wider geographical context. I do not consider that the information provided is adequate to support the conclusions that the proposal would largely have a positive impact. I refer the Board to 16.2 below.

Section 5.2 of the EIS refers to *fauna and flora* with an addendum submitted by way of FI. In relation to the information provided I consider that the writers of the EIS employed appropriate methodologies in order to establish the baseline data and that it has been appropriately identified and described. The site and the location of the proposed outfall at the Drish River are not covered by any designations in terms of protected species. The proposal would result in site excavations during construction which would give rise to habitat loss and potential for water pollution. While changes would be large they will be significant only on a local scale.

Section 5.3 of the EIS to **soil**. In relation to the information provided I consider that the writers of the EIS employed appropriate methodologies in order to establish the baseline data and that it has been appropriately identified and described. The proposal will give rise to significant excavations on the site. Both infill and disposal of materials off site will be required. This will impact on the traffic movements arising. The main potential impact will be the exposure of the bedrock under the central ridge of the site and the potential

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vulnerability of the groundwater system in the bedrock to surface contaminants. The most vulnerable period will be during construction when the rock is exposed and building is in progress.

Section 5.4 of the EIS addresses *water* with further details provided by way of further information and clarification of further information. I refer the Board to section 16.7 below. The proposed development is to be served by its own potable water supply. The average daily total demand with all facilities in use, is estimated to be 334,000 litres. Two production boreholes, located along the western boundary of the site, have been constructed so as to demonstrate that a sustainable independent water supply could be provided. The boreholes were tested including a long pumping test at five times the required pumping rate. The tests did not affect the adjacent boreholes off the site. The long term pumping of the site, at 20% of the rate sustained during the test, will not have a significant impact on the yield from existing water sources off the site. The cone of drawdown created by the pumping spread at least 90 metres from the pumping boreholes but no measurable effect was recorded 400 metres from the boreholes.

In terms of foul water drainage the scheme is to be served by a Membrane Bio-Reactor treatment plant and wetland/reed bed to be located in the north-eastern portion of the site. with discharge to the Drish River at Drish bridge on the N75 at a point c. 7km to the west of the site is proposed. As a consequence of discharges into the river from Lisheen Mine and the presence of large area of bog in the catchment elevated ammonia levels are recorded with the EPA rating the quality of the river as Q3-moderately polluted. In assessing the assimilative capacity of the river the worst case scenario was taken where the treatment plant would be treating wastewater at its peak capacity of 292m<sup>3</sup>/d. There will be a slight negative impact on the chemical quality of the river while not exceeding the limits as set out in the Surface Water Regulations 2009 for good status. The chemical status of the water downstream of the discharge will remain good while the discharge is not expected to have any perceptible impact on the biological water quality. In terms of cumulative impacts regard is had to the North Tipperary County Council Cabragh (Thurles) waste water treatment plant and Dew Valley Meats which are located c.5.6km downstream of the proposed development, both of which discharge to the River Suir. The Drish River enters the Suir approx. 2.5km downstream of the proposed discharge location. The proposed discharge from the proposed development will have minimal impact on the assimilative capacity available for Thurles WWTP as the increased levels of pollutants due to the proposed discharge is small.

Section 5.5 of the EIS refers to *air* with an addendum submitted by way of FI. Emissions at construction phase arising from traffic and dust from activities would be temporary. In the operational phase scheduled emissions will be from space heating equipment and would not be considered to be significant. Traffic during the operational phase will result in greenhouse gas emissions but are not considered to be significant. Noise generated during the construction phase will be temporary and shall be in compliance with the recommended noise levels for construction projects. There would be an increase in noise during the operational phase of the scheme during medium and major events arising from increased traffic, event specific noise and aviation noise which would have an impact on the amenities of adjoining residential property. I refer the Board to section 16.8 below.

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Section 5.6 of the EIS refers to **climate**. The proposal will not impact climate on a local, regional or global scale. I refer the Board to section 16.9 below.

Section 5.7 of the EIS refers to **landscape**. The site is not within an area designated as being of visual importance with no views listed for protection in the vicinity. The design concept in part attempts to be organic and integrate the proposed development into the landscape while allowing the Neo-Classical building forms to be more dominant features. In view of the height and massing of the buildings such as the hotel it is queried whether this unique form of development will produce an integrated design concept that will not appear overly dominant and alien in the countryside. The visual character of the area will be altered due to the inclusion of such a scale of project and will have an impact on views available from adjoining property. I refer the Board to section 16.5 below.

Section 5.8 of the EIS refers to **material assets**. In terms of traffic supplementary details were provided by way of further information and clarification of further information. The proposal will result in a material increase in traffic due to the mix of uses on the site impacting on the local road network in the area including the M8. I am not satisfied that sufficient detail has been provided to support the conclusions that the proposal would not have an adverse impact on same. I refer the Board to section 16.4 below.

In terms of tourism I would accept that the project would add to the tourism resource in the area. In terms of property there would be short term negative impacts during the construction phase arising from noise, dust and traffic. During the day to day operation that there would be minimal impacts on property although there would be increased traffic noise. The issues of noise and traffic arise during medium and large events.

Section 5.8.5 of the EIS refers to **cultural heritage** supplemented by way of further information. The proposed development lies within an archaeologically rich landscape comprising both of dry and wetland topography. There is an unknown yet high possibility of archaeological remains on the larger part of the site which has not yet been subject to an assessment. Thus there is a substantial risk factor that cannot be addressed until post planning. Therefore, I would not be satisfied that the issue of archaeological potential and thus the matter of cultural heritage has been adequately addressed. I refer the Board to section 16.6 below.

Section 5.9 of the EIS refers to **interactions**. In my opinion the following interactions are of relevance:

Humans Beings/Water – the failure or mismanagement of the potable water supply may lead to contamination to the potable water supply during the construction phase.

Human Beings/ Noise – while noise during the construction phase will be temporary noise arising from the operational phase in terms of traffic, event and aircraft will increase noise levels notably during medium and major events due to be held every 6-8 weeks..

Human Beings/Landscape – the proposal will give rise to a change in the rural character of the area and will alter the landscape for residents and visitors.

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Human Beings/Material Assets – the traffic generated during major events could give rise to congestion issues on the surrounding road network which would have an impact on both residents and visitors to the area.

Landscape/Flora and Fauna –the works will result in a material alteration to the landscape and loss of flora and fauna.

Soil/Water – when soil is exposed after vegetative clearance there would be an increased run off and evaporation.

Water/material assets – the potable water supply to serve the proposal will be extracted from the underlying bedrock. During construction and operation there is the potential for impacts on the quality and level of this underlying water supply which may impact on existing private wells in the area.

Material Assets(traffic)/Air – increased traffic activities during the construction and operational phases will result in increase in air emissions.

Material Assets(traffic)/ landscape - the new road infrastructure will impact on the character of the landscape.

Material Assets (property)/Landscape – the proposal will alter the rural character of the area.

In conclusion it is my opinion that the aspects of the environment likely to be significantly affected by the proposed development are human beings, landscape, material assets and cultural heritage, all of which are addressed in detail in section 16 below.

## **15.0 APPROPRIATE ASSESSMENT**

As per Article 6 of the Habitats Directive a project that may have a significant effect on a Natura 2000 site either individually or in combination with other projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives

I refer the Board to the report prepared by Ms. A. Brereton.

The site does not form part nor is adjacent to a designated site with the nearest being the cSAC Lower River Suir below Thurles (site code 002137) which is a nutrient sensitive watercourse. The cSAC, which includes Cabragh Wetland, is approx. 10 km to the west of the proposed site. Due to the revised proposals for discharge of treated effluent to the Drish River at a point c.5km upstream of the cSAC at Drish Bridge the planning authority sought an Appropriate Assessment by way of clarification of further information. The relevant report which provides screening for AA concludes that the ecological integrity of the Lower River Suir would not be adversely affected. The project screened included the mitigation measures to be employed in the form of the wetland system following the wastewater treatment system. I note that the Department of the Environment Heritage and Local

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Government's guidance document on Appropriate Assessment of Plans and Projects in Ireland 2009 has no objection to such an approach subject to the screening process being undertaken in full with the said measures incorporated into the scheme as is the case in this instance. As stated in the finding of no significant effects matrix in the AA Screening this conclusion is based on objective information and is expressed as a matter of no reasonable scientific doubt. Mr. O'Keefe for the applicant informed the OH that the surface water analysis undertaken at further information stage and supplemented by further details at clarification of further information stage were fed into the screening for AA. The cumulative effects of the proposal and the discharges from the Cabragh (Thurles) waste water treatment system and Dew Valley Meats were taken into consideration.

On the basis of the details provided on the file and supplemented by the AA Screening and in response to questions at the OH I am satisfied that the project in its own right, and when taken cumulatively with the other development downstream, would not have a significant effect on the Natura 2000 site with no uncertainty or doubt arising in reaching this conclusion.

## **16.0 ISSUES AND ASSESSMENT**

I consider that the issues arising in the case can be dealt with under the following headings:

1. Procedural and Legal Issues
2. Nature and Justification of Project
3. Compliance with Policy Provisions
4. Roads and Traffic
5. Visual Impact and Landscape
6. Cultural Heritage
7. Site Services
8. Amenities of Adjoining Property
9. Other Issues

At this juncture the Board is advised that the issues pertaining to landscape, visual impact, cultural heritage and ecology have been dealt with by Ms. Angela Brereton and a copy of her report is attached in Appendix 1. For ease of reference the relevant sections of her report are summarised under the appropriate headings below.

### **16.1 PROCEDURAL AND LEGAL ISSUES**

An Taisce in its submission to the oral hearing (OH) considers that the planning authority failed to meet the obligations of Article 3 of the Directive 85/337 in that while it had regard to the information contained in the Environmental Impact Statement it treated the said information in an uncritical manner and did not undertake an environmental impact assessment. I note that as the planning authority's decision has been set aside by the existence of this appeal the application is now before the Board de novo. The obligations of Article 3 now rest with it.

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An Taisce considers that the European Court of Justice decision C50-09 is relevant in that the issue of split assessment arises. Mr. Lumley noted that to date a motorway order to provide for the slip roads onto the M8, on which the 15,000 capacity of the scheme is reliant on, has not been sought or attained. Thus, it is considered that the proposal is incomplete because the said works are dependent on a further consent process which is separate from the current planning process. Therefore there is considered to be a lack of integration and a level of uncertainty with the issue of access to the M8 unresolved. Mr. Lumley considered that this is inappropriate and constitutes splitting of an integrated assessment required under EIA.

Both Mr. O'Donnell for the planning authority and Mr. Galligan for the applicant did not concur with this view and consider that the findings of the said ECJ decision are not analogous to the current case. Both noted that the said ruling related to a case where there were split responsibilities between a planning authority and the EPA and where there is the potential that an application could be made to the EPA prior to the lodgement of an application to a planning authority. The EPA is not empowered to seek an EIS from the developer.

I note that the current proposal in terms of the information provided assessed the proposal with regard to the 15,000 capacity sought and provision of the slip roads onto the M8. In addition any future motorway order for the necessary works to the M8 would require the preparation of an EIS and carrying out of EIA.

The Board is advised that Mr. O'Donnell and Mr. Galligan objected to certain sections of Mr. Nix's (An Taisce) closing statement namely (a) the opening section referring to general versus specific objectives on the grounds that this matter was not raised in An Taisce's submission to the hearing and (b) the tenor and language of the section titled Stance of Horse Racing Ireland including the opening paragraph which is stated to be factually incorrect. Mr. Nix was also advised that the appendix attached to the submission constituted new information and was not acceptable. He withdrew the said appendix.

The Board is advised that the NRA confirmed in writing that it would not be represented at the oral hearing.

## **16.2 NATURE AND JUSTIFICATION OF PROJECT**

### ***16.2.1 Overview***

As detailed in section 2 above the proposal comprises of a mix of what can be considered to be sporting and recreational uses including a racecourse, a greyhound track, equestrian centre, golf course, concert/sporting venue, hotel and casino, a separate banqueting hall within a replica White House and a chapel. Mr. O'Connell informed the OH that while individual components would be franchised the development would be served by a single management company.

The maximum capacity of the development is stated as being 15,000 for a major event in either the arena or racecourse, with such an event occurring every 6 to 8 weeks. Following the assessment of the proposal in terms of access and identification that the provision of

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additional connectivity to the M8 in terms of slip roads would be subject to a Motorway Order which is outside the control of the applicant, it is proposed to effectively divide the scheme into two phases. While the entirety of the project would be constructed there would be a capacity ceiling of 9750 on weekdays and 9000 on Fridays in 'Phase 1' with an increase to the 15,000 capacity in 'Phase 2' on realisation of the necessary road works.

