



An
Bord
Pleanála

Inspector's Report ABP305815-19

Development	Construction of a Discount Foodstore incorporating off-licence area, coffee shop, parking, boundary treatment and all ancillary works.
Location	Knockballynameath, Corbally, County Clare.
Planning Authority	Clare County Council.
Planning Authority Reg. Ref.	19/376.
Applicant	Lidl Ireland GmbH.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant	Brickiln Limited.
Observers	None.
Date of Site Inspection	11 th March, 2020.
Inspector	Paul Caprani.

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1.0 Introduction

ABP305815-19 relates to a third-party appeal against the decision of Clare County Council to issue notification to grant planning permission for the construction of a discount foodstore at a site at Corbally on the northern outskirts of Limerick City. The grounds of appeal argue that there are a number of deficiencies in the content of the planning application submitted and that a robust retail impact assessment has not been undertaken. It is also suggested that the proposed development displays a substandard level of urban design and concerns are also expressed that there is non-sufficient capacity in the existing road network to accommodate the development.

2.0 Site Location and Description

- 2.1. The appeal site occupies a rectangular plot of land which is currently undeveloped located on the western side of the Corbally Road, the R463 approximately 3 kilometres north of Limerick City Centre. The site is rectangular in shape and has a stated site area of 0.575 hectares. The Carraig Midhe Road runs along the northern boundary of the site. It serves a large residential area further west of the subject site. The Corbally Road is a relatively busy road forming a major radial route into Limerick City from the suburban areas and peripheral areas to the north of the City. A large retail centre, The Westbury Centre, is located on lands to the immediate south of the site. The centre accommodates a bar (currently vacant), a pharmacy, a fast-food takeaway facility, a Tesco Express and other retail units and community services. Lands on the eastern side of the R463 directly opposite the site are exclusively occupied by residential dwellings and part of the Westbury residential estate. Lands to the north of the site are currently in agricultural use. The site is located within the 50 kilometre speed limit associated with Limerick City.
- 2.2. The site itself is relatively flat and is bounded along the R463 by a low wooden fence with a wire mesh fence on the inside. The site is relatively flat and is covered by scrubland and semi-mature trees. A c.2 metre-high wall runs along the northern boundary of the site along the southern side of the access road leading to the

Carraig Midhe Estate. The site has frontage of approximately 90 metres onto the Corbally Road (R463) and approximately 70 metres onto the road which runs along the northern boundary of the site.

3.0 Proposed Development

3.1. Planning permission is sought for the construction of a new discount foodstore on the subject site. The building is to be located to the rear (western side) of the site and a total of 87 surface car parking spaces are to be located to the front of the site. The discount foodstore which incorporates a sales area of 1,192 square metres is also to accommodate a small café area, bakery, preparation area and staff ancillary spaces. A large chiller/freezer area together with a delivery and storage area is also to be incorporated within the building. The delivery area is to be located at the northern end of the building. The main public access is to be located at the south-eastern corner of the building. A separate access is provided to the café area.

3.2. The vehicular access to serve the site is to be taken off an existing access which runs along the southern boundary of the site and currently serves the existing commercial units at the Westbury Centre to the south of the site. Bicycle parking is also to be provided within the surface car park. The building itself incorporates a very shallow mono-pitched roof rising from a height of 5.01 metres to 6.739 metres above ground level. The coffee shop located to the front of the building incorporates a flat roof and stone elevational finish with extensive glazing. The coffee shop rises to a height of 5.39 metres above ground level. The building itself accommodates extensive glazing on the south-western elevation and on parts of the south-eastern elevation. The north-eastern elevation and north-western elevation incorporates an extensive nap plaster finish. The building is 65 metres in length and just over 35 metres in width. The building has a gross floor area of 2,123 square metres.

4.0 Planning Authority's Decision

4.1. Decision

4.1.1. Clare County Council issued notification to grant planning permission subject to 15 standard conditions.

4.2. Documentation Submitted with the Planning Application

4.2.1. The planning application was accompanied by the following documentation.

- A Planning Report and Retail Assessment
- A Design Statement.
- A Service Design Report.
- A Traffic Impact Report.
- A Lighting Impact Assessment Report.

4.3. Planning Authority's Assessment

4.3.1. A report from the Irish Aviation Authority states that it had no observations to make on this application. A number of third-party observations were submitted the contents of which have been read and noted. Some of the observations object to the proposed development while one observation does not object to the proposal in principle but suggests that a number of conditions should be attached in any grant of planning permission.

4.3.2. A report from the Senior Executive Engineer of Shannon Municipal District notes that the traffic projections contained in the report submitted with the application by Stephen Reed Consulting (Traffic and Transportation) do not take into account the increased traffic anticipated when the Limerick Northern Distributor Road and the University of Limerick Northern Campus Projects are realised. In this regard it is recommended that a special contribution be required for the design and implementation of a revised junction to include new traffic signals and the realignment of the Westbury Estate access road. Details of the amount of contribution will be calculated and submitted to the Planning Department at a later date.

