



An
Bord
Pleanála

Inspector's Report PL 03 248755.

Development	Discount Store (with off license), free standing double side sign, gable end signs, poster sign and entrance, carparking. (87 spaces) Vehicular access, ESB substation landscaping boundary treatment and site development works.
Location	Abbey Street, Killaloe, Co. Clare.
Planning Authority	Clare County Council.
P. A. Reg. Ref.	16/938
Applicant	Aldi Stores.
Type of Application	Permission.
Decision	Grant Permission.
Appellant (1)	Bill and Maureen Kenny.
Appellant (2)	John Daly.
Appellant (3)	Michael and Joan Gough.
Date of Site Inspection	12 th September, 2017.
Inspector	Jane Dennehy.

1.0 Site Location and Description

- 1.1. The site which has a stated area of 9,998 square metres, is in the ownership of the Church of Ireland and comprises two adjoining fields enclosed almost entirely to the east and north by a stone wall. The historic curtilage of The Deanery included the appeal site. Killaloe is a mediaeval settlement which is located adjacent to the Clare county boundary on the west bank of the River Shannon. Ballina is on the east side of the river opposite Killaloe in County Tipperary.
- 1.2. The Deanery, (circa 1825) and ancillary structures are in use as a dwelling and are located to the north and east of the site of the proposed development. To the east is the R463, (A route to O'Brien's Bridge and Limerick) to the north is Abbey Street off which there is gated access and to the west the site adjoins Convent Hill Road (L3088) at the lower end of which is Millstream Road where there is residential development. There is a laneway at the rear of the houses to the south west of the site. Houses on individual plots with frontage onto the R463 are located to the south east. St Flannan's Cathedral and Killaloe Bridge are to the north west. The principle commercial and mature residential areas are to the north side of Abbey Street where the ground level rises northwards. The Convent Hill Shopping Centre is opposite the Deanery on the north side of Abbey Street.
- 1.3. The ground within the site is uneven, is in use as grazing lands and slopes steeply from north to south. A line of mature trees functions as a berm and along with a millrace, partially exposed, subdivides the lands within the site. Stone walling is located along the abbey street and the frontage onto the R463 to the east. A steel fence is located on the west boundary on the inner side there is dense vegetation.

2.0 Proposed Development

- 2.1. The application is a repeat application with proposals for a redesigned scheme in which the applicant seeks to overcome the reasoning for refusal of permission for a prior proposal for a discount store development on the site. (P. A. Reg. Ref. 15/465. PL 03/245531 refers. See Para 5.1 below.)

2.2. The main elements of the proposed development are:

- Single storey discount store with off license. (GFA 1,610 square metres)
- One free standing double sided, internally illuminated sign, 2 internally illuminated gable signs, one internally illuminated poster sign and one entrance sign in glass.
- Eighty-seven parking spaces in on site carpark to serve the store and public parking provision,
- Vehicular access onto Abbey Street frontage.
- An ESB substation, landscaping, boundary treatments and site development works.

The proposed hours of business are 0800 – 2200 hours Mondays to Saturdays and 1000 hrs – 2200'k hrs Sundays.

2.3. The application and/or supplementary submissions were accompanied by the following documents.

An Architectural Heritage Assessment. (Molloy and Associates)

An Archaeological Assessment – John Cronin & Associates

An Appropriate Assessment Screening report.

A Traffic Impact Assessment – TPS Ltd prepared for John Spain Associates;

A Tree Survey and Plan of Preservation and Impact Assessment.

Engineering Planning Submission Report to Water Services Department,

A Retail Impact Assessment report.

Retail Design Statement

An Engineering Planning Report.

An Architectural Design Statement.

Photomontages and Methodology Statement – Object Previews;

Landscape Design Strategy – Stephen Diamond Associates, Chartered Landscape Architects;

Clare County Council – Downes Associates, Consulting Structural and Civil Engineers;

Letter of consent to the application by Representative Body of the Church of Ireland (Landowner.)