Both the applicant and planning authority consider that the proposed development would have not just a local but a regional and national context. It is asserted throughout the documentation on file and by the applicant's representatives at the OH that as there is no other similar facility in Ireland comparative analysis is precluded. It is also asserted as per Mr. Galligan's closing submission that it is not appropriate to measure the components separately and in a conventional form as this does not provide a true comparison or means to address the new economic and social synergy it creates. While I accept that there is no comparable facility against which the proposal can be assessed I would not necessarily subscribe to the latter assertion. Individual elements of the scheme could have an impact on comparable facilities both in the immediate vicinity and in a wider regional and national perspective and, in my opinion, the assessment of the project in that context is entirely appropriate.

### ***16.2.2 Alternatives Considered***

As contended by An Taisce at the oral hearing the relevant section titled 'alternatives' in the EIS does not actually detail the alternative sites that may have been considered by the applicant with the section largely setting out what is asserted to be the site's suitability for the proposed development. As required by the EIA Regulations 1999 and Schedule 6 of the Planning and Development Regulations 2001 an EIS is required to give '*an outline of the main alternatives studied by the developer and an indication of the main reasons for his or her choice, taking into account the effects of the environment*'. It is my opinion that the EIS has effectively failed to do so. I would query whether the fact that a substantial proportion of the site is in the applicant's ownership was, in effect, the primary consideration and that alternative sites were not actually considered.

Mr. O'Connell advised the hearing that while HRI had assessed a number of sites for the suitability of a grade 1 racecourse the applicant was not privy to that information. Mr. McGill further advised the hearing that what is the appropriate level of assessment in terms of projects of this size is more difficult to determine and made reference to section 2.4.3 of the EPA's document *Guidelines on the Information to be Contained in Environmental Impact Statements*, March 2002, which states that non-environmental effects can influence the consideration of alternatives and may have equal or overriding importance to the development eg. project economics, land availability, engineering feasibility and planning considerations. While this may be the case I consider that it would have been appropriate for this thought process to be outlined in the EIS.

### ***16.2.3 Uses within the Proposal***

The genesis of the proposal and its justification is set out by the applicant in Section 3 of the EIS and is further elaborated on in Mr. O'Connell's submission to the OH (submission no. 10). Mr. O'Connell informed the hearing that due to the extent of infrastructural

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requirements in the provision of a grade 1 all-weather race course the grouping of other uses which would share the infrastructure is considered necessary to justify the investment.

### ***16.2.3.1 Racecourse***

The racecourse forms the basis for the scheme and, as confirmed by Mr. O'Connell at the OH, arose following expressions of interest sought by Horse Racing Ireland (HRI) for lands suitable for a Grade 1 facility in the Munster region. The original proposal was for an all-weather course with the view of consolidating three existing venues in the region, namely Thurles, Tipperary (also referred to as Limerick Junction) and Clonmel. While I note the correspondence accessed by An Taisce from HRI (submission 3) the correspondence submitted by the applicant (submission 12) postdates same and could reasonably be considered to be more up to date. There is no dispute that the applicant approached HRI for the lands to be considered for the racecourse following the request for expressions of interest. I note that HRI did not make a written observation on the application or appeal and was not represented in its own right at the oral hearing.

The proposed development provides for an all-weather facility and would allow for all lengths and types of races which would not be weather dependant. As per the details accompanying the application the racecourse stand would have a seating capacity of 5,352 and an overall capacity of 15,760. These figures are materially higher than the expected average capacity figures of between 4000-7000 and, on very rare occasions, up to 10000 as cited by Mr. O'Connell at the OH. The lack of clarity in terms of capacity is further compounded by fact that while the HRI has queried the need for a 5000 capacity Mr. O'Connell expressed the view that HRI does not have a model against which to measure the project and that should the dynamic and synergy of the overall development be realised the space would be required.

Whilst the correspondence from HRI to Mr. O'Connell (submission 12) sets out its support for the racecourse provision I would suggest that the last paragraph raises the issue of the need for a 2<sup>nd</sup> all-weather racecourse in Ireland in view of the fact that it is cutting back on fixtures at the other facility in Dundalk. As to why this is the case is unclear. Mr. Hernon of Coolmore volunteered the opinion that the calendar at Dundalk is being reduced due to financial constraints.

Mr. O'Connell advised the hearing that notwithstanding the HRI view on the need for an all-weather course the element remains in the scheme as a result of expressions of interest from the equine industry in that the facility could also provide facilities for training purposes which could be used by trainers who currently may not have regular access to such facilities. The use of the racecourse by foreign fixtures, notably American races which require all-weather facilities, was also put forward. I note that Ms. A. O'Brien who made an observation to the hearing also cited such uses with reference made to the potential of the facility attracting a racing fixture such as the American Breeder's Cup. In investigating this matter further subsequent to the oral hearing I note that the Breeder's Cup held in Churchill Downs Kentucky in November 2010 had a two day attendance of 114,353<sup>1</sup> which is significantly greater than the 15,000 overall daily capacity cited for the development. While I would

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<sup>1</sup> Source: [www.breederscup.com](http://www.breederscup.com)

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advise caution in terms of the said attendance figures they would suggest that the ability of the current proposal to attract such high profile race fixtures is questionable.

In my opinion whether there is a need or not for a 2<sup>nd</sup> all-weather racecourse is not a matter for adjudication in this appeal however what is of concern is the impact the proposal could have on other courses in the region. The applicant, while relying on the views of HRI that a Grade 1 regional course is required, does not actually advance the argument, with no meaningful effort made to set out the shortcomings of the other racecourses which it is to replace or the factors that would preclude their upgrading to the standard considered necessary. Mr. McGill stated that the advice of HRI was taken and that the three courses which would most likely close as a consequence of the current facility, namely Thurles, Clonmel and Tipperary, are in varying stages of demise due to a variety of reasons. Over and above these locations there would appear to have been no consideration given to the potential of upgrading other courses in the region such as Limerick or Cork to provide for the necessary grade 1 standard. This is especially relevant in view of the applicant's assertion that the proposal would serve a regional function.

The Economic Impact Assessment submitted by way of further information, while stating in Appendix A that in the medium to long term there may be a direct impact on the more proximate racecourses as grade 2 races are competed for, does not address the land use implications of these impacts. Mr. O'Connell advised the OH that Clonmel and Tipperary are owned by HRI who would not pre-empt the planning process by detailing, in advance, its policy regarding these courses. The OH was also informed that while Thurles is in private ownership an agreement has been reached with the owner to transfer the use to the site. Mr. McGill considered that their closure could present opportunities for suitable redevelopment but acknowledged that this was not assessed in the EIS.

There may also be the potential that other racecourses, not only in the region but nationally, could be impacted on in terms of the scheduling of the finite calendar of events by HRI. While Mr. O'Connell is of the view that the potential for an all-weather racecourse to take race fixtures from another course would not arise, it would up to each course to present its case to secure fixtures. As the proposed racecourse will primarily host a limited number of races specifically aiming for grade 1 and some grade 2, I note in Appendix A of the Economic Impact Assessment that the majority of Grade 1 races are currently held in either Fairyhouse, Leopardstown or Punchestown which are outside the region.

The consideration of the potential knock-on impacts on other racecourse facilities is an entirely appropriate and necessary consideration which, in my opinion, has not been satisfactorily addressed in this application. Reliance on views expressed by a 3<sup>rd</sup> party such as HRI in this instance cannot be considered sufficient in this regard.

#### ***16.2.3.2 Greyhound Track and Equestrian Centre***

The parallel provision of a greyhound track and equestrian centre with the racecourse was considered appropriate in terms of related uses.

The greyhound track and stand would back onto the race course stand and would have a seating capacity of 2470 and total capacity of 5220. Greyhound Ireland made an observation

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to the hearing in support of the project. Both the applicant and the planning authority consider that such a facility would have a local catchment. In terms of the knock-on impact on other tracks in the region Mr. McGill advised the hearing that Bord na gCon were consulted and was informed that there would be no major impact on the greyhound tracks in Limerick and Clonmel. For this reason no economic impact assessment was carried out. Again the reliance on 3<sup>rd</sup> party views without any meaningful consideration arises while the knock-on land use considerations on the closure of the existing greyhound track in Thurles, as would be reasonably be expected, was not undertaken.

In terms of the equestrian centre I note that the proposed draw of the facility as detailed in Appendix A Economic Impact Assessment was to be aimed at a specific tourist market drawn to the 5 star hotel and casino. This is markedly different from the envisaged use of the facility as advanced at the OH. Horse Sport Ireland, who made an observation to the hearing in support of the proposal, considers that there is an absence of appropriate facilities in the country and that the facility could allow for the attraction of high profile events such as the World Equestrian Games as the venue would allow for all disciplines to be competed for in one location. In investigating this matter further subsequent to the oral hearing a comparable scenario arises as in the racecourse in that I would query whether the overall venue, with a capacity limit of 15,000, could reasonably attract such fixtures. While I would advise that the following figures are cited in caution the most recent 2010 World Equestrian Games, held in Lexington Kentucky over a 16 day period, had an average daily attendance of between 25,000-35,000<sup>2</sup>.

#### ***16.2.3.3 Hotel and Casino***

Mr. O'Connell stated that the hotel and casino was the 2<sup>nd</sup> element identified for the scheme and evolved in the context of the developing Government policy on the Regulation of Gaming. It would constitute a corresponding facility to the equestrian facilities above with a synergy and economic relationship between the two. Such a facility is asserted to have a national and international tourism draw. Mr. McGill informed the hearing that the information as to the number of visitors to the casino and origin of the patrons is considered to be commercially sensitive information and was not to be made available on the instructions of the applicant.

The hotel is to have 500 bedrooms of 4 and 5 star standard with a 6000 sq.m. casino. Mr. O'Connell referred to the said casino as the engine of such a high end hotel, although the cited floor area would not be taken up in its entirety with public areas. To secure the social protection objectives and following international practice the casino zone will be separate and distinct from the non-casino areas of the hotel both operationally and structurally. While I accept that the physical separation of the hotel and casino elements results in a material duplication in services the actual size of the hotel in terms of bedrooms remains unclear save for Mr. O'Connell's statement that 350 bedrooms would be the minimum requirement. This would be increased to 500 depending on its success. The hotel design allows for its construction in a modular fashion. Mr. O'Connell also informed the OH that the hotel would not be built without the casino.

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<sup>2</sup> Source: [www.alltechfeigames.com](http://www.alltechfeigames.com)

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It is noteworthy that while the proposal is given a regional context no meaningful attempt has been made to address its potential impact on 3 no. similarly graded hotel facilities in the region. I note that section 3.0 of the Economic Impact Assessment considers that the integrated sporting and leisure concept proposed based around a 5-star hotel providing an opportunity to compete nationally and internationally with the main tourist centres would suggest that the potential impact could extend materially beyond the regional context. Again, no consideration would appear to have been given to the potential impact on the approx.34-35 5 star hotels throughout the country. In view of the actual size of the hotel and number of bedrooms to be provided this, in my opinion, is a material omission. While I would not expect the applicant to be privy to the financial details of other facilities I do not consider that the Appendix in the Economic Impact Assessment is sufficient in addressing this matter.

The hotel is to offer conference facilities and Mr. O'Connell stated that up to 1000 delegates could be accommodated. Notwithstanding the recent developments in this market such as the National Convention Centre and the facilities at CityWest he considers that certain conferences do not consider locating in Ireland due to the lack of facilities especially the absence of a casino, while the proposal would also provide for a rural based option.

In view of the hotel of the calibre proposed a golf course is considered as necessary. Again the impact on facilities in the vicinity and, indeed in the wider region, has not been sufficiently assessed save that it is to serve the high-end international tourist market drawn to the hotel and that with the exception of Dundrum, the other successful golf clubs in the county predominantly serve local catchment populations (Appendix A Economic Impact Assessment).

#### ***16.2.3.4 Indoor Arena***

Mr. O'Connell informed the hearing that the venue is so sized in terms of capacity following discussions with MCD (9500 seating and 15,000 when seating is retracted). It is designed in the context of facilitating an ice hockey ring as the largest single indoor activity envisaged. The range of events would vary from sports to concerts with the retractable roof being similar to that at the venue in Cardiff which would accommodate sporting events where daylight and natural ventilation are preferable.