4.3.3. A report from Irish Water stated that there was no objection subject to conditions.

4.3.4. Two letters of unsolicited additional information were submitted on behalf of the applicant. One included a cross section plan showing the finished floor levels of the proposed Lidl store and the neighbouring duplex apartment. A second letter questioned the rationale and motive in relation to the current appellant's observation

which was submitted to the planning authority in respect of the proposed development.

4.3.5. A Road Design Planning Report suggests that an upgrading of the junction onto the Corbally Road will be necessary to cater for the proposed development and an estimate cost for these works are in the region of €47,000. A contribution of 50% of this amount should be sought. The vehicle tracking demonstrates that vehicles entering and exiting the new development are utilising both the inward and outward lanes at the same time. Concerns were expressed that this may lead to additional traffic congestion.

4.3.6. The applicant is also required to ensure that the bicycle parking provision and electronic charging points are also provided in accordance with the development plan and all signs and road markings comply with the relevant guidelines.

4.3.7. The initial planning report assesses the proposed development under the following headings.

- Principle of Development
- Retail Impact Assessment
- Traffic Issues
- Design and Visual Amenities
- Flood Risk
- Public Health
- Archaeology and Built Heritage
- EIA and Appropriate Assessment
- Renewables
- Third Party Submissions
- Development Contributions

4.3.8. It concludes that the principle of development is acceptable having regard to the zoning objective for the site, the findings of the Retail Impact Assessment and the site's proximity to the existing commercial area of Athlunkard. However, it is considered that further information is required in relation to the following:

- The applicant is asked to clarify details of the separation distance between the rear of the building and the existing duplex development to the immediate west of the subject site. Concerns are expressed that the proposed buildings could have an overbearing impact on these apartments. In this regard the applicant is required to submit a revised site layout plan drawing showing the proposed finished floor levels in the context of the existing finished garden levels and finished floor levels of the residential development to the west.
- The applicant is also requested to submit two cross sectional drawings to scale in an east-west direction showing the proposed development in the context of the existing residential duplex development to the west.
- The applicant is advised that a reduction in the overall floor area/scale of the development may be required in order to satisfactorily address the above. A reduction in the floor area may assist in the provision of adequate parking and traffic movements within the site.

4.4. Further Information Submission

4.4.1. Further information was submitted on 4th September, 2019.

4.4.2. A revised site layout plan was submitted moving the location of the building eastwards, away from the western boundary. It is noted that the store's rear elevation is much lower than that adjoining restaurant in the Westbury Shopping Centre (to the south of the proposed store). The drawings submitted indicate that the separation distance between the duplex apartments to the west and the rear elevation of the store has been increased to between 18.9 and 19.5 metres. The number of car parking spaces have also been increased from 84 to 87 spaces. Details of the revised floor areas of the food store and coffee shop are also indicated in the response to additional information.

4.4.3. The additional information was also the subject of new public notices.

4.4.4. A further planner's report dated 10th October, 2019 considered the additional information to be adequate and the separation distance now proposed will not have an impact on adjoining residential amenity nor will it be overbearing on the houses in question. It is therefore recommended that planning permission be granted for the proposed development.

4.4.5. In its decision dated 2nd October, 2019 Clare County Council issued notification to grant planning permission for the proposed development subject to 15 conditions.

5.0 Planning History

There appears to be no planning history associated with the site. The local authority planner's report provides details of planning history nearby.

6.0 Grounds of Appeal

6.1. The site was the subject of a third-party appeal by Brickiln Limited of Rock Street, Tralee, County Kerry. The grounds of appeal are outlined below.

6.2. It is noted that the originally the pre-application consultation report expressed numerous concerns in relation to the proposed development including concerns in relation to:

- The principle of development.
- Potential implications on Natura 2000 sites.
- The proposal constitutes overdevelopment of the site.
- Car parking requirements are not achieved
- and the overall size and scale of the building may be an issue.

6.3. Notwithstanding this the application was submitted and was accompanied by a number of reports (please refer to Section 4 above).

6.4. It is argued that the retail impact assessment submitted with the application incorporates very material shortcomings and omissions. These include:

- An arbitrary identification of the catchment area.
- There is no baseline assessment of the viability or vitality of existing centres in proximity.
- There is no assessment of the existing or permitted floorspace in the catchment area.

- There is no sequential assessment in terms of location and this is contrary to the National Retail Planning Guidelines.
 - There is no assessment of the potential impact of the comparison element which forms a significant element of the applicant's retail offer.
- 6.5. Concerns were also expressed that traffic impact assessment was undertaken in June, 2018 during a period of school holidays. It is also noted that the traffic projections do not take account of increased traffic anticipated when the Limerick Northern Distributor Road and the University of Limerick Northern Campus Projects are realised.
- 6.6. The lands in question are zoned mixed use in the Athlunkard Settlement Plan (incorporated into the Clare County Development Plan 2017-2023). The purpose of this zoning is to “facilitate the provision of additional amenities which would contribute to the quality of life and sustainability of the area”. The proposal will constitute an overconcentration of retail use and would not be in accordance with Objective 4 of the National Planning Framework to ensure the creation of attractive liveable well-designed high-quality urban spaces. It is also argued that the proposed development will be inconsistent with Athlunkard's designation as a large village. The retail functions of large village centres are to meet the top-up convenience shopping needs. It is noted that there are at least 10 other convenience stores within a 5 kilometre radius of the appeal site. The nearest of which is a Supervalu store located c.2 kilometres to the south of the site. The grounds of appeal also make reference to various other convenience stores and shopping centres in the wider 5 kilometre radius.
- 6.7. To permit the proposed development would be a direct and material contravention of Policy CDP7.8 of the development plan and would set a highly undesirable precedent for similar type developments.
- 6.8. It is also argued that the proposed development displays a substandard level of urban design and will contribute significantly to visual clutter at this highly prominent corner location. Any development on the subject site should make a strong positive contribution to the public realm. An area of hardstanding takes up almost 50% of the appeal site and the proposed landscaping and tree planting cannot mitigate against