- 2.4. The application was subject to a multiple item request for additional information and new notices on parking provision, manoeuvrability, vision splays, pedestrian facilities, TIA data and boundary treatment. Further information was received by the planning authority on 1st December, 2016 with new notices of significant additional information being published in April, 2017.

3.0 Planning Authority Decision

Decision

- 3.1. By order dated, 24th May, 2017, the planning authority decided to grant permission subject to conditions which include the following requirements:

Condition No 3: A special development contribution for provision of a pedestrian crossing facilitating the development and the area.

Condition No 4 (b): Exclusion of internally illuminated signage. A compliance submission is required for details of the proposed signage at the entrance.

Condition No 5 (a) A compliance submission is required for details of the proposed operation and management of the car spaces available to the public in the carpark.

Condition No 5 (b) A compliance submission is required for detail of pedestrian access to the public carpark spaces.

Condition No 6 (a) and (b): a requirement for construction of a mortared masonry wall at a minimum height of 1.8 metres on the entire boundary with the Deanery grounds. It is to be constructed in weathered limestone laid in regular horizontal course 400 mm high bedded in 3.5 NHL mortar and capped with Liscannor flagstone not less than 50 mm thick. A compliance submission is required.

Condition No 7: A requirement for engagement of a licensed archaeologist to excavate pre-development test trenches and undertake desk research and prepare a written report for agreement with the planning authority.

Condition No 8: A requirement for a compliance submission in respect of public lighting proposals.

Condition No 9: A requirement for hours of business to be confined to 0900 to 2200 hrs Monday to Saturdays and 1000 hrs – 1900 hrs Sundays. Deliveries are restricted to 0700 hrs (0800 hrs Sundays) and 2200 hrs.

Condition No 13: A requirement for preparation of a Construction Management Plan incorporating a construction traffic management plan.

Planning Authority Reports

3.2. Planning Reports

3.2.1. According to the planning officer's initial report the current proposal differs from the previous unsuccessful proposal as follows:

- The unit is redesigned and relocated to the lower south west corner and the parking (reduced in numbers to 87 from 122) to the northern end of the site adjacent to the Deanery and additional tree retention.
- The lands were previously zoned for residential development at the time of the consideration of the previous unsuccessful proposal. An architectural heritage assessment has been provided with the current application.

3.2.2. In his final report, further to review of responses to multiple item requests for additional information and, receipt of supplementary technical reports indicating some outstanding concerns, the planning officer concluded that the proposed development was acceptable and that permission could be granted with resolution of outstanding matters being subject to conditions.

3.3. Other Technical Reports

3.3.1. Conservation Officer: The report of the conservation officer of 4th January, 2017 includes two recommendations:

- (1) a requirement for construction of a mortared masonry wall to separate and screen off the development from the adjoining site and grounds of the Deanery which is included on the record of protected structures.
- (2) A requirement for trial trenching to be carried out by a licensed archaeologist (to establish the presence of sub surface remains) prior to the commencement of the development.

3.3.2. The supplementary report of the Conservation Officer indicates that revised proposals for a boundary wall and as to the fabric and finish of a proposed wall at 1.8 metres height along the boundary with the Deanery were not completely satisfactory but that the matter could be addressed by condition.

3.3.3. The Roads Design Office. The report of the Roads Design Office dated 16th January, 2017 indicates recommendations for further submissions: These requirements include provision:

- Provision for sightlines at the entrance free of obstruction in accordance with DMURS standards on a revised site layout drawing. (The details provided on Drawing No 13049/p/003 were considered to be inaccurate.) Provision for an access only route from the southern end and exit only from the main entry point on Abbey Street with appropriate directional signage and,
- Auto track analysis for HGV movements at the Abbey Street entrance.

The supplementary reports of the Roads Design Office of 12th May, 2017 notes the multiple modifications and additions indicated in the supplementary submissions of the applicant. It indicates recommendations for conditions to be attached including a recommendation that the applicant be required to provide a financial contribution toward the cost of a pedestrian crossing facilitating the development and other purposes.