It is considered that the facility would meet a need within the southern half of the country and as noted on page 12 of the response to the grounds of appeal would have a national catchment. This statement is made without any supporting data. Whilst An Taisce considers that there may be an argument for such a facility in the Munster region the absence of alternative sites considered in the assessment is a moot point save reference to the fact that there may be some competition from the likes of Thomond Park for large events on an intermittent basis (Appendix A – Economic Impact Assessment). I would also suggest that its relationship to the other uses on the site is unclear. Whilst the applicant has put forward the thesis that there is a synergy between the racecourse and casino and consequently the hotel provision the same justification in terms of the venue appears to be absent.

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### **16.2.3.5 Hoban Memorial**

A historic model of the White House to be titled the Hoban Memorial, is proposed to be used as a banqueting hall with the potential for a Museum on the 1<sup>st</sup> floor. Section 3.2 of the EIS and Mr. O’Connell’s submission to the OH set out in detail the genesis behind the proposal with its purpose being an intentional memorial in a demense setting. Mr. McGill advised the hearing that the structure would be important in terms of a tourist attraction in an international context. While I acknowledge the said justification I would query the actual need for such a commemoration and its purpose in view of the facilities to be provided in the hotel. It is very difficult not to consider the proposal as being comparable to the landmark features provided in other resorts elsewhere in the world where, to a large extent, they are seen somewhat as gimmicks to attract attention and provide distinctiveness.

### **16.2.4 Comment**

I submit that the totality of the scheme in terms of the mix of uses is comparable to that of a resort casino as defined in the Department of Justice and Law Reform’s report on *Options for Regulating Gambling issued December 2010*, which postdates not just the lodgement of the application but the planning authority’s notification of decision to grant permission. Section 5.17 of the report states that a resort casino is, by its very nature, a significant development typically involving multiple life-style experiences with a casino as an important part of the overall development. Casinos incorporated into a resort type development would be extremely large, comprising up to 5000 sq.m. of floor space.

A copy of the Department of Justice and Law Reform’s report was presented to the hearing by Mr. Galligan with specific reference made to the document by both Mr. McGill and Mr. O’Connell in their respective presentations. Mr. McGill informed the oral hearing that the proposal would be categorised as such a ‘resort casino’. Whilst the document does not constitute agreed Government policy I would accept Mr. McGill’s description as it being a road map informing current thinking. In this regard it is noteworthy that section 5.20 of the said report states that ‘*the question of, if any, or how many resort casinos would be permitted will have to be decided in the future*’ would imply that the decision has not yet been made. Therefore the applicant appears to be relying on recommendations which have not yet been finalised. I propose to address this matter in further detail in section 16.3.1 below.

Notwithstanding the said justification made for the individual elements of the development and the genesis of the development from the racecourse component, I would query whether the scheme would be realised should the relevant regulatory provisions for the casino not be realised on the site thereby requiring its omission. It is not unreasonable to suggest that the casino element of the proposal is of material, if not primary importance, and is the economic engine driving the entire scheme. As per Mr. O’Connell at the OH the hotel would be reliant on the provision of the casino. However I acknowledge that the current absence of the necessary legislation to allow for the realisation of the casino is not of material consequence to this assessment of the proposal in the context of the proper planning and sustainable development of the area.

While the proposal comprises of a unique facility having not only a local and regional but most likely a national draw, a more indepth study of such a proposal and the potential impact

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of each of the individual components than what has been presented is considered appropriate. I submit that the racecourse, in terms of the stand capacity and overall capacity being 5,352 and 15,750, is over-sized for the fixtures envisaged taking into consideration the Mr. O'Connell's comments as detailed above. Invariably its potential in terms of holding international events as put forward by certain Observers would be severely curtailed by the maximum capacity of the entire project. Should the necessary road improvement works to the M8, which are outside the control of the applicant not be realised, the capacity of the scheme is materially reduced to 9750 and 9000 Fridays (as set for phase 1) which would further limit the potential of the project. In this context I note that Mr. O'Connell advised the hearing that 9500 would be the minimum requirement for the indoor arena with 15000 being the desired capacity.

### **16.3 COMPLIANCE WITH POLICY PROVISIONS**

There is a suite of policy documents and plans which inform the planning framework for the area.

#### **16.3.1 National Policy**

Both the National Development Plan and the National Spatial Strategy (NSS) identify Limerick-Shannon as the region's designated gateway requiring its enhancement at the national/international level. Ennis, as a hub, is to support the gateway. I would concur with Mr. McGill that it is not the sentiment of either the National Development Plan or the National Spatial Strategy that areas outside of the identified gateways be denied development opportunities and I note the respective extracts taken from both documents as set out in the applicant's response to the grounds of appeal and in Mr. McGill's submission to the OH.

The applicant considers that the proposal is in accordance with national policy in that the proposal would assist in the development and provision of employment within a rural location thereby securing social and economic stability for its rural community. It is considered that the proposal accords with the documents' support for the development of rural tourism and specialist interest products. Specifically the NSS, as set out in Box 5.1, seeks to provide opportunities to facilitate the emergence of new tourism centres in some of the less developed tourism areas, based on new major visitor attractions which have the potential to develop a critical mass of visitor numbers with a strong overseas component. The importance of the project in a national context is stressed by the applicant.

The NSS 2010 Update and Outlook recognises the need to harness the specific potential of rural areas alongside the complementary but differing needs of Gateways and Hubs. While the update acknowledges that competitive regions require the development of rural as well as urban areas in a balanced and sustainable manner, it simultaneously reinforces the view of the role of the gateways in delivering more balanced regional development and notes the pivotal role that strong cities play in a territorial and regional development context. Cork, Limerick, Galway and Waterford as regional cities are seen as the engines of economic development within their regions but need to achieve greater critical mass including their development as a network of cities as envisaged in the 2006 Atlantic Gateways Report.

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On balance I consider that while the progression of rural development and enterprise projects is an important consideration in the advancement of the NSS policies this cannot be to the detriment of the primary objective to consolidate, strengthen and develop the identified Gateways.

While I would accept that it is not the purpose of national policy documents to identify specific sites as being suitable for certain types of development I would query, taking into consideration the stated uniqueness of the proposal and the importance in terms of the national and international tourist draw assigned to it by both the applicant and acknowledged by the planning authority, whether it is not appropriate that such a type of development should be led by a specific objective in a national policy document.

While I fully acknowledge that the report '*Options for Regulating Gambling*' by the Department of Justice and Law Reform December 2010 as referenced by the applicant in support of the proposal does not constitute a policy document to which regard must be had, I would concur with Mr. McGill that it provides a road map for current thinking. In my opinion the said document clearly advocates such a strategic, top down approach. It is noteworthy that the document states that the question of, if any, or how many resort casinos would be permitted would have to be decided in the future (page 23). The document notes in appendix 1 that the decision as to the location of casinos in other countries, in almost all examples, is made by the State. The document recommends that given the nature of the resort casino in terms of scale and the limited number that would be permitted, the function of location adjudication and licensing would be dealt with by an independent adjudication panel. It is envisaged that the said panel would be empowered to recommend to the Minister for Justice and Law Reform and the Government the appropriate location or locations for a resort casino. The panel could examine a number of locations from within the same general region ie, eastern seaboard incorporating Dublin, the south and the north/west/mid-west and have regard to the infrastructural and other market considerations such as the presence of pre-existing and adequate air, rail, road and sea ferry routes and the potential for the development to have a cross-border dimension. The panel would deliver a recommendation to the Minister selecting a location either in each of the regions, or in one or two of them or it could deliver a negative recommendation. The report and recommendation of the adjudication panel would be a matter for decision by the Government.

I would submit that the proposal before the Board, which is comparable to a resort casino as defined in the document and to which the applicant refers, could be seen to be pre-empting the process outlined above and which could effectively prejudice the strategic approach in terms of provision of such facilities as advocated.

### **16.3.2 Regional Policy**

#### *16.3.2.1 Mid-West Regional Planning Guidelines*

The 2010 Mid-West Regional Planning Guidelines were adopted subsequent to the lodgement of the application and prior to the decision by the planning authority. Mr. Beck advised the hearing that the respective development plans of the local authorities in the region were revised roughly around the same time as the guidelines and all have due regard to same.

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Much reliance is placed by both the applicant and the planning authority on Section 2.4.3 of the document which refers to tourism. It notes that while many parts of the region have natural resources that form the basis of their tourism industry other parts are less provided with such natural advantages and that opportunities for tourism related development can also exist in these areas. It is recommended that such opportunities may be related to national and international accessibility, the availability of appropriate land banks and the relative robustness of the location from an environmental impact point of view. It is recommended that Planning Authorities should give consideration to the adoption of policies to facilitate the accommodation of significant visitor, tourism and recreation-related development that would form the basis of a tourism sector. The three zones of West Limerick, East Tipperary and South Limerick are identified as such rural areas that have significant scope to develop alternative tourism enterprises and are within easy reach of Limerick.

Section 3.1.4 of the guidelines which deals with North Tipperary notes that its potential in the area of tourism is underdeveloped and is one sector that can bring additional social and economic activity and benefit to the County and to the region as a whole. It is considered that as well as making use of the County's natural and man-made resources for this purpose, the County can also capitalise on its location at the centre of Ireland and on the wide variety of transport linkages it contains. Therefore it is considered a perfect location for recreation-based tourism and visitor developments that do not need to rely on natural or man-made resources but that will benefit from the County's easy access to the rest of the country and to a variety of national and regional airports and sea-ports.

However there appears to be a disconnect between the above statements and the identified potential of the 9 sub-regions to contribute to the future growth and development of the region. The site in question would be considered to be within sub-regional area *North Tipperary – Thurles Area* as set out in section 3.2.9 which would largely correspond to the East Tipperary area cited above. The potential of the area to contribute to the future growth and development of the region, which includes tourism potential based on high quality rural landscape in the south of the zone, does not necessarily fit with the description as set out in Section 3.1.4 above. It is noteworthy that Zone 1 which pertains to the Limerick-Shannon gateway and Ennis hub identifies it as being the centre for regional scale social and commercial facilities and the principal tourist access and service centre. The key investment opportunities are identified as being development of a tourism base through implementation of new tourism development projects and the development of the social, cultural and commercial role of the gateway and hub while providing for regional scale recreation and amenity facilities. Concurrently Zone 2 which surrounds the core of the region (to be combined with zone 1 into a single zone for mapping purposes in the guidelines) is also identified as the centre for specialised regional, social and commercial facilities and a major tourism base and for development of niche services for the regional core eg. recreational activity.

This emphasis in terms of locational considerations for regional facilities is carried throughout the guidelines. Section 7.4 of the guidelines which pertains to recreation notes that a Joint Regional Recreation Strategy is being developed but that pending its adoption major new facilities should generally be provided within the gateway/hub area. Concurrently section 7.6.2 states that the provision of regional scale cultural facilities should be made in accordance with a strategy for such provision. Such a strategy should recognise

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the importance of the gateway and hub but should also identify the criteria through which the location of such facilities would be decided.

As such while I acknowledge that the guidelines require the relevant planning authorities to consider the needs of rural and peripheral areas I would submit that the consolidation and development of the gateway of Limerick-Shannon is of equal importance and it is in that context that the merits of this specific proposal, which would have both a regional and national context, should be assessed.

In the context of the above the location of the grade 1 racecourse, the arena and arguably the casino, all of which would have at a minimum a regional context, should ideally be within the identified gateway/hub area. Reliance on the reference in the guidelines to the availability of substantial land banks and reference to the development potential in East Tipperary without corresponding inclusion in the more detailed statements for each of the sub-regions cannot, in my opinion, take precedence over a demonstrated sequential approach whereby potential locations within the gateway/hub are identified and assessed first.

#### *16.3.2.2. Mid-West Strategic Area Plan*

The Board is advised that a Mid-West Strategic Area Plan is currently being drawn up with a working draft expected in the next couple of months. The study, similar to CASP in Cork and LUTS in other locations around the country, is to provide the long-term framework for guiding future residential, commercial and industrial development in the Mid West region and will allow the Regional and Local Authorities identify locations deemed suitable for sustainable development. It is to feed into the Mid West Regional Planning Guidelines and will inform the Clare, Limerick and North Tipperary County Development Plans and the Limerick City Plan providing the authorities with evidence-based cases to justify undertaking large-scale planning and transportation projects. Mr. Beck advised the hearing that the status of the plan has yet to be decided by the Steering Group.