the overall poor design. It is suggested that the design statement accompanying the application is generic and biased in terms of its analysis.

- 6.9. It is also suggested that the proposed development falls below the requirements in terms of car parking standards. It is suggested that the supermarket alone would generate a requirement of between 90 to 126 car parking spaces.
- 6.10. Finally, it is argued that utilising the existing access to the Westbury Centre which forms part of a four-arm junction which is currently operating beyond capacity, will exacerbate significant queuing and delays which are already a daily occurrence - particularly at peak times. While it is acknowledged that a special development contribution levy is to be applied, the appellant nevertheless remains extremely concerned that the conditions do not stipulate a timeframe within which these works must be commenced and completed.
- 6.11. For the above reasons it is recommended that the decision of Clare County Council should be overturned, and planning permission should be refused for the proposed development.

7.0 Appeal Responses

7.1. Planning Authority's Response to the Grounds of Appeal

- 7.1.1. A response was received from Clare County Council on 22nd November, 2019. It is considered that the qualitative and quantitative assessment received with the application, and the testing of the development against Section 4.9 criteria set out in the Retail Planning Guidelines, the proposed development is appropriate on a mixed use site adjacent to the existing commercial centre. It is considered, having regard to the unique position of Athlunkard in an area designated for growth with links to the university, that the proposed development is appropriate to the settlement.
- 7.1.2. The planning authority also considers the proposed design layout to be satisfactory.
- 7.1.3. While it is acknowledged that there is a shortfall of 21 car parking spaces it is noted that there is public transport serving the site. The site is located in the centre of a large village settlement with other parking available. There is a potential for linked trips and it is considered that the café is considered a complimentary use to the existing commercial centre. It is also noted that the site is fully accessible from

nearby housing estates and the proposal supports sustainable transport objectives contained in county development plan. For this reason, the car parking is deemed to be acceptable.

- 7.1.4. With regard to the capacity of the road network, it is stated that Clare County Council has applied for funding to carry out the works at this junction and the works are expected to commence in the second half of 2020. While the works are primarily in relation to the exit from Westbury itself, the overall efficiency of the junction will be improved as a result of the works to be undertaken.

7.2. **Applicant's Response to the Grounds of Appeal**

- 7.2.1. A response to the grounds of appeal was received from Tony Bamford Planning Consultant.
- 7.2.2. From the outset the response suggests that the proposed development is vexatious. It is questioned why a company based in County Kerry would have any interest in a neighbourhood foodstore proposal in County Clare. It is also noted that the original observation to the planning authority was restricted to traffic issues only. However, the current appeal is more expensive introducing a range of issues which were not raised in the original objection. It is requested that the Board either dismiss the appeal or hold an oral hearing to determine the true intentions of the appellant.¹
- 7.2.3. Notwithstanding these points the response goes on to address the issues raised in the appeal.
- 7.2.4. With regard to the retail assessment, it is stated that the catchment represents an area for which most of the stores trade would be derived. It is considered that the area assessed as appropriate given the lack of family food shopping opportunities within the defined area. It is also suggested that due to the good road networks in the area that the site can serve villages to the north like Parteen and Ardnacrusha.
- 7.2.5. There is no food shopping available at all in Parteen and only on a small scale in Ardnacrusha. It is also suggested that the proposed development will help reduce vacancy and assist in the regeneration of vacant units within the Westbury Centre. The proposal will also assist in reducing traffic levels into the city centre to avail of convenience shopping. The planning report highlights the lack of convenience retail

¹ In its decision of the 18th December, 2019 the Board based on the recommendation of the planning inspector decided not to hold an oral hearing in respect of the current application and appeal.

storage space to serve the northern environs of Limerick City. The proposal to provide a discount store at the subject site will greatly improve the retail offer for the surrounding residential area particularly for the elderly and those families that do not have access to a car.