3.4. Prescribed Bodies

3.4.1. Dept. Arts, Heritage, Regional Rural and Gaeltacht Affairs. (Architectural Advisory Service.) The submission dated 12th January, 2017 indicates acceptance that the proposed development is compatible with the character and setting of the adjoining Deanery.

The submission contains a recommendation for clarification by way of an additional information request:

- Details of lighting specifications providing for minimisation of overspill into the Deanery grounds.
- Replacement of 1.2 metres high timber fencing on the eastern boundary with appropriate alternative treatment,

- an assessment of visual impact of removal of tree 3269, recommended by the arborist,
- additional visualisations for views to the Deanery and from the Deanery westwards and towards the location of the proposed store to the south,
- a specification for stone wall construction (using local exemplars) and,
- further clarification on boundary planting with a requirement large tree planting to take place prior to and management during construction works.

3.4.2. National Parks and Wildlife Service.

A submission received on 12th January, 2017 notes a separation distance of 300 metre from the Shannon SAC and Lough Derg SPA and a recommendation that the competent authority be satisfied that adequate ecological information is provided for screening purposes. Conditions are recommended for inclusion, if permission is granted,

3.5. Third Party Observations

- 3.5.1. Submissions were received by the planning authority from the three third party appellant parties. In brief the issues raised relate to comparability to the previous unsuccessful proposal, strategic and local policies and objectives, drainage, light and noise pollution, impact on traffic, on-site parking provision and, the adequacy of the existing local road network especially during peak hours overlooking of residential properties and, loss of residential amenities.

4.0 **Planning History**

- 4.1. The site location has the following planning history.

Under P. A. Reg. Ref. 15/465. PL 03/245531 the planning authority decision to grant permission to was overturned following third party appeals to the Board. The file is attached.

P. A. Reg. Ref. 13/08003: An approved (Part 8) proposal for development of a public carpark with four two spaces on the northern section of the site which has not been constructed.

P. A. Ref. PL03/130806 / P00/2156 refers. –The planning authority decision to grant permission to Wellingford Construction for a retail and commercial development now known as the Convent Hill Shopping Centre on the north side of Abbey Street was upheld following appeal. (This is the parent permission for this development.).

5.0 Policy Context

Development Plan

- 5.1. The operative development plan is the Clare County Development Plan, 2017-2023.
- 5.1.1. According to Volume 3 the county is divided into four municipal districts with Killaloe being within the Killaloe District (formerly within the East Clare Local Area Plan, 2011-2017).
- 5.1.2. Zoning and specific objectives are shown on Map 1. The site is in an area subject to the zoning objective: “Commercial” and within an area which is subject to the zoning objective “Open Space” which is adjacent to the R463 to the east. A “Shop” is permitted in Principle. (Supermarkets, convenience retailing and discount stores are not included in the zoning matrix in Appendix 2) Applications for retail development which are “permitted in principle” within areas subject to the “Commercial” zoning objective should be accompanied by a report on sequential testing to demonstrate that the site selected is the optimal location for the proposed development. Lands at the southern edge of the site are subject to the zoning objective LDR6: (Low density residential.) A ‘shop’ is ‘open to consideration’ within the LDR zone.
- 5.1.3. Retail Objectives for Killaloe are set out in Volume 3:

“Killaloe provides a range of local services meeting the day to day needs of its catchment population. Killaloe also benefits from its tourist and visitor attractions, which allows it to support a wider range of comparison goods than would be justified by its local catchment population. The traditional provision along Main Street/Church Street has been supplemented by the development of the Convent Hill Shopping Centre to the rear of properties fronting the south side of Main Street. In accordance with the provisions of the Retail Strategy for the Mid West Region 2010-2016, the following are the objectives for retail development in Killaloe:

- *To support the town as an important centre for the provision of convenience goods and retail services*
- *To encourage the provision (where not already provided) of good quality convenience outlets capable of supporting a main food shopping trip in the town centre.*
- *To support the provision of non-bulky and bulky comparison goods outlets in the town centre where these are aimed at meeting the needs of the local catchment populations.”*

5.1.4. Objective 7.6 of the Clare County Development Plan 2017-2023 provides for support to service towns as important centre for conveniences goods and retail services and to encourage good quality convenience outlets capable of supporting main food shopping.