Mr. Beck, in expanding on the view as expressed in his final report prior to the planning authority's decision, considers that notwithstanding the regional, national and international attraction the proposal would be unlikely to have a significant impact on the long term strategic development of Limerick (which it is anticipated would be emphasised as the capital of the region in the strategic area plan) due to its relative separation. This somewhat contradicts the view as expressed in the Mid-West Regional Planning Guidelines where it is considered that such a rural area has the potential for development due to its easy reach of Limerick. I would submit that in view of the nature and extent of the expected geographical influence of the scheme such a location could militate against the expected anticipated emphasis on Limerick reflective of its NSS designated gateway status.

#### **15.3.3 Local Policy**

The North Tipperary Development Plan 2010-2016 came into effect on the 16/08/10 subsequent to the lodgement of the application and prior to the PA's decision.

Section 2.7 sets out the overall strategic aims of the plan and makes reference to the key role North Tipperary has in supporting the Limerick/Shannon Gateway under the NSS in order to

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promote the economic strength of the Mid-West. It is also a strategic aim to promote and channel development into the four major towns of Nenagh, Thurles, Roscrea and Templemore with Nenagh, in particular, to accommodate the significant part of the County's share of regional growth going forward.

ECON 1 is a general policy which states that it is Council policy to encourage and facilitate enterprise and employment throughout the County and to co-operate with other agencies including the private sector in order to provide employment opportunities. The primacy of policy ECON 2 is stressed by both the applicant and the planning authority in which it is the policy of the Council to identify land in key strategic locations that are suitable for different employment and economic activity. The lands are to be protected from inappropriate development that would undermine the future development of economic and employment activity. In total 8 sites are listed but the wording would suggest that further sites could be considered.

What is inferred by either 'strategic employment' or 'strategic location' is not set out in the plan and, as such, could be open to individual interpretation. Mr. Beck informed the hearing that strategic could mean a substantial land bank in one ownership and an important location in terms of the region and country. In this regard he considers that the site would meet these parameters in terms of its central location in the country, its proximity to towns for centres of employment and to the M8 for access and in an area at a remove from Natura 2000 designated sites. In terms of employment Mr. Beck considers that strategic would encompass a development which would allow for a mix of employment.

Mr. McGill's considers that the issue of 'strategic' is two fold in that the proposal could be strategic in location and strategic in impact. It is considered that the proposal would be a large scale employer which would have importance to the county.

I have a number of concerns relating to the level of interpretation which arises in the absence of the definition of what strategic means both in terms of location and employment. Certainly I would query whether a substantial landbank in one ownership can elevate a site to a 'strategic location' regardless of its actual geographical location.

Mr. Beck gave a brief description of site nos.1 to 7 as detailed in the policy. Sites 1, 2, 3 & 6 are within urban areas (Nenagh, Thurles and Roscrea) and the lands are zoned in relevant development plans/LAPS. Site no. 4 - Lisheen Mine, which is a discrete entity in its own right, is to be subject of a masterplan in accordance with a specific policy (ECON4) of the development plan. In terms of site no. 5 Mr. Beck informed the hearing that while the Shannon Development lands at Archerstown is not zoned it was within the town boundary of Thurles. Again I note that there is a specific policy ECON3(a) to co-operate with Shannon Development in drawing up a masterplan for the said lands. I note that in both policy ECON 3(a) and ECON 4 the type of uses that would be considered on the respective lands are outlined. In summary sites 1-6 are either within the development boundaries of towns, are zoned, or are subject of individual policies for the drawing up of masterplans. Either by way of the zoning matrices which would apply to the zoned lands or the indicative uses which would be considered on the sites to be covered by masterplans, a person reading the development plan can adjudicate, with a reasonable level of certainty, what uses would be considered appropriate and thus from same can extrapolate what is intended by 'strategic

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employment' in ECON2. In my opinion this level of certainty does not exist for site nos. 7 and 8 (the appeal site). They are entirely different in that both are outside the development boundaries of a town/village, are greenfield sites and are not zoned. I would therefore suggest that the application of the policy with respect to the two sites is open to interpretation. Mr. Beck advised the hearing that site no.7 (lands at M7/N62 Interchange) was included following a representation made during the development plan review process.

It is noteworthy that the entry which pertains to the appeal site (no.8) makes reference to the planning application reference number of the current proposal. In my opinion this is highly unusual and I am not aware of any comparable situations in development plans both in North Tipperary or indeed elsewhere in the country. It has to be accepted as a statement of fact that its inclusion means that the planning application predated the adoption of the current plan.

Both Mr. Beck and Mr. McGill consider that the inclusion of the current planning application reference number performs a function in terms of the identification of the extent of the lands to which the policy refers. Both consider that should the said application fail the policy and the site's inclusion would still stand. I find this justification of the inclusion of the planning reference number to be somewhat implausible. Indeed were this logic to be applied consistently I would suggest that the extent of the lands to which no.7 refers (land at M7/N62 interchange) should also be referenced in some regard. In terms of said site no.7 I would not concur with Mr. Beck that the extent of the lands is evident and I would not be in a position to determine same. I would suggest that a more appropriate way to identify the extent of the lands to which the policy refers could be by way of a delineation on a map accompanying the plan, thereby allowing the document to be read and interpreted in its own right without reference to a planning application.

In my opinion policy ECON2 fails to provide a level of certainty and clarity as to its intention and the extent of lands to which it refers. Mr. McGill and Mr. Beck are of the view that should the current proposal fail to secure permission or not proceed then any alternative proposals would have to be assessed against the tenor of the policy which would preclude other economic or employment activities such as office parks, factories or retail. I am not convinced that that is actually the case.

In view of the size and scale of the proposal and its potential impact not only on the local and national road network but on the wider amenities of the area I would query why the planning authority did not consider it appropriate, in conjunction with the site owner, to pursue the preparation of a development brief or masterplan as afforded all but one of the other unzoned lands listed in the policy. This would provide for a level of clarity and certainty as to what is envisaged in terms of the strategic employment of the site. It could also explicitly state how the proposal complements the overall strategic planning aims of the County Development including the promotion and channelling of development into the four major towns in view of the site's rural location at a remove from Thurles.

In my opinion the inclusion of this site in the above policy in a rural, unserved location at a remove from Thurles is at variance with the overall strategic planning aim of the development plan as set out in section 2.7 to promote and channel development into the four major towns of Nenagh, Thurles, Roscrea and Templemore with Nenagh, in particular, to accommodate the significant part of the County's share of regional growth going forward.

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With regard to other plan policies I submit that policy ECON 12 would not be entirely relevant to the proposed development as it more appropriately refers to commercial and industrial development. I would also query the applicability of policy ECON 30 which refers to large scale industrial/commercial uses in the open countryside in view of its inclusion in the plan under the heading ‘industrial development in rural areas’.

In terms of ECON 14 it could be argued that by reason of the proposal entailing the development of a tourist product the proposal accords with the said policy however I would suggest that by reason of the scale and nature of the proposal and the mix of uses the policy itself is not really applicable. I would also suggest that for the same reasons policy ECON 16 which seeks to ensure that new tourist facilities are located in existing settlement centres is equally inapplicable.

Policy ECON17 which pertains to large scale integrated tourism-leisure-recreational complexes is also considered to be relevant in terms of the assessment of the current application. It is the policy of the Council to encourage the sustainable development of major tourism-leisure-recreational complexes on large land holdings provided that a full planning application is submitted and includes an ‘Integrated Tourism Plan’ that provides for a number of issues including the preservation of the rural character of the landscape, the integration of the development into the open countryside, significant and intensive landscaping of the site, traffic impact assessment and adequate treatment of effluent. Mr. Beck advised the hearing that in this instance the planning application itself is seen as fulfilling the role of the ‘integrated tourism plan’. As in the regional planning guidelines the reference to large landholdings is to be afforded specific consideration however it is my view, as stated above, that such a consideration should not be the determining factor as to the suitability of a site for a specific development or not. I note that the reference to large landholdings constitutes a new inclusion and did not form part of the comparable policy in the previous development plan.

Reference is made to policy ECON 18 Eco-Tourism and compliance with same however I consider that reliance on private transport and absence of any material public transport provision as will be addressed in section 16.4 below far outweighs any of the sustainable design and operational ethos incorporated into the project.

#### **16.3.4 Conclusion**

While I accept the agent for the applicant’s assertion in its written response to the grounds of appeal that enterprise, tourist and employment generating schemes are often speculative in nature and note the view that the planning system should encourage and endeavour to facilitate development which are shown to have positive socio-economic impacts, I consider that this must be done within a proper planning framework. At this juncture I would suggest that in view of the reference to the planning application reference number in the development plan policy ECON 2 which is highly unusual, the criticism that the proposal is a developer rather than a plan led proposal is understandable.

Good planning is based on ordered decision-making. I submit that unless there are exceptional circumstances, strategic decisions should be taken first or where it can be shown

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that a decision would not restrict the options available when making the strategic decisions. I am not convinced that this is the case in this instance and that to grant the proposal which is accepted to have both a local, regional and possibly national impact, could undermine the ordered decision making which, in my opinion, a project of this scale and potential influence requires.

In view of the regional and indeed national context of the project as asserted by the applicant and accepted by the planning authority incorporating a number of uses which have a regional function such as the racecourse and indoor arena and which the regional planning guidelines recommend should be located in proximity to the gateway/hub area, I am not satisfied that a positive decision in this instance for a site in a rural location at a remove from the Limerick-Shannon gateway would comply with the said recommendations or indeed be in accordance with Development Plan policy S1 in which the Council seeks to support the Limerick/Shannon Gateway as identified in the NSS. As such there is a disconnect between the development plan and the regional and national policies and it is my opinion that the latter should take precedence.

## **16.4 ROADS AND TRAFFIC**

### **16.4.1 Overview**

A Traffic Impact Assessment formed part of the EIS (see section 5.8.2) and was supplemented by way of further information and clarification of further information. The main roads that will be used by traffic generated by the development will be the R639 (old N8), the M8, N75, N62 and the old N75 through Two Mile Borris. The maximum capacity of the overall development is stated to be 15,000 corresponding with a major event such as a concert in the arena or a fixture at the racecourse.

As per the application lodged with the planning authority the following road network improvements were proposed

- 4-arm roundabout at entrance to complex and heliport.
- Provision of a link road to connect the R639 via a new 3-arm roundabout to the Two Mile Borris Grade Separated Junction on the M8 (junction 5).
- Construction of 2 no. slip roads to complete the diamond interchange at junction 5.
- Provision of a segregated left turn lane on the existing southbound diverge to allow traffic to join the proposed link road in a free flow manner
- Widening of approaches to the roundabouts at the Two Mile Borris interchange to allow two way flow.
- Termination of an existing accommodation road on the south side of the link road and creation of a new access onto the northern side of the link road for the existing accommodation road.

By way of a further information request the planning authority advised the applicant that the proposed works involving the interchange upgrade providing for slip roads and a segregated left turn lane are outside the applicants control and that a revised proposal excluding such works was recommended.

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In response, the applicant proposes two phases for the development. Phase 1 entails the link road connection from the M8 Junction 5 to the R639. This link road is to follow the same general alignment as that indicated in the drawings originally lodged. Additionally an event only private access road is proposed to provide a connection from the link road under the R639 directly into the site. Following a micro-simulation model the capacity is to be capped at 9750 persons during weekdays and 9000 on Fridays. 'Phase 2' is seen as the 'long term objective' which would allow for the desired maximum capacity of 15000 for the site to be realised on the completion of a full interchange with segregated left turn lane from the M8 southbound off ramp (to be used during events only).

## **16.4.2 Traffic Impact Assessment**

### *Modelling Undertaken*

By way of further information a micro-simulation model covering a geographic area that incorporates a corridor from junction 4 to junction 6 on the M8 and including internal link roads and car parks, was prepared. It concluded that Phase 1 could manage 65% of a major event size on an average weekday, equating to 9750 attendees (3120 vehicles). During a Friday PM peak Phase 1 can manage 60% of a major event equating to 9000 attendees (2880 vehicles). Phase 2 experienced minimal delay on the motorway and was found to be able to manage a major event of 15,000 attendees (4800 vehicles) both on an average working day and a Friday PM peak. Mr. Doherty for the applicant informed the OH that the minimal delay referred to in phase 2 relates to the slowing of vehicular speed rather than queuing.