- 7.2.6. With regard to the sequential approach, in terms of determining an appropriate location for the store, it is stated that this issue was discussed with the planning authority at pre-planning stage and it was confirmed by the planning authority that having regard to the zoning of the location of the site, next to a neighbourhood centre, and the substantial deficiencies in the existing retail offer, that a sequential assessment would not be reasonably acquired.
- 7.2.7. The net sales area of the store is split between food (958 square metres) and non-food (239 square metres) as indicated in the planning report. It is argued that the level of comparison sales is very small given the overall level of comparison floorspace in the city. The comparison element proposed in this instance is not considered to represent a serious threat to an existing comparison good outlet in the wider area. It is also suggested that the range of comparison goods within the retail store is extremely limited.
- 7.2.8. The response goes on to set out policy statements contained in the development plan as they relate to “larger villages”. The subject site is located in a designated larger village. It is argued that the area does not have a reasonable range of services and it is suggested that the policy statements contained in the development plan allow for additional retailing and that in certain villages centres, larger stores may be provided. It is submitted that the proposed development will contribute to maintaining the vitality and viability of the “village” of Athlunkard.
- 7.2.9. The provision of a Lidl store would serve to strengthen the existing neighbourhood centre and will provide more sustainable multipurpose trips to the commercial area. It is therefore argued that the proposal would facilitate and fulfil the land use zoning objective in terms of facilitating the provision of additional amenities which would contribute to the quality of life and sustainability of the area. It is noted that a ‘shop’ is a permissible use under the land use zoning objective and a ‘restaurant/café’ is a use which is open for consideration. For the above reasons it is argued that

proposed development in no way contravenes National Planning Framework Objective No. 4 as suggested in the grounds of appeal.

- 7.2.10. With regard to urban design considerations, it is argued that the proposal fully accords with the Retail Design Manual and the overall layout and design reflects the existing commercial buildings to the south at Westbury. As in the case of the proposal, the commercial buildings to the south of the site are located to the rear (west) of the site. The proposal has been designed to ensure that there are appropriate connections both socially and economically with surrounding communities and land uses.
- 7.2.11. The car parking proposed is at the lower limit of what is permitted in the development plan. This issue is dealt with in more detail in the submission attached an appendix from Stephen Reid Consulting which specifically deals with the traffic issues (summarised in the paragraphs below). The proposal provides good linkages with the Westbury Centre to the south. The site has been designed to incorporate good pedestrian permeability and pedestrian access.
- 7.2.12. A separate report is attached from Stephen Reid Consulting specifically dealing with traffic and transportation issues. The modelling undertaken in terms of the potential impact on the surrounding road network is set out for morning peak hour, lunchtime and evening peak hour on a typical weekday. It is estimated that the proposed development in general will contribute additional traffic levels of between 5 and 12%. It has long been recognised that traffic signals on the R463 at the Westbury Centre are not operating at optimum efficiency. This can impact on peak period traffic flows on the R463. The applicant has identified in consultation with Clare County Council that an upgrade of the junction could be undertaken which will facilitate right hand turning filter signals at the approaches together with an additional exit lane which would significantly improve the capacity of the junction.
- 7.2.13. The traffic impact assessment was carried out using surveyed traffic flow data across a full typical weekday. It is suggested that the capacity of the junction and local road network was carried out using realistic and evidence-based traffic count data and projections. The assessment in question was robust and did not allow for discounting of non-primary trips or multi-purpose trips. Therefore, the actual impact of the

development on the R463 is likely to be somewhat less than that indicated in the TIA.

8.0 Development Plan Provisions

- 8.1.1. Athlunkard is designated as a 'large village, in the Clare County Development Plan. Large villages are described as settlements which provide a reasonable range of services and facilities to the surrounding areas. The strategy for large villages to provide small scale well-designated residential, commercial and community development which have regard to the character of the settlements. A key priority is to retain community and social facilities within the villages and to encourage indigenous enterprises and service provision. It is an objective of the development plan to ensure that the large villages throughout the county maintain existing population levels and services and to ensure that future growth is balanced and sustainable and it is relative and appropriate to the size, scale and character of the village in question.
- 8.1.2. Section 7.4.5 of the development plan relates to retail aspects of large villages. The retail function of large village centres is to meet top-up convenience shopping needs (i.e. those products which need to be replaced between main food shopping trips and to provide local services). From a social and economic perspective, they are also important as they constitute a sustainable provision of retailing while also binding communities and social networks in rural areas.
- 8.1.3. While it is unlikely that these centres will attract sufficient expenditure to support the largescale provision of retail or comparison goods, they remain an important focus on the community and consequently their continued vitality and viability is strongly supported. The focus will be to ensure that existing retail outlets remain and if required, new floorspace is provided either through the construction of additional units or a qualitative improvement of the existing floorspace to enhance the level of services provided to local communities.
- 8.1.4. It is an objective of the development plan to encourage the retention of existing retail services and facilitate retail development within designated village centres, where it is appropriate to its location and catchment.

8.2. **Athlunkard Settlement Plan**

8.2.1. It notes that Athlunkard's proximity to Limerick City has resulted in it having a predominantly suburban character. In addition to a well-defined neighbourhood centre Athlunkard is also served by a church and nursing home. The general objectives relating to the area include:

- To consolidate existing residential areas in the settlement.
- To secure the development of additional social infrastructure to serve the large community in the Athlunkard area.

