

An  
Bord  
Pleanála

**Board Order**  
**ABP-311569-21**

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: P21/756**

**Appeal** by Daithi O'Connor care of P. Coleman and Associates of Bank Place, Ennis, County Clare and by others against the decision made on the 9<sup>th</sup> day of September, 2021 by Clare County Council to grant subject to conditions a permission to Maom Property Limited and Lohan Property Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Change of use of part of the ground floor level and subdivision and change of use of part of the first floor level within the existing Westpoint building, from retail warehouse to a discount foodstore (including off-licence use); extension of the existing building to include a new lobby area at the north elevation to serve the foodstore (circa 29 square metres); extension of the rear of the existing building to accommodate a new single storey loading bay and HGV loading bay ramp (circa 80 square metres); resulting in a total gross floor area of 2,270 square metres (1,000 square metres net retail area) for the discount foodstore use; additional works to accommodate the subdivided first floor unit [no change of use proposed] will include: extension of the existing lobby at ground and first floor levels at the northern elevation to accommodate a new entrance to the existing unit at first floor level; construction of a new goods lift and circulation stair core (southern elevation) at ground and first floor levels [resulting in a total of circa 154 square

metres of additional new floor area] to service the reconfigured (separate) existing unit at first floor level; other works will include: all associated internal revised layout and external (elevation) alterations to the building at ground and first floors; reconfiguration of the car park layout including provision of eight number cycle spaces, removal of the existing service yard and seven number car parking spaces to provide a revised parking layout; erection of two number free standing double sided internally illuminated totem signs at the site entrances; two number internally illuminated gable signs, three number shop front signs and circa 121 square metres of solar panels at roof level, all at circa 1.26 hectare site located at Westpoint, Kilrush Road, Clonroadbeg, Ennis, County Clare.

## **Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Reasons and Considerations**

Having regard to the scale and retail use of the proposed development, the land use zoning of the site as 'Commercial' and the 'COM6' principal development objective for the site which seeks to secure the optimum reuse of the existing building on site by providing a neighbourhood centre that serves the Cahircallamore neighbourhood with a mix of uses anchored by a supermarket/grocery store up to 1,200 square metres net floor area, it is considered that, the proposal for a retail store with a net area of 1,000 square metres meets the applicable development objective and complies with the zoning for the applicable zoning for the site. Furthermore, having regard to the wider provisions of the Clare County Development Plan 2017-2023, as varied, including Section 7.4.1 which identifies Cahircallamore neighbourhood as having additional capacity for convenience retail, to the Retail Planning Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in April, 2012 and to the site characteristics, which comprises an existing partially vacant building that is fully serviced, with parking and good

pedestrian access, to the pattern of existing and permitted development in the vicinity and the submissions on file, it is considered that, subject to compliance with the conditions set out below, the proposed development would not unduly affect the viability and vitality of the Ennis town centre, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted the 'Commercial' zoning and the 'COM6' principal development objective for the site that is to secure the optimum reuse of the existing building on site, by providing a neighbourhood centre that serves the Cahircallamore neighbourhood with a mix of uses anchored by a supermarket/grocery store up to 1,200 square metres net floor area.

The Board was satisfied that the proposal for a retail store with a net area of 1,000 square metres meets the applicable development objective and complies with the applicable zoning as set out in the Clare County Development Plan 2017-2023, as varied. The Board also took into consideration the site characteristics, which comprises an existing partially vacant building on a site that is fully serviced, with parking and good pedestrian access and were satisfied that when taking with the applicable local and national planning policy, the proposed development would not unduly affect the viability and vitality of the Ennis town centre, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The Board was satisfied that the proposed development would not be contrary to local or national planning policy and overall would be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. (a) The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, together with the additional plan and particulars received by An Bord Pleanála on the 3<sup>rd</sup> day of November 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.  
  
(b) This condition is subject to the terms and conditions of the parent permission on this site (Clare County Council Planning Register Reference: P18/632), except where altered by the particulars of the current application and the conditions set out below.

**Reason:** In the interest of clarity.

2. Prior to the commencement of the development, the developer shall submit the following for the written agreement and approval of the planning authority for the following:
  - (a) a revised swept analysis for Heavy Good Vehicles that indicates the existing cycle lane at this location where any alterations to the site entrance are required to facilitate access these shall be submitted to the planning authority for prior agreement and approval in writing,
  - (b) proposals for the provision of 20 number covered bicycle parking spaces,
  - (c) details of boundary treatment proposals along the south of the site so as to screen the delivery yard and services area.

- (d) details of any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant equipment, and
- (e) a landscaping plan for the site indicating details of the trees and plants to be planted or retained on site.

**Reason:** In the interests of visual amenity, traffic safety and orderly development.

- 3. (a) The two proposed totem signs on the Kilrush Road and Clonroadbeg Road shall be omitted.
- (b) No additional advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.
- (c) Prior to the occupation of the development, details of the location, design, colour and materials of all external signage, shall be submitted to the planning authority for written agreement and approval.

**Reason:** In the interest of visual amenity.

- 4. Opening hours of the proposed discount foodstore 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:** In the interest of residential amenity.

5. 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.

**Reason:** In the interest of visual amenity.

6. Comprehensive details of the proposed external lighting system to serve the development including the surface car park shall be submitted to, and 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 interests of public safety and visual amenity.

7. Details of all signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenity of the area.

8. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

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

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

10. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle (EV) charging stations/points and ducting shall be provided for all remaining car parking spaces to facilitate the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the operational phase of the development.

**Reason:** In the interest of sustainable transportation.

11. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

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

**Reason:** In the interest of public health.

13. All service cables associated with the proposed development (such as electrical and telecommunications) shall be located underground throughout the site.

**Reason:** In the interests of visual and residential amenity.

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

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

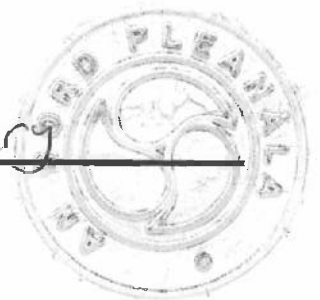
*Patricia Calleary*

**Patricia Calleary**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**



**Dated this 30<sup>th</sup> day of November 2022**