Mr. Doherty stated that it is unusual to undertake a Friday peak review (which recorded a 31% increase over weekday peak hour) and that the analysis undertaken in July would not be entirely reflective of average conditions throughout the rest of the year. However as noted in the Local Model Validation Report the data collected in June and July 2009 was adjusted to estimate an average working day in June. The NRA consider it best practice to use data from 'neutral months' (April, May, June, Sept, & Oct.) in developing micro-simulation models as these are times considered to cover normal traffic conditions with schools in session.

### *Background Growth Figures*

I accept Mr. Doherty's view that the modelling, in entailing a future background traffic high growth factor of 35.9%, is conservative considering short and medium term growth is not expected to be as high as currently forecast by the NRA. As per Mr. Doherty's submission to the hearing the NRA has subsequently revised the traffic growth factor to take account of the change in conditions with the new growth figure more likely to be 16% over the 15 year period analysed. As such there is a certain factor of safety provided for. Mr. Doherty considered that in view of the exceptional growth factor used that a 9750 capacity throughout the year (rather than a reduced capacity on Friday PM) would be reasonable.

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### *Traffic Generation*

In terms of the peak hour generated traffic assumptions I note that Table 5.8.2.5.2 and Table 5.8.2.5.3 of the EIS give an estimate for the hotel, golf course and equestrian centre. The said original traffic generation figures were utilised in the later microsimulation modelling. I note that the casino use is not differentiated. Mr. McGill informed the hearing that the information as to the number of visitors to the casino and origin of the patrons is considered to be commercially sensitive information and was not to be made available on the applicant's instructions. There is the possibility that the said use could be a material generator of traffic in its own right, potentially with a peak in movements at weekends including Friday night. In addition, while the original proposal envisaged that the equestrian centre would be used predominantly by the hotel guests and the external trips generated were expected to be low, this would appear to have been altered materially. Mr. O'Connell advised the OH that the significant interest has been expressed by interested parties in availing of the facility which in itself would have a knock on impact on the figures cited. However I accept that the events at the centre would not exceed the number of trips that would be generated by larger events at the development.

### *Trip Distribution*

In terms of trip distribution assumptions the applicant has assigned 66% from the north-east (direction of Dublin), 16% from the north (direction of Thurles) and 17% from the south (direction of Cork). Mr. Doherty in his submission to the OH stated that it is based on a gravity population distribution model based on population centres for over 2 million people across 9 geographic locations. I would query, given the variety of activities, whether it would be more appropriate to develop a distribution based on a more comprehensive understanding of trip origins and destinations.

### *Modal Split*

A modal split of 20% has been applied in the relevant calculations and Mr. Doherty informed the OH that such a figure was considered reasonable based on the assessment undertaken of other events and consultations with event organisers. The Board is advised of Table 6.2 of the Event Management Plan which details the public transport utilisation at major events in Ireland. Mr. Doherty stated that the table only gives a summary of the work undertaken. He further stated that public transport providers and event managers do not tend to record how many patrons travel by public transport and the figures given are estimates although those provided for Oxegen are considered to be robust.

I would query whether the Oxegen festival is comparable to what is intended on the site. Oxegen provides for a significant level of camping in a multiple day event format (although single day tickets are sold) and is skewed towards a younger age cohort where private car ownership would be lower that would be seen with older age groups. In term of Leopardstown the percentage using public transport as estimated in the table predates the Luas extension. However it is noteworthy that despite the fact that it would have been accessible by bus was still only estimated to have a 14-16% using public transport. Invariably, and as accepted in the Event Management Plan, horse racing events largely have less bus utilisation than music based events. However I am not convinced of the view as

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expressed in the plan that as the majority of major events will be in the indoor venue a high bus utilisation could be expected. I would also suggest that the nature of the music event can have an impact on public transport patronage. A rock/pop concert would often have a different age profile than, say, a classical concert with differing attitudes to transport and use of public transport. A sporting event in the arena would have different patronage characteristics again.

Mr. Doherty confirmed that discussions have been had with Bus Eireann, Dublin Bus and Irish Rail with the former two historically having provided transport for large concert events. Whilst it is noted that Irish rail provide additional services for sports events it has only recently provided additional night services serving concerts such as those held in Cork. However I submit that travel patterns are dictated by facts on the ground. Notwithstanding whether it would be economical for Iarnrod Eireann to provide additional late night services both in a southerly and easterly direction there is, as suggested by Mr. Nix, a time penalty in availing of public transport in such a scenario. Hypothetically those attending the venue travelling from Dublin would have to get to Heuston Station disembark at Thurles and then get a bus for the remaining 11km to the site and repeat this in the opposite direction after an event. While such combinations are not uncommon I would query whether such an elongated journey would compete successfully with other options including use of the private car availing of the free parking provision on the site. As such bus would appear to provide the only realistic public transport option.

I would concur with the NRA's view as expressed in its letter to the planning authority dated 23/08/10 that the target of 20% is particularly ambitious and challenging and I am not convinced that it would be realised in this instance. I note the absence of any satisfactory details/undertakings that such service enhancement will be available, and the absence of details in relation to any agreed diversion of existing services or the provision of alternative services by the applicant and/or other potential service providers.

Any variations in the assumptions relating to modal split, trip generation and distribution could have a knock-on impact on traffic conditions and result in more onerous traffic loading on the road network including the M8. This is a substantive issue in the context that a limit is already required for 'phase 1' which is effectively a third short of what is the desired maximum capacity.

#### *Application of Capacity Restriction*

In terms of ensuring that the numbers accessing the site would be within the capacity restrictions for both phases 1 and 2 Mr. Doherty advised that for events, ticket allocation would serve such a role. While this is accepted in terms of an event at the arena or a fixture at the racecourse it is unclear whether account has been taken of the other uses on the site which, it is reasonable to assume would be operative during such events, namely the hotel and importantly the casino. I note that Table 5.8.2.5.3 of the EIS which details the estimated PM peak hour traffic for each of the uses gives an overall figure for the hotel and does not distinguish the casino use. There is the possibility that the said use could be a material generator of traffic in its own right with peaks experienced over the weekend nights. As such I consider that the control of numbers to the site would be very difficult to enforce with the knock-on concerns in terms of impact on the surrounding road network including the M8.

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### *Event and Mobility Management Plans*

An Event Management Plan was submitted by way of further information in which it is estimated that events would occur in the complex every 6-8 weeks. Mr. Doherty confirmed that the Codes of Practice for Safety of Indoor and Outdoor concerts and at Sports Grounds identify the Garda Siochana to be responsible for preparing a traffic management plan in consultation with other stakeholders and would retain the overall authority of the external traffic management. I accept that the modelling undertaken does not allow for inclusion of 3<sup>rd</sup> party support at junctions etc. and thus does not take into consideration any benefits that such intervention may provide. In terms of event management due consideration needs to be the potential clash of events with fixtures at Semple Stadium in Thurles which can accommodate approx. 50,000. On match days this stadium generates significant traffic, some of which would use the road network that would serve the site. It would be imperative that such a clash is avoided and significant liaison would be required with both the GAA and the Garda to prevent same.

I consider that the mobility management plan which was submitted by way of further information is rather vague and does not provide any meaningful options in terms of securing the Smarter Travel objectives which seeks to get a modal shift from the private car to 45%, save to say that it would potentially promote shuttle bus services, seek modification to existing local public transport routes and seek the implementation of car sharing. It is noteworthy that Mr. Doherty advanced the view that the objectives of Smarter Travel could be met and indeed could be exceeded. However contrary to this I note that the text of the plan in section 4.1 considers that the realisation of the objectives in a rural setting is not viable. Thus the 55% sustainable travel mode split has not targeted commuting traffic at this development. In my opinion the site, at a remove from the town of Thurles, not served by any meaningful public transport, effectively militates against any chance of realising such a breakdown with car sharing seen as having the greatest potential.

#### **16.4.3 Access to the M8**

While the original proposal entailing improvements to the M8 was altered by way of further information the applicant is now seeking to construct the proposed development in full with capacity at the site to be 'phased' so that the stated maximum capacity of 15,000 would be realised only when the necessary works to the motorway have been provided.

Mr. Beck considers that the proposal does not involve a direct access to a motorway. I would concur with this view and submit that section 46(1) of the Roads Act, which precludes permission being granted for development that would involve a direct access to or from a motorway, has not been contravened.

The provision of the slip roads and segregated left turn lane on the existing southbound diverge to allow traffic to join the proposed link road in a free flow manner all constitute works that must be the subject of a motorway order, the advancement of which is outside the applicant's control. As confirmed by Mr. Devery for the planning authority no progress has been made on the advancement of the application for such an order and that work on same would only commence should permission be secured on the site. Mr. Galligan advanced the

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view that it would be premature and a waste of scarce resources for work on the motorway order to begin until permission was secured on the site.

No timescale could be provided as to the potential realisation of the said works. While I acknowledge that the works to advance the motorway order would be undertaken by the relevant roads authority on behalf of the NRA their agreement must be secured. In addition while the slip road arrangement may be comparable to that originally proposed at the Two Mile Borris junction (but which were omitted due to financial constraints), this does not rule out the possibility that the layout may require amendment in the future which could have a knock-on impact on the lands immediately adjoining.

*Condition 2 attached to Decision*

In this regard I note that Dermot Donovan, Roadplan Consulting in his report to the planning authority dated August 2010 identified a number of problems with the applicant's approach seeking a condition to be inserted limiting the permissible attendance to 9750 persons until the phase 2 infrastructure is completed on the basis that the motorway order process could lead to changes to the proposed phase 2 infrastructure and that all the details relating to same have not been fully resolved. It was considered preferable that the application be amended to one seeking permission for a capacity of 9750 (9000 on Friday) and he recommended against a grant permission for an event size of 15,000 subject to delivery of notional phase 2 infrastructure. I note that M. Devery Senior Executive Engineer Road Design in a report on file dated 24/07/10 effectively reiterated these points and stated that phase 2 should be by way of a new planning application. In this regard I note the reference to a subsequent planning application for phase 2 as made on page 21 of the Event Management Plan submitted by way of further information although Mr. Doherty informed the hearing that the reference is inaccurate and should refer to a motorway order.

Notwithstanding the above recommendations the planning authority saw fit by way of condition 2 to allow for a capacity of 9750 and eventually 15000 on the realisation of the works to the motorway following agreement with the planning authority. Mr. Beck considered the condition to be appropriate and that it would be unnecessary to require the applicant to go through the planning process again where the only alteration would be with regard to the capacity. The further submission from the planning authority setting out the basis for the application of conditions (submission 26) does not provide any further illumination on the matter.

Over and above the fact that no reference is made to the necessary consent from the NRA I would submit that in view of the time delay that could ensue due to a process which is outside the control of the applicant, the potential for alterations to the proposed works and the knock-on effects, if any, of same and the need for further assessment in terms of additional infrastructural requirements such as Variable Messaging Signage (VMS) arising from the 15,000 capacity as suggested in the Event Management Plan, the approach adopted by the planning authority is not acceptable. In my opinion these issues are not just points of detail but are material in nature and could result in 3<sup>rd</sup> parties being affected. As such I consider that the condition does not meet the recommendations as set out in sections 7.3.4 and 7.3.5 of the Development Management Guidelines for Planning Authorities in terms of precision and reasonableness.

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### *Special Financial Contribution*

While the planning authority considered it appropriate to allow for the entirety of the development with a final capacity of 15000 to be attained at some juncture in the future without recourse to a further planning application, it did not consider it appropriate to attach a special financial contribution towards the cost of the works which are required to facilitate the development. Mr. Beck stated that neither the NRA nor North Tipperary County Council would pay for the works and that the ultimate responsibility for their realisation would be with the applicant. He stated that the planning authority was not in a position to levy a special contribution as the works which are subject to a separate process have not been finalised. This, in my opinion, is not acceptable and reflects the prematurity of the proposal for 15000 with an absence of certainty or clarity as to whom is to foot the bill for the works. In view of the above I consider the approach taken by the planning authority in this instance as set out by Mr. Beck to be lacking in transparency and enforceability.

### *Draft Guidelines on Spatial Planning and National Roads*

While the Spatial Planning and National Roads Guidelines for Planning Authorities are in draft form, only, it is recommended that local authorities have regard to the recommended approach in regard to applications for planning permission. Mr. Beck referred to same in his submission to the OH. I would also suggest that Section 2.5 is of relevance in this instance. It sets out the matters to be taken into account in considering whether exceptional circumstances arise potentially involving developments of national and regional strategic importance provided for in local authority development plans and which by their nature are most appropriately located outside urban areas. The same term 'exceptional circumstances' is used in development plan policy TRANS 7 which seeks to resist development along strategic routes. As noted above I consider that the proposal which is stated as having a regional and national context is, as yet, not supported by national policy while I am of the view that the proposal does not advance the aims and objectives of the regional planning guidelines. I also consider that the suitability of the location compared to alternative locations has not actually been assessed. I note that the NRA in its letter to the Board dated 07/02/11 referred to its letters to the planning authority dated 03/12/09 & 23/08/10 where it considers that a proposal must demonstrate its national and strategic importance and commitment to appropriate demand management measures to justify additional connectivity to the motorway. It considered that this has not been demonstrated.