8.3. The subject site is governed by the zoning objective MU1. The junction serving the subject site is also earmarked for a junction upgrade. The zoning objective MU1 relates to mixed use. Permissible uses under the mixed use zoning objective includes shop and a restaurant/café is open for consideration.

8.4. **Retail Planning Guidelines 2012**

8.4.1. In general, these guidelines seek to ensure that retail development must follow the settlement hierarchy of the state and the retail development must be appropriate to the scale and function of the settlement as designated in the development plan and the core strategy. The distinction between discount stores and other convenience goods stores which was contained in the Retail Planning Guidelines 2005 no longer applies. The proposed development is therefore treated under the policy headings relating to large convenience goods stores.

8.4.2. The key policy objectives of the Guidelines include

- To ensure plan-led development/retail strategies.
- To implement the sequential approach to site selection.
- To ensure competitiveness in the retail sector.
- To encourage sustainable travel.
- To ensure retail development plays its part in realising quality outcomes relating to urban design.

8.4.3. The sequential approach seeks to locate retail developments in town centres and to allow retail development at the edge of centre/or out of town locations where all other options are not available.

8.4.4. Section 4.11.1 of the Guidelines relate to large convenience stores. It states that large convenience goods stores should be located in city or town centres or in district centres or on the edge of these centres and should be of a size which accords with the general floorspace requirements set out in the development plan/retail strategy to support and add variety and vitality to existing shopping areas and also to facilitate access by public transport for shoppers.

8.4.5. Where a significant element of the store is indicated to be for comparison goods, the potential impact of the element of the store on existing comparison goods within the catchment must be included in the assessment of the application.

8.5. Natural Heritage Designations

8.5.1. The site is not located within or contiguous to a Natura 2000 site, a natural heritage area or proposed natural heritage area. The nearest designated site is the nearest Natura 2000 site is the Lower Shannon SAC Special Area of Conservation which is located just over a half a kilometre to the south-west of the subject site.

9.0 EIA Screening Assessment

Having regard to the nature of the development comprising of a relatively modest convenience retail outlet in an urban area on a 0.575 hectare site, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination.

10.0 Planning Assessment

10.1. I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the grounds of appeal and the applicant's response to the appeal. I consider the critical issues in determining the current application and appeal before the Board are as follows:

- Vexatious Nature of Appeal
- Deficiencies in the Content of the Planning Application
- Perceived Inadequacies in the Retail Study submitted with the Application

- Compliance with Zoning Objectives
- Compatibility with Policies in the Development Plan for Large Villages
- Urban Design Issues
- Traffic Issues

10.2. Vexatious Nature of Appeal

- 10.2.1. The applicant suggested in his response to the grounds of appeal that the Board should dismiss the said appeal on vexatious grounds. This is primarily predicated on the fact that the applicant, it is contented, runs a Supervalu in County Kerry, a considerable distance from the subject site and therefore will not in any way be affected by the proposed development. It is also suggested that the applicant in the grounds of appeal has raised numerous issues other than those raised in the original observation to the planning authority.
- 10.2.2. I do not consider that the appeal should be dismissed on either of these grounds. A third party is entitled to submit a planning appeal regardless of whether the proposal may or may not have direct impacts on the third party in question. The planning legislation makes no differentiation as to who may or may not appeal a planning decision on the basis of whether or not they have sufficient interest or in immediate proximity to the site of the application and appeal. The Board in adjudicating on any application and appeal are required to consider any relevant planning issues raised, and on whether or not the proposed development is in accordance with the proper planning and sustainable development of the area.
- 10.2.3. Likewise, the applicant in this instance has acknowledged that the appellant has submitted a valid observation to the planning authority in respect of the proposed development. While this observation raised concerns in relation to traffic, this does not preclude the applicant to raise additional issues in submitting any appeal to An Bord Pleanála. That is to say that the appellant is not restricted or confined to raising issues in the appeal to the Board to only those issues raised in the observation submitted to the planning authority.
- 10.2.4. On this basis I do not consider that the Board should conclude that the appeal in this instance is vexatious and should be dismissed.

10.3. Deficiencies in the Content of the Planning Application

10.3.1. The grounds of appeal argue that on the basis of a pre-application meeting which took place on 18th July, 2018 where numerous concerns were raised with the applicant including:

- The principle of use at this location.
- The non-provision of other uses other than retail.
- The potential impact on Natura 2000 sites.
- Overdevelopment issues, visual and car parking issues were all raised as concerns.

10.3.2. It is suggested that the planning authority in dealing with the application did not address many of these issues. In relation to this concern I would state the following:

10.4. The nature of pre-application consultations is non-binding. Therefore, while the planning authority may have raised initial concerns in relation to these issues it is possible that any concerns that the planning authority expressed may have been allayed during the course of the pre-application consultations or the subsequent application that was submitted on foot of these pre-application consultations.

10.4.1. Furthermore, the application has been subject to a third-party appeal to An Bord Pleanála and therefore the application will be adjudicated upon on a de novo basis. As such, the Board will assess the planning application in accordance with the proper planning and sustainable development of the area on the basis that it was made to it in the first instance. Many of the concerns raised by the planning authority in the pre-application consultation will therefore be assessed and evaluated under the various headings set out below.