5.1.5. There are no recorded monuments within the site, the nearest being a holy well and an associated Sheela na gig circa one hundred and twenty metres to the north east.

5.1.6. The site location is adjacent to the statutory Architectural Conservation Area (ACA) for the town centre are on the north side of Abbey Street. According to the ACA: “

“The street pattern in Killaloe today is very similar to that shown on the Grand Jury Map of 1787 and it is likely that many of the existing houses and shops date from before that period. By 1837 the town had 300 houses and the town of Killaloe today has not changed greatly from that time. The town still retains its urban character and many of its ancient and later public buildings still remain. Killaloe comprises, for the most part, two storey buildings constructed of rendered, local sandstone rubble with Killaloe-Portroe slate roofs. These are invariably gabled with roof pitch of about 40 degrees. Large wide chimneys of stone or brick sit on the ridge of roofs and windows are mostly of wooden sliding sash type. Some examples of sash windows with small panes and light glazing bars are still to be found, particularly on the rear of buildings or in back lanes. Many fine 18th and 19th century formal, detached houses are also found near the town”.

5.1.7. The Deanery is included on the record of protected structures. (RPS 445.) According to the NIAH records the special interest are architectural, artistic and social with a ‘Regional’ rating. Several other structures, mostly within or adjacent to the historical town core, including St. Flannan’s Cathedral are also included on the record of protected structures.

Retail Strategy for the Mid-West Region 2010-2016.

- 5.2. Killaloe is categorised as a Tier Three, Level 2 settlement in the retail hierarchy. The core is to the north of the site and includes the area of the existing Convent Hill Shopping Centre. The primary objective for Tier Three, Level 2 centres is to enhance the quality of their convenience goods provision enabling the construction of modern food store outlets, such as has already been provided in Ennistymon (SuperValu) and Killaloe (again SuperValu).
- 5.3. The applicable section 28 strategic guidance is set out in “*Retail Planning; Guidelines for Planning Authorities*”. (DOCLG 2012) and the accompanying design guide

6.0 The Appeals

6.1. The Grounds of the Appeal

There are three third party appeal, details of which are set out below:

First Third Party. Bill and Maureen Kenny.

- 6.2. The objections in the appeal submitted on the Appellant’s behalf by McEilligott Consulting are outlined below:

- The proposed development is too large for the Deanery lands. A small outlet like an express outlet would be more suitable.
- There is no difference from the previous proposal for which permission was refused, (following third party appeal under P. A. Reg. Ref. 15/465) due to excessive car parking and adverse impact on the curtilage of the Deanery a protected structure.
- Parking provision is insufficient for a large scale store. Section 8.12 of the TIA in which it is stated that 87 spaces are sufficient contradicts Section 8.11 in which it is stated that seven spaces per 100 square metres of retail space is the norm although 113 spaces are suggested by the report’s author. Accommodating the existing 30 to 49 space capacity on Abbey Street is questionable given that only 25 public spaces are to be provided.

- There is no sound basis for the statement in the revised TIA on the surveys taken that queuing did not occur during w/c 13th February. The Mitchelstown Aldi store, is in a large town with a wide main street which is bypassed is not comparable. The existing road infrastructure is at capacity and there are serious delays and back-ups during peak hours at the junction of Royal Parade and Killaloe Bridge which is hazardous. Carrig's Lane is narrow and in poor condition. The traffic flows in Ballina which is a twin village should have been assessed. Construction of the bypass has not commenced.
- It has not been demonstrated that the site can cater for surface water collection and disposal. Upgrading of