### *M8 Capacity*

It is my opinion that the consent authority, at this juncture the Board, is being requested to assess a scale of development which would allow for a top capacity of 15,000 predicated on the realisation of certain infrastructural works of which there is no certainty of their delivery or indeed a certainty that the works would be provided within a timeframe that would be relevant to the consideration of this application. Thus, is it considered that the Board should consider the subject application against the background of the M8 as it is. Taking into consideration my stated concerns regarding the practicable control of numbers to the site in terms of the mix of uses, importantly the casino, I am of the view that the proposal in its

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entirety with a 15000 capacity would render it premature pending the necessary works to the M8.

In view of the applicant's insistence as to the uniqueness of the project arising from the mix of uses and the synergy and dynamism arising from same I would advocate that the scheme either stands or falls in its entirety. However were the Board minded to grant permission a significantly reduced capacity, only, should be considered which allows for both an 'event' and the simultaneous hotel and casino uses. Taking into consideration the fact that it is anticipated that the racecourse would rarely reach a 10000 capacity (notwithstanding my concerns regarding the facility being oversized for such a figure) and that the arena is the element which would provide for the regular events responsible for traffic generation, the Board could consider the omission of the said arena until such time as the necessary works to the motorway have been approved. Any future proposals for the arena should be subject of a further application allowing for further assessment and analysis including consideration of the applicability of a special contribution towards the works. In the interests of clarity a condition stipulating the maximum capacity allowable for the amended proposal should be attached. I acknowledge comparable conditions have been attached elsewhere and as pointed out by Mr. O'Donnell at the OH at conference facilities at City West under appeal reference number PL06S.227236. In that instance the developer was required to enter into a legally binding agreement under section 47 of the Planning and Development Act 2000 providing for same.

#### **16.4.4 Other Issues**

A proposed private access road which is a spur off the proposed link road will provide direct access to the major event car park via an underpass of the R639 and is to be used for major events (15,000 capacity). The access is to traverse a track along which a right of way exists. As noted by Mr. O'Connell the applicant secured consent from the affected party to lodge the application and discussions are ongoing. This private link road is not to be used in 'phase 1' and the applicant is afforded time to secure the necessary agreements. As noted by Mr. Galligan section 34(13) of the Planning and Development Act 2000 would apply and were the Board disposed to a grant of permission the applicant should be advised of same.

Mr. Nix contended that the NRA's recommendation that an independent peer review be undertaken remained outstanding. I note that Mr. Donovan considered that his role in the process providing advice to the planning authority independent of the applicant served that function. Mr. Doherty also advised the hearing of the traffic consultants in-house checking procedures with independent review at the start and end of a project.

I note Mr. Nix's submission to the hearing includes an analysis of the approx. emissions and fuel cost that would result from the development compared with those arising in an urban location and I note Mr. Doherty's response in his submission. I also note Mr. Doherty's view that national transport policy and Smarter Travel fail to identify the future potential role of the electric car.

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### **16.4.5 Summary**

I would accept the thesis put forward by Mr. Nix that the location of the site with little accommodation options in the vicinity accessible by way of public transport save for the proposed 5 star hotel and absence of any real supporting services would militate against overnight stays thereby precluding the staggering of arrivals and departures. Urban locations provide for such type supporting services.

I would submit that having regard to the rural location, approx. 11km from Thurles, at a remove from any quality public transport provision and adjacent to the M8 and taking into consideration what I would suggest are unsatisfactorily substantiated modal split targets lacking in detailed plans of how they are to be achieved, the proposed development, which would be principally dependent on the private car, would lead to the creation of an unsustainable car dependent development. This is contrary to the overall strategic planning aims of the development plan as set out in section 2.7 to promote land use planning measures which facilitate transportation efficiency and a general shift towards the use of public transportation reducing the need to travel and dependence on the private car and is therefore contrary to national policy as set out in the document Smarter Travel.

I am also not satisfied that the proposal would not result in a volume of development generated traffic that would adversely impact on the capacity and efficiency of the M8 at this location which could negatively impact on its role as catering for strategic inter-urban and inter regional traffic contrary to development plan policy TRANS 6 which seeks to restrict all development accessing out on national route corridors which is likely to compromise the capacity and efficiency of national routes and lead to the premature reduction of the carrying capacity of the road.

## **16.5 LANDSCAPE AND VISUAL IMPACT**

I refer to the report prepared by Ms. A. Brereton which is attached in Appendix 1 and should be read in conjunction with this section. I generally concur with her conclusions. For ease of reference I propose to provide a summary at this juncture.

### **16.5.1 Design Proposals**

The proposed scheme provides for a number of buildings of varying heights. With the exception of the Hoban Memorial Building and the chapel all other buildings within the scheme are of contemporary design and organic in their morphology. As shown on the documentation submitted the Core Development Zone is located towards the road frontage area of the site coinciding with the agricultural lands with the Peripheral Development Zone in the remainder of the site. It is proposed that the buildings be located so as to protect the natural features, such as the forested area to the north and the existing site boundaries, which provide natural screening.

It is proposed to demolish all of the existing buildings on the subject site which comprise 5 no. dwelling houses; 1 no. derelict dwelling house; 1 no commercial warehouse/storage building and agricultural outbuildings. The buildings are not protected structures and are not

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considered to be of any architectural or historical merit. It is not considered that any of these houses make a particular contribution to the rural vernacular/environment or are worthy of preservation and I would not object to their demolition.

#### ***16.5.1.1 Hotel***

The hotel building, to be set back over 100 metres from the R639, will be the highest building on the site increasing from 19.5m (i.e. 3 stories) to 35m (8 stories). As noted by Mr. O'Connell at the OH the building can be built in a modular arrangement with the first portion providing for 350 bedrooms. It is designed in linked blocks, the eastern and northern blocks and the curved south western bloc. The massing and curve of the building has been specifically designed to minimise the building's visual impact with its highest section focused towards the venue and the grandstand. The elevation addressing the R639 to the north and northwest will be relatively low. It is considered that the forest plantations at the rear and the green terrace roof gardens will assist the building to merge into its surroundings.

While this building could be seen as innovative it will break the existing skyline which, when coupled with its design and massing, will have a significant visual impact and will appear considerably more dominant than other buildings on site.

#### ***16.5.1.2 Hoban Memorial***

Section 3.4 of the EIS states that the Hoban Memorial, based on Hoban's 1829 Executive Mansion in Washington (i.e the White House), has been purposefully sited to address the R639. The building is to consist of three floors to accommodate a banqueting suite & museum with reproduction Lafayette Park and subterranean link to the proposed hotel. Mr. O'Connell titled the proposal as an intentional monument that will add to the heritage and tourism interest in the area. An Taisce questioned the purpose and need for such a type of development and considered that there was nothing to be gained by building a replica of the White House having regard to cultural heritage, and that this concept is more suited to an American type theme park.

Whether the design and layout of this building is suited to its rural location and its functions is an issue. There are also questions regarding its design concept. While it will be a landmark building and may be a tourist draw it could also be considered to be incongruous and overly dominant in this rural area, particularly having regard to the more organic theme of the other proposed buildings.

#### ***16.5.1.3 Chapel***

It is proposed to incorporate a multi-denominational chapel within the forested area of the site c.200 metres to the east of the Hoban Memorial and is to be modelled on a mid 18<sup>th</sup> Century New England Colonial style chapel design. Mr O'Connell advised the OH that it is normal to include a chapel as part of the proposed range of facilities and is one of the applicant's particular requirements. It is queried whether this type of building fits in with the more organic theme found elsewhere on the site.

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#### ***16.5.1.4 Racecourse and Greyhound track and associated Buildings***

This area is to consist of 7 no. structures i.e. the tracks, entrance building, grandstand, weighroom, greyhound building, stables, saddling boxes, maintenance building with accompanying maintenance yard and parking spaces. The buildings are to be designed using similar type materials to endeavour to create a visual consistency. Details of these materials and the functions of the individual buildings are given in Section 3.4 of the EIS.

The racecourse stand at 34.5 metres at its highest point and will appear as one of the higher buildings in the landscape with its shape providing a focal point. The stand will be glazed on three sides to allow the widest view of the racetrack. The elevation facing the dog track is curved and is also fully glazed. The EIS states that the organic curved profile to the roof was designed as a zoomorphic form in response to the organic policy of the design as a whole, and in this case recalls the curve of a horse's back.

The back-to-back arrangement for the horse and dog racing is considered to be a positive design feature and I would accept Mr O'Connell's view that the building will be seen in the context of the other buildings.

The Equestrian Centre is to comprise a number of buildings including an indoor and outdoor area, an accommodation block, stables with accompanying storage and hay barn, all of which form a composite unit with their shape, orientation and choice of material. It is not considered that this cluster of buildings, located on the south eastern portion of the site, adjacent to the golf club buildings will, in their own right, have a material visual impact other than as seen cumulatively as part of the overall scheme.

#### ***16.5.1.5 Arena***

The indoor arena has been designed to be a flexible space, which can be altered internally to cater for different scales of events and has a maximum capacity of 15,000 people with a seated capacity of approx. 9,500. The building is domed in shape with the intention that it forms a continuation of the surrounding topography, effectively growing out of the landscape (to be achieved through a green mounded roof) thereby emulating the prehistoric mound structures and reflecting the paleo-technology of the earliest inhabited Irish landscape. The roof of the structure is to retractable. Mr O'Connell considered that this building, which is partly underground will be seen in the context of a hill and this will minimise the visual impact on the site. Whilst this building is innovative in design and layout, it is questionable whether the proposed organic emphasis on the exterior and more elaborate details and design of the interior will produce a building that will be well integrated in form with its surroundings.

#### ***16.5.1.6 Meeting Square***

The Meeting Square is considered to be a key design element in the scheme and is the main entry point for visitors setting the initial impression of the venue. Furthermore it is to act as a filter for traffic towards the hotel, indoor venue, racetracks, and golf course from the car parks/bus parks within a landscape setting. The EIS states that the design concept of the space emulates the Irish Ring fort form creating an earth mound around a protected

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enclosure. Originally it was to incorporate a cluster of retail units around a large 88m diameter circular landscaped plaza. In view of the perceived impact this retail component has been omitted and replaced with exhibition spaces totalling c2011sq.m. Mr O'Connell informed the OH that the exhibition space will be associated with major events on the site and will host temporary exhibitions. An Taisce expressed concern that these exhibition spaces may not be viable and will end up as dead end space.

It is important that this area, as a focal point and main entrance to the Tipperary Venue, should be seen as a workable space of public interest. I am not convinced from the information submitted that this has been demonstrated to be the case. Regard is had to condition no. 20 of the Council's permission in this respect and it is considered that should the Board decide to grant permission that this type of condition would need to be included.

#### ***16.5.1.7 Golf Club***

Consistent with the overall campus design concept the golf club building has an organic curved shape rising from the ground to reach its peak at the end facing towards the main golf course. The building at its highest point is a two storey structure.

#### ***16.5.1.8 Heliport***

This is the most westerly of all the buildings and is the only building that will be located on the lands on the opposite side of the road between the M8 and the R639. The stone clad main building has a curvilinear organic shape and the ascending roof height is seeded (sedum green roofing) to allow the building to reflect the overall campus concept of integration with the landscape. As the Heliport area will be seen as separate to the main site, it will not be appear as part of the conglomeration of buildings/structures/organic forms within main site. It will be visible from the surrounding road network including the M8 and the R639 and N75.

### **16.5.2 Visual Impact**

It is considered that the site is of moderate visual quality with some landscape features of value or sensitivity within its boundary e.g. hedgerows, trees and rivers. It is noted that views in and out of the northern (R639) and western boundaries are relatively open with sporadic ribbon housing noted, while views from the southern and eastern boundaries are more closed due to the existing coniferous woodland. There are views to the Slieveardagh Hills located approx 4km in the distance to the south east, and these are seen in the background to the site.