10.5. Perceived Inadequacies in the Retail Study submitted with the Application

10.5.1. The grounds of appeal suggest that the retail study submitted is inadequate on the basis that it:

- Failed to justify the size and scale of the catchment area.
- The report submitted failed to evaluate and quantify various baseline information.
- Failed to properly apply the sequential assessment.

- Failed to assess the impact arising from the proposal on comparison shopping in the area.

10.5.2. In relation to the defining and delineating the retail catchment area, it is acknowledged that no methodological approach based on drivetimes, existing retail turnover, retail yields per sqm etc are set out as part of the retail study submitted. Many of the aspects referred to are often assessed in RIA's. However, the study reasonably points out in my view and sets out details of the existing retail profile in Ballyglass, Cappvilla (the DED in which the site is located and the contiguous DED to the east respectively) as well as the towns at Parteen and Ardnacrusha to the north. It is noted that this area accommodates a population of approximately 7,000 persons and that there is little retail choice on offer in this area. The study also sets out details of population increases envisaged within the area. The report also details spending on food and convenience goods within the area and it is noted that (see Table 7.1) the turnover of the small convenience offer in the area amounts to approximately 25% of total spending. It suggests therefore that there is a significant retail leakage out of the area. The figures presented suggest that the retail demand in the Ballyglass area far outstrips the turnover of the existing top-up shopping locations (namely small convenience store in Ardnacrusha) and a small Tesco Express to the south of the subject site.

10.5.3. I consider that the report submitted adequately demonstrates that there is a need for additional convenience retail floorspace to serve the population. The proposal also assesses the proposed development under the criteria set out in Section 4.9 of the Retail Impact Guidelines for Planning Authorities 2012. While the information contained in the Retail Study may not slavishly adhere to the various methodological approaches which are often employed in the course of preparing a retail impact assessment, I consider that the documentation accompanying the application sets out the coherent and cogent basis. based on relevant data, which suggests that there is sufficient latent demand in the area to cater for a new neighbourhood scale convenience retail store such as that proposed.

10.5.4. With regard to sequential assessment, I consider that what is proposed in this instance is essentially a local neighbourhood convenience type store to serve a growing suburban area in the northern environs of Limerick City. The grounds of appeal make reference to numerous other convenience stores in the vicinity of the

subject site. The Board will note however that the store referred to including Supervalu, Lidl, Aldi and Dunnes Stores are all located between 3 and 5 kilometres away (with the exception of one Supervalu on the Corbally Road which is located c.2 kilometres to the south). In the context of an urban area, it cannot be considered that the sites in question can be considered proximate to the population catchment intended to be served by the proposed development. This is a particularly important consideration in my view in terms of promoting more sustainable forms of trip generation within urban areas. It is highly unlikely that the population of the Corbally area will cycle or walk to the existing convenience stores between 2 and 5 kilometres away. The provision of a local convenience store centrally located and proximate to existing retail and service outlets is likely to generate more sustainable trip generation.

- 10.5.5. Finally, the grounds of appeal suggest that no proper analysis was undertaken in respect of the potential impact derived from the comparison element to be incorporated in the retail outlet. The non-food element contained in the proposed development amounts to 239 square metres. This sales floor area is modest in the context of the overall comparison retail floorspace in the city.
- 10.5.6. Furthermore, there is only one comparison retail unit in the Westbury Centre to the immediate south (a pharmacy). It cannot be reasonably argued in my view that the comparison element associated with the convenience store would in any way jeopardise or impact upon comparison retailing activity in the immediate area or the wider city in general. Section 4.11.1 of the retail planning guidelines highlight that *“where a significant element of the store is indicated to be for comparison goods the potential impact of that element of the store on the existing comparison goods stores within the catchment must be included in the assessment of the application”*. In this instance less than 20% of the overall floorspace is to be given over to a comparison element. This does not in my view constitute a significant element as specified in the Guidelines and therefore no further assessment is required in this regard.
- 10.5.7. If the Board disagree with the above evaluation, it is of course open to it to request a more detailed and comprehensive retail impact assessment prior to determining the application before it.

10.6. Compliance with Zoning Objectives

- 10.6.1. The grounds of appeal argue that the proposed development is contrary to the land use zoning objective pertaining to the site "MU1". This zoning category seeks to *"facilitate the provision of additional amenities which would contribute to the quality of life and sustainability of the area"*. The grounds of appeal suggest that the proposed development does not fulfil this land use objective. Use as a shop is a permitted use under the land use zoning objective and it is therefore my considered opinion that the land use proposed in this instance is acceptable in principle on the subject site. Furthermore, I consider that the provision of a large convenience store would contribute to the sustainability of the commercial area serving the Athlunkard and Corbally area and in providing a local convenience store would contribute to the quality of life. The provision of a café would also provide some element of mixed use which would complement and help sustain commercial services within the district/neighbourhood centre within Athlunkard.
- 10.6.2. On this basis I do not consider that the proposed development contravenes the land use zoning objectives pertaining to the site.