The EIS states that no prominent view will be affected but that the skyline will be disrupted with illustrations of existing and proposed landscaping and photographs showing existing viewpoints contained in Appendix 5.7A. Following a request at the OH Ms. O'Donoghue, on behalf of the applicant, provided a Key Map of the said photo locations to assist in the assessment. She also informed the OH that photomontages were not considered necessary in view of both the scaled models and 3D Images available which give views of the completed development integrated with landscaping. However I consider the lack of such photomontages precludes the viewer from seeing what the proposed development would look

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like from various vantage points outside the site taking into account the topography of the landscape.

The Landscape and Visual Assessment undertaken concludes that in considering the overall cumulative effects of the development the long term landscape impacts would be slight to positive, due to the cohesive land use, the retained landscape features and the distinctiveness introduced by the green landmark buildings in an attractive visual environment. It considers that in the long term (c.20 years) the proposed development with associated landscaping will integrate well into the existing landscape and its cumulative landscape effects will be positive. Mr O'Connell advised the OH that one of the community benefits that will arise will be accessibility for the community to the site, although he reiterates that this will be a secure access so that the site does not become a place for inappropriate use. The site will then become an accessible landscape for passive and active recreation, which it was previously closed to.

While regard is had to this longterm integration, this depends on the successful implementation and maintenance of the project and the existing and associated landscaping. It is considered that initially until the landscaping has been implemented and matured that the proposal will significantly alter the appearance of the rural landscape of the site and will have a negative impact on the visual amenity of the area.

I submit that the proposed development, particularly the taller more substantial buildings such as the Casino hotel and grandstand buildings and the Hoban Memorial, will appear very visible in the area and will be seen in part from the M8, the N75 overbridge and from housing sited in proximity.

In terms of the adjoining residential properties 35 no. houses in the local area including Ms. Corrigan's (3<sup>rd</sup> party) are classified as Sensitive Receptors. A map showing the location of these receptors relative to the site has been included in Ms. O'Donoghue's submission to the OH. Ms O'Donoghue in response to questions considered that in the short term Ms. Corrigan's house would be moderately affected and in the long term (having regard to mitigation landscaping measures to be adopted) would be slightly affected. She provided details of the methodology used in carrying out the assessment and confirmed that the short-term visual impact was taken into consideration. The report submits that views are limited to those receptors within 500m from the site. I would consider that this is relatively conservative. No account was taken of views from New Birmingham to the south east which is at a higher vantage point or that the proposed development will be visible from various points along the Littleton to New Birmingham Road to the south.

At present as the area is rural and not in proximity to any larger settlements the night sky is dark. Drawings have been submitted showing lighting and illumination spill for the racecourse, greyhound track, driving range etc. While the lighting specification will design out light trespass there will be artificial lights present in some sections of the site where no external lighting was previously visible. This will result in a permanent change in the character of the site. It is recommended that should the Board decide to grant that a condition should be imposed to monitor the nature of lighting associated with the development and the extent of the light overspill.

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### **16.5.3 Summary**

The design concept, in part, attempts to be organic and integrate the proposed development into the landscape, while allowing the Neo-Classical building forms to be more dominant features. While variety and innovation in design is to be encouraged, the issue is whether these varying design concepts will appear at odds with each other or will form an integrated design concept in this rural location. It is also queried whether the height and massing of some of the buildings such as the hotel building will not appear overly dominant and alien in the countryside.

Having regard to the above the Board may consider that cumulatively the proposed design concept would produce an excessive form of overdevelopment leading to a type of development that would be out of character and context on these unzoned lands and decide to refuse on this basis. It may also consider that the neo-classical intentional monuments and the neo paleotechnological methods of construction will produce a variety of building forms included in part as organic shapes and sizes of mounds that will not appear visually well integrated as a design concept or into the landscape as a whole. Some of the buildings may be considered overly visually obtrusive such as the Hoban Memorial building, and the Hotel building by reason of height, design and massing could detract from the rural setting of the environment in this area not in proximity to an existing urban settlement.

However the Board may consider that the scheme would not detract from but rather improve and add to the overall visual amenity of what is now a relatively flat featureless unpopulated rural landscape. If the proposal is to be given positive consideration it must be considered in its totality without elements omitted. In that scenario I recommend that all of the proposed component buildings and associated functional uses be included within their respective landscaped setting. It is also recommended that a condition be attached in terms of phasing of the development.

## **16.6 CULTURAL HERITAGE**

I refer to the report prepared by Ms. A. Brereton which should be read in conjunction with this section. I would generally concur with her conclusions and for ease of reference propose to summarise her findings at this juncture.

Section 5.8.5 of the EIS refers to Cultural Heritage. The proposed development lies within an archaeologically rich landscape comprising both of dry and wetland topography. The EIS notes that archaeological investigations in advance of the M8 to the north identified several hitherto unknown archaeological features supporting evidence for prehistoric, medieval and post-medieval settlement. This would suggest a greater density of archaeological activity in the area than the standing monuments (RMP sites) alone would indicate and it is considered that there is potential for archaeological features/finds in the area. The Littleton Bog complex is considered to be a significant archaeological resource, although it is noted that the section of bog within the site area has been extensively disturbed by forestry plantation and deep drainage, which is likely to have had a detrimental impact on the archaeology of the area. However the potential remains for previously undiscovered subsurface items/features.

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It is noted that the documentation submitted in the relevant section of the EIS shows that the site was only partially surveyed. Following further information and clarification of further information Archaeological Test Excavations for Phases 1 and 2 were undertaken. Map No. 10043-R1 shows the extent of these areas. Phase 1 refers to a site area to the south of R639 and states that archaeological sites identified during testing are likely to be impacted upon by ground reduction and landscaping works. Preservation by record of these sites could be achieved by means of archaeological excavation in advance of construction works with monitoring to be required in order to identify any archaeological remains that may exist in unopened areas. The areas to the south of the testing area where the golf course, equestrian centre and the southern end of the race track are proposed were not tested owing to the dense tree cover. Archaeological monitoring of these areas would be required.

Phase 2 relates to the area of the site to the north of the R639 and considers that in general the area is of low archaeological potential.

An addendum notes that the proposed rising main proposed along the N75 to the Drish River, while running close to known archaeological sites, will not affect same. Monitoring will be required.

Effectively the geophysical survey and archaeological testing was carried out within an area of 109 hectares which is approx. a third of the overall holding but which would hold approx. 50% of the proposed build. Ms. Gowen advised the hearing that assessment in these areas was comprehensive. She also confirmed that a visual survey was undertaken of the remaining lands but as noted by Ms. O'Callaghan for the DoEHLG such a visual inspection was not referenced in the EIS. Ms. Gowen considered that the site has been adequately assessed for the purposes of planning permission and that there is a good knowledge and read of the archaeology on the lands with the findings being similar to the findings on the M8 and Lisheen. As such the scope of the risk for archaeological material can be estimated. She noted that the scope of the mitigation would be agreed with the DoEHLG.

Mr. Beck in his submission to the OH reiterated the comments made in his final report prior to the planning authority's decision stating that given the nature of the uses proposed on the 220 hectares which were not tested that the application of archaeological monitoring conditions were appropriate and mirrored the conditions set out in the DoEHLG's letter to the planning authority. Ms. O'Callaghan considered that ideally further archaeological assessment should be done in advance of a planning decision so that there would be opportunity to advise on the more detailed results of the assessment. Ms. Keane of the DoEHLG advised the OH that wetlands are dynamic with a high probability of a high archaeological presence. Up to 2 years could be required to adequately carry out a survey/assessment of these lands. While the conditions attached to the decision are similar to those as recommended by the DoEHLG further extensive assessment is required to be carried out post-decision with a detailed methodology to be agreed with the Department.

Whilst conditions 5-8 which pertain to archaeology were based on the recommendations of the DoEHLG in their letter dated 20/10/10 it is the preference of the Department that these archaeological issues be resolved prior to a decision. Whilst the issue of inaccessibility is acknowledged the area affected accounts for approx. 70% of the entire site. There is an unknown yet high possibility of archaeological remains on the larger part of the site which

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has not yet been subject to an assessment. Thus here is a substantial risk factor that cannot be addressed until post planning. I would therefore not be satisfied that the issue of archaeological potential and thus the matter of cultural heritage has been adequately addressed.

## **16.7 SITE SERVICES**

### **16.7.1 Water Supply**

Section 5.4.2 of the EIS pertains to water supply and has been supplemented by data provided by way of further information and clarification of further information. Mr. Ball on behalf of the applicant summarised the details at the OH.

The proposed development is to be served by its own potable water supply. The average daily total demand with the use of all facilities, is estimated to be 334,000 litres per day. Two high yielding production boreholes, located along the western boundary of the site, have been constructed so as to demonstrate that a sustainable independent water supply could be provided. The boreholes were tested including a long pumping test at five times the required pumping rate. The tests did not impact on water supplies outside the site. Therefore I accept the conclusions that long term pumping of the site a 20% of the rate sustained during the test will not have a significant impact on the yield from existing water sources off the site. The cone of drawdown created by the pumping spread at least 90 metres from the pumping boreholes but no measurable effect was recorded 400 metres from the boreholes.

I am satisfied that the applicant has provided adequate information on this matter and that the proposal would not prejudice the quantitative or qualitative status of the Templemore B groundwater body nor affect or impact on existing groundwater uses adjacent to the site.

Should the Board be disposed to a favourable decision I would recommend a condition which places the onus on the applicant to ensure that the private water supplies outside of the site are not adversely affected. In my opinion the wording of condition 43 attached to the planning authority's decision is not sufficiently clear in this regard.

### **16.7.2 Foul Drainage**

Section 5.4.4 of the EIS addresses foul water drainage and has been supplemented by way of further information and clarification of further information. Mr. O'Keefe's presentation to the OH on behalf of the applicant refers.

The entire scheme is to be served by a Membrane Bio-Reactor treatment plant and wetland/reed bed to be located in the north-eastern portion of the site. The plant has been designed to allow for large variations in daily inflow. Initially discharge from the system was to be to the Clover River which runs in a south-north direction through the centre of the site, however following insufficient dilutions at this location an alternative discharge to the Drish River at Drish bridge on the N75 at a point c. 10km to the west of the site is proposed. Mr. Woulfe for the Planning Authority advised the hearing that the works to install the

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relevant pipe along the N75 would be undertaken by the applicant and would not be dissimilar in nature or length to group water scheme projects.

As a consequence of discharges into the river from Lisheen Mine and presence of large areas of bog in the catchment elevated ammonia levels are recorded with the EPA rating the quality of the river as Q3-moderately polluted. The South Eastern River Basin District project has classified the Drish River catchment as being of moderate status with the objective to restore it to good status by 2020.

In assessing the assimilative capacity of the river the worst case scenario was taken where the treatment plant would be treating wastewater at its peak capacity of 292m<sup>3</sup>/d. It has been assumed that this discharge will be pumped at a rate of 10l/s, giving a flow rate equivalent to 864m<sup>3</sup>/d but occurring over approx. 8 hours of the day. This peak is only likely to occur for a few days after events in the 15,000 capacity arena or at the racecourse. Such events are estimated to occur every 6 to 8 weeks.

Table 5.4.3.4 of the Addendum to Chapter 5.4.3 of the EIS as submitted by way of further information sets out the assimilative capacity of the receiving waters and notes that there will be a 'slight negative impact on the chemical quality of the river' while not exceeding the limits as set out in the Surface Water Regulations 2009 for good status. It is accepted that the chemical status of the water downstream of the discharge will remain good while the discharge is not expected to have any perceptible impact on the biological water quality. Mr. O'Keefe confirmed this at the oral hearing.

Ms. O'Dywer for the planning authority considers that the obligations of Article 5 of the Surface Water Regulations, which requires that no public authority shall, in the performance of its functions, undertake same in a manner that knowingly causes or allows deterioration in the chemical or ecological status of a body of surface water, are being met in that the chemical status of the Drish River does not exceed the limits as set in the regulations.

By way of clarification of further information consideration was given to the impact of the proposal on the operation of the north Tipperary County Council Cabragh (Thurles) waste water treatment plant and Dew Valley Meats which are located c.5.6km downstream of the proposed development both of which discharge to the River Suir downstream. The Drish River enters the Suir approx. 2.5km downstream of the proposed discharge location. No information was readily available for the Thurles waste water treatment plant so a theoretical assimilative capacity was calculated based on the mean of the five months of monitoring data since March 2010 and using the average flow since March. Based on assumed discharge parameters at Thurles the theoretical assimilative capacity of the river is exceeded by the existing discharge from the WWTP and Dew Valley meats. However it is stated that monitoring results indicate that the River Suir does assimilate the existing effluent almost immediately without obvious increases in physio-chemical parameters (see table 2.2 of report by Tobin Consulting Engineers submitted by way of clarification of further information) whereby the limits as set out in the Surface Water Regulations are not exceeded. It is concluded that the proposed discharge from the proposed development will have minimal impact on the assimilative capacity available for Thurles WWTP as the increased levels of pollutants due to the proposed discharge is small.

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The Board is advised of section 15.2 above which addresses Appropriate Assessment and the downstream impact of the proposal on the Lower Suir cSAC.

### **16.7.3 Flood Risk Assessment**

By way of further information a flood risk assessment was undertaken which concluded that flooding is not a serious issue for the project as proposed and designed with no recorded history of flooding on the site. All the proposed floor levels are above any predicted flood levels such as would be expected to occur during the 1 in 100 year and 1 in 1000 year flood. It is also concluded that the project would not cause flooding problems downstream of the site. I consider the conclusions to be acceptable.

### **16.8 AMENITIES OF ADJOINING PROPERTY**

The area of the site is characterised by one off housing along the local road network. Invariably both the size and nature of the project would alter the rural character of the area and impact on their amenities as currently enjoyed.

Ms. Corrigan's and Mr. Clarke's property is located on the opposite side of the R639 to the north-west of the main body of the site and, while not straight-on, will be afforded views of the main complex. Ms. O'Donoghue for the applicant informed the OH that the visual impact at their property would be classified as moderate in the short term reducing to slight in the long term. Invariably in view of the subjective nature of visual impact assessment Ms. Corrigan does not concur with this conclusion. Certainly the introduction of such a complex into a hitherto rural environment will give rise to a change in the views available.

Of particular concern pertains to the proximity of the proposed link road to their property and the impact on their amenities in terms of noise and loss of privacy. I note that the map presented by Mr. Corrigan to the hearing (submission 1) would not appear to be up to date with confusion arising due to the fact that the map was attached to the last correspondence forwarded to the appellants by the Board following a section 132 request (a copy of the archaeological report prepared on behalf of the applicant). Mr. Galligan for the applicant confirmed that the correct location and layout of the link road is as given on drawing no.3625 PA 07 on file. The link road would not be directly adjacent to their property but would be c. 176 metres from their northern boundary at its closest point.

Notwithstanding the fact that the traffic associated with large events would only arise every 6 to 8 weeks the day to day operations of the complex will invariably result in the increase in traffic movements along the link road and in view of its proximity to their site boundary will have an impact. The fact that the M8 located c.600 metres to the north west and the R639 to the front of the dwelling give rise to a background noise level characterised by road traffic does not, in my opinion, negate the potential impact. As noted in the addendum to the EIS and in Tables 4 and 5 of the applicant's response to the appeal the noise impacts as measured at the nearest dwelling to the north would be classified as moderate on major event days. As suggested the absolute minimum that would be required in this instance is significant screening along the extent of the road as proposed in the applicant's response to the grounds of appeal and detailed on figure 6.

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The 2<sup>nd</sup> major concern for the appellants pertains to the noise and activity associated with the heliport. As noted by the agent for the applicant in response to the grounds of appeal their dwelling is approx. 780 metres from the site of the heliport and whilst it may not be the nearest dwelling to it would, in my opinion, be impacted by same in terms of noise from aircraft. The applicant expects that the heliport would be used only during daylight hours (08:00 to 22:00) and between 280-300 times a year. The operating hours would rule out movements following evening concerts/events taking place in the venue. Invariably there would be a concentration of the movements on event/race days and I consider that the anticipation that there would be a maximum of 8 helicopter movements in any one day to be underestimated. While I acknowledge the proposed flight path operations invariably the noise from such craft is a material concern. In view of same should the Board be disposed to a grant of permission I recommend that a condition be attached stipulating the operation of the heliport to daylight hours only and the maximum number of helicopter movements per day in the interests of clarity. In terms of animal welfare I would accept Mr. Sheridan's assertion that animals habituate to such type movement.

Mr. Sheridan advised the OH that the acoustic design of the venue would require the roof to be closed for concerts. As such the main issues in terms of noise would pertain to that arising from sports events, tannoy and commentary systems etc. which would not be expected to be significant. Should the Board be disposed to a grant of permission a condition stipulating the relevant noise parameters for day and night time events is recommended.

## **16.9 OTHER ISSUES**

### **16.9.1 Climate and Air Emissions**

An Taisce expresses concern about the reliance on a tourism model predicated on air travel. In view of the international context afforded the project air travel would be the main means by which international tourists would access the country. The agent for the applicant in the response to the grounds of appeal notes that the NSS encourages the opportunities to realise tourism centres in less developed tourism areas with a strong overseas component. I consider that the larger issue of aviation patterns is a matter for adjudication at a more strategic level and does not come within the remit of this application.

I would concur with the applicant that the issue of air emissions from traffic generated by the proposal would not have a significant negative impact and that in view of the limits to be imposed on helicopter movements that an analysis of emissions from same is not necessary. As above I would submit that the issue pertaining to greenhouse gases arising from international aviation go far beyond the remit of this assessment in terms of the acceptability or otherwise of a tourism complex. In my opinion the issue is of strategic importance that must be tackled at national and international level from which clearly stated policies and objectives to address the concerns would be formulated.

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## 16.9.2 Duration of Permission

The applicant is seeking a permission duration of 7 years. Mr. O'Connell advised the OH that the duration is sought due to the scale and nature of the proposal. The initial infrastructure would be provided in the 1<sup>st</sup> instance in a single contract and would take 12-18 months. In addition the issuing of franchising out the components of the scheme would also take time with work on same only commencing on receipt of permission while the casino-hotel is predicated on the introduction of the necessary licensing. He also considered that the duration would allow for the issues pertaining to the motorway and archaeology to be satisfactorily addressed. It is noteworthy that the latter issues arose consequent to the lodgement of the application and the request for the 7 year permission. Notwithstanding the latter considerations I note from the programme of works set out in Figure 3.3 of the EIS, as amended by the indicative phasing programme submitted by way of further information, that a 38 month (3.2 years) construction period is envisaged which is materially short of the standard five year duration.

In deciding whether such a duration is appropriate or not I consider that the complexity of a development and the potential need to comply with procedures outside the planning arena could be of reasonable concern. For example an energy related project which requires connection to the Eirgrid transmission network or connection to the Gaslink network, which are subject to separate regulated procedures can introduce considerable delays outside the control of the applicant. In such instances I consider that such a duration of permission to be reasonable. I am not entirely convinced that there is a comparable situation arising in this case. In addition to allow a 7 year permission on the premise that it provides sufficient time for a 3<sup>rd</sup> party to carry out the necessary works ie. M8 improvement works or to undertake further investigation which is more appropriately undertaken prior to the issuing of a decision ie. archaeological assessment, is far from an optimum arrangement and, in my opinion, is not the intent of the procedures allowing for a longer duration of permission.

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## 17.0 CONCLUSIONS AND RECOMMENDATION

In conclusion:

- Good planning is based on ordered decision-making. To grant the proposal which is accepted to have both a local, regional and national context and importance could undermine the ordered decision making commencing at strategic level which, I submit, a project of this type and scale requires.
- In view of the size and scale of the proposal entailing individual components which serve a regional function I consider that the applicant has failed to demonstrate that the proposal, both in terms of its individual components and as an entity in its own right, would not be better located within the gateway of Limerick-Shannon so as to assist in its consolidation and expansion as stipulated in the National Spatial Strategy and Regional Planning Guidelines. I also consider that the proposal entailing a number of uses with a regional recreational and cultural function such as the racecourse and indoor arena would be contrary to the guidelines which seeks that such type facilities be located in the gateway/hub area.
- I consider that there is a disconnect between the policies of the Regional Planning Guidelines and those set out in the current County Development Plan. Policy ECON2 of the current County Development Plan is open to interpretation. Due to the inclusion of the planning application reference number the criticisms levelled that the proposal is developer rather than plan led are understandable.
- Having regard to the rural location of the site approx. 11km from Thurles at a remove from any quality public transport provision and in proximity to the M8 and taking into consideration what I consider to be unsatisfactorily substantiated modal split targets lacking in detailed plans of how they are to be achieved, I consider that the proposed development, which would be principally dependent on the private car would lead to the creation of an unsustainable car dependent development.
- To seek to restrict the capacity of the overall scheme is not considered practicable and thus the proposal is considered to be premature pending the completion of the necessary works to the M8 which are outside the control of the applicant.
- The rural character of the area will be materially altered. The neo-classical intentional monuments and the neo paleotechnological methods of construction will produce a variety of building forms included in part as organic shapes and sizes of mounds that will not appear visually well integrated as a design concept or into the landscape as a whole.
- There is an unknown yet high possibility of archaeological remains on the larger part of the site which has not yet been subject to an assessment. Thus here is a substantial risk factor that cannot be address until post planning. I would therefore not be satisfied that the issue of archaeological potential and thus the matter of cultural heritage has been adequately addressed.

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- The amenities of adjoining property will be affected but the issues arising could be addressed by way of condition.
  - The site can provide for its own water supply without impacting on 3<sup>rd</sup> party supplies beyond the site boundary. Effluent disposal can be satisfactorily addressed without giving rise to concerns regarding surface water quality in the Drish River nor the River Suir cSAC downstream.
  - The scheme should be considered in its entirety. The omission of certain uses would undermine the applicant's assertion regarding the synergy and dynamism of the sum of the parts.

I therefore recommend that permission for the above described development be refused for the following reasons and considerations.

### **REASONS AND CONSIDERATIONS**

1. Having regard to the scale of the proposed development stated to be of regional and national importance, and notwithstanding the policy ECON2 pertaining to Strategic Employment set out in the current development plan for the area, it is considered that such a major facility should be located within or in close proximity to a designated gateway as identified in the National Spatial Strategy so as to assist in its consolidation and expansion in accordance with NSS policy and in order to avail of a range of public transport options and full access to supporting facilities. Having regard to the location of the site outside any designated urban area, remote from public transport infrastructure and other complementary facilities, it is considered that the proposed development in this location would lack ancillary supporting services and would be reliant primarily on private transport. Accordingly, it is considered that the proposed development would be inappropriately located, would contravene the policies as set out in the National Spatial Strategy and would therefore be contrary to the proper planning and sustainable development of the area.
2. It is a policy of the current Mid-West Regional Planning Guidelines that uses which have a regional recreational/cultural dimension be located within the Gateway Hub Area until a regional strategy for the provision of such facilities has been drawn up. It is considered that the proposed development, which includes a number of uses that have a stated regional recreational/cultural dimension, on an unserved rural site at a remove from the town of Thurles and the gateway of Limerick-Shannon would be contrary to the said policy. In addition to allow the said uses on the site would be prejudicial to the realisation of the proposed regional strategy for such uses and thus would be contrary to the proper planning and sustainable development of the area.

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3. It is considered that the proposed development would be premature pending the provision of the 2 no. slip roads to complete the diamond interchange at Two Mile Borris (junction 5) on the M8 and provision of a segregated left turn lane on the existing southbound diverge of the M8. The Board is not satisfied on the basis of the submissions made in connection with the planning application and the appeal that the proposed development would, by reason of the generation of large volumes of additional traffic onto the M8, not adversely affect the use of and contribute to congestion on the national road network. The proposed development would contravene national policy to preserve the level of service and carrying capacity of the national road network and to protect the public investment in the road. The proposed development would also contravene current Development Plan policies for the area, which seek to safeguard the strategic role of the national road network in catering for the safe and efficient movement of major inter-urban and inter-regional traffic. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
  4. Having regard to the location of the proposed development, approximately 11 kilometres from the town of Thurles in a rural area poorly serviced by public transport and to the nature of the uses, it is considered that the proposed development, which would be principally dependent on private car, would lead to the creation of an unsustainable car dependent development. The proposed development would, therefore, contravene the policies of the Mid-West Regional Planning Guidelines and the strategic aim of the current North Tipperary Development Plan (which seeks to co-ordinate transport and land use planning and reduce the need to travel) and would, therefore, be contrary to the proper planning and sustainable development of the area.
  5. Taking into consideration the fact that only 110 hectares of the 300 hectare site area has been subject to archaeological assessment, the Board is not satisfied on the basis of the documentation submitted that the proposed development at this location would not have a significant and negative impact on the archaeology of the site. The proposed development would be prejudicial to the protection of the archaeological heritage of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Inspectorate**

**April, 2011**