10.7. Compatibility with Policies in the Development Plan for Large Villages

- 10.7.1. Athlunkard is designated as a large village in the development plan. The retail function for large villages as set out in the Plan seeks to meet the "top-up convenience shopping needs" i.e. those products which need to be replaced between main food shopping trips and to provide local services. From a social and economic perspective, the development plan points out that any shopping provided is important (as they need to constitute a sustainable provision of retailing whilst also binding communities on social networks in rural areas).
- 10.7.2. While Athlunkard is designated as a large village in the development plan, it is quite clear that the area in which the subject site is located is not characteristic of many of the other designated large villages situated throughout County Clare which are surrounding by large areas of rural hinterland. The subject site in this instance constitutes a suburban area on the periphery of Limerick City and does not in itself constitute a self-contained rural village. Many of the policy statements contained in the development plan as they relate to large villages therefore in my opinion are not directly applicable to the subject site. The subject site in my opinion should be

assessed in the context of a suburban neighbourhood area on the outskirts of a larger urban area. Information submitted with the application indicate that the local catchment area for which the proposed development is to serve amounts to some 7,000 people. The population for Athlunkard/Ballyglass for 2011 was over 2,100 persons. This is likely to have increased in the intervening years. Other designated 'large villages' in County Clare (including Feakle, Quilty, Lissycasey, Kilfenora, Corofin, Crusheen, Carrigaholt etc.) all of populations range between 100 and 800 persons. Thus, other designated large towns in the development plan have considerably smaller populations than the population catchment area of the subject site. I would argue therefore that the retail function associated with Athlunkard/Ballyglass is significantly different than the retail function associated with designated large villages such as Feakle (population 105), Quilty (population 173), Lissycasey (population 325), Kilfenora (population 175). It would be unreasonable in my view to argue that the retail function associated with Athlunkard/Ballyglass would be the provision of small convenience shops to meet the "top-up convenience shopping needs".

10.8. Urban Design Issues

- 10.8.1. The grounds of appeal are generally critical of the urban design approach associated with the proposed retail store. It is suggested that the proposal will generate a significant degree of visual clutter and at a highly visible and prominent location. Where the subject site may be located on a prominent site along the Corbally Road, I do not accept that the proposed structure is substandard or monolithic in appearance. The overgrown nature of the site in itself constitutes a visual eyesore and the development in this regard would in my opinion constitute a visual gain. I would generally agree with the planning authority that the proposed design and layout is satisfactory in incorporating a variety of external finishes including extensive glazing and local stone finishes. The proposal in my view is also commensurate in terms of size and scale with the existing Westbury Centre to the south. The incorporation of extensive glazing will help animate the elevation particularly at the entrance. The proposal generally follows the building line of the adjoining commercial development of the site and reflects the same layout in terms of building footprint and parking arrangements to the front of the buildings. The subject site is located in a suburban area in the northern environs of Limerick City which has been

the subject of extensive development in more recent years. The subject site or its surroundings cannot be considered to be in any sensitive in visual terms. The overall design in my view is appropriate and reflective of a typical commercial/retail development located in a suburban district centre. The proposal also includes adequate landscaping both hard and soft in the car parking area surrounding the building.

10.9. Traffic Issues

- 10.9.1. Concern is expressed that the proposed development will impact on the carrying capacity of the R463 which is identified in the county development plan as a strategic route. The subject site is located within a built-up area and within the 50 kmph speed limit. Furthermore, the proposal avoids incorporating a new access onto the regional route in question. The proposal seeks to access the R463 via the existing access serving the Westbury Centre to the south of the site and as such avoids a further proliferation of access points onto the R463.
- 10.9.2. All parties acknowledge that there is a requirement to upgrade the signalised junction serving the site in order to ensure a more efficient discharge of traffic from the various arms of the junction. The report from Mr. Stephen Reid, Traffic Consultant appended to the applicant's response to the grounds of appeal, indicates that the junction in question was assessed using LINSIG software and the assessment was carried out using realistic and evidence based traffic count data and projections. Both the applicant, and perhaps more crucially Clare County Council, are of the opinion that the proposed works to be carried out to the junction will improve the overall efficiency of the junction which will enable and facilitate the proposed development. The subject site is zoned for development and any development on the subject site would give rise to increased trip generation at the junction in question. I am satisfied based on the information submitted including the traffic impact assessment submitted with the original documentation that it is being adequately demonstrated that the junction in question incorporating requisite improvements as proposed will be sufficient to cater for the proposed development.
- 10.9.3. With regard to the timing and implementation of the proposed improvements, the planning authority's response to the grounds of appeal states that Clare County Council Road Design Office has applied for funding to carry out the works at the

junction and these works are expected to commence the second half of this year.

The applicant is required to contribute a financial contribution under the provisions of Section 48(2)(c) of €23,500 in order to facilitate the upgrading of the junction.

- 10.9.4. With regard to car parking provision, it is acknowledged that there is a modest shortfall of approximately 20 spaces to be provided at the subject site as per the requirements of the development plan. Such a shortfall is not significant in my view particularly having regard to the need to encourage more sustainable transport trip generation and the fact that it is anticipated that there would be many shared trips between the retail store, cafe and the existing Westbury commercial development to the south of the site. The planning authority also highlights the potential for linked trips and the fact that the site is fully accessible by pedestrians from nearby housing estates and is relatively well served by public transport. (routes 301, 313 and 346).

11.0 Appropriate Assessment

As referred to earlier in my report the subject site is located just over half a kilometre from the River Shannon SAC. The site however is located in an urban area and is to be served by public infrastructure including surface water and foul sewage infrastructure. Having regard to the lack of hydrological connectivity between the subject site and the Natura 2000 site in question, and having regard to the nature and scale of the proposed development and the nature of the receiving environment no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

12.0 Conclusions and Recommendation

Arising from my assessment above, I consider the proposed retail store to be in accordance with the zoning objective pertaining to the site. I am also generally satisfied that a retail store at this location would not have a material and adverse impact on the existing retail environment and would generally be acceptable in terms of traffic safety and convenience. I therefore recommend that the decision of Clare Co Council be upheld in this instance and that planning permission be granted for the proposed development.

13.0 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

14.0 Reasons and Considerations

Having regard to:

- (a) the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in April, 2012,
- (b) the policies and objectives of the Clare County Development Plan 2017-2023 including the Settlement Plan for Athlunkard,
- (c) the pattern of development in the area, and
- (d) the nature, scale and design of the proposed convenience retail unit,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be an appropriate form of development at this location, would not be prejudicial to public health and would generally be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on the 28th day of June, 2019, the 2nd day of July, 2019, and the 4th day of September, 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the

agreed parties.

Reason: In the interest of clarity.

2. The proposed retail store and café shall be located on site in accordance with the revised site layout plan drawing No. 01-02 received by the planning authority on the 4th September, 2019. The finished floor level of the proposed development shall be 11.8 metres ordnance datum.

Reason: In the interest of orderly development.

3. Water supply and drainage arrangements including the disposal of foul and surface water, shall comply with the requirements of the planning authority for such works and services. In this regard detailed proposals for the disposal of foul and sewage wastewater shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of public health.

4. Prior to the commencement of development, the developer shall contact Irish Water regarding the provision of water services necessary to enable the proposed development.

Reason: In the interest of public health.

5. The construction of the development shall be managed in accordance with a construction management plan which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of environmental protection, amenities, public health and safety.

6. The opening hours of the proposed discount foodstore and café shall be restricted to between 0800 hours to 2200 hours Monday to Sunday. Delivery shall not take place before 0700 hours Monday to Saturday or before 0800 hours on Sundays or public holidays. Deliveries shall not take

place after 2200 hours on any day.

Reason: To protect the amenities of the area.

7. The external wall finishes of the structure shall be in accordance with the plans and particulars submitted with the application unless otherwise agreed in writing with the planning authority. Details of the proposed roof shall also be agreed with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity and in the interest of the proper planning and sustainable development of the area.

8. Comprehensive details of the proposed external lighting system to serve the development including the surface car park shall be agreed in writing with the planning authority prior to the commencement of development. The agreed lighting system shall be fully implemented and operational prior to the opening of the development.

Reason: In the interest of public safety and visual amenity.

9. No advertisement or advertisement structure including advertising signs, flags, symbols, emblems, logos or other advertising other than the signs indicated in the plans submitted to the planning authority shall be erected or displayed on the building or within the curtilage of a site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

10. The landscaping scheme submitted to the planning authority shall be carried out within the first planting season following the substantial completion of the construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

11. The internal network serving the proposed development including turning bays, junctions, parking areas, footpaths, kerbs, pedestrian crossings and disabled car parking spaces shall comply with the detailed standards of the planning authority for such road works.

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

12. Details of all cycle parking provided on site shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: To ensure adequate bicycle parking is available to serve the development in the interest of sustainable transport.

13. Site development works and construction works shall be carried out only between the hours of 0800 hours to 2000 hours Monday to Friday and 0800 to 1600 hours on Saturday and not at all on Sunday or bank holidays. Deviations from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: To safeguard the amenities of property in the vicinity.

14. All service cables associated with the proposed development shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

15. Adequate provision shall be made to facilitate access to and use of the proposed development by people with disabilities. The access and use requirements shall be in accordance with the latest available guidelines from the National Rehabilitation Board at the time of the commencement of development.

Reason: To ensure that all reasonable facilities are provided for the convenience of people with disabilities.

16. No outdoor storage whether temporary or permanent shall take place without a further grant of planning permission.

Reason: In the interest of orderly development and prevent unauthorised development.

17. Full details of each future occupier of the café shall be submitted to and agreed in writing with the planning authority prior to the occupation of the unit.

Reason: In the interest of development control and orderly development.

18. The developer shall pay to the planning authority a financial contribution of €34,758 (thirty four thousand seven hundred and fifty-eight euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

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

19. The developer shall pay the sum of €23,500 (twenty three thousand five hundred euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of works to the Westbury Junction serving the site which will be necessary to facilitate the development. This contribution shall be paid prior to commencement of development or in

such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

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

Paul Caprani,
Senior Planning Inspector.

30thth March, 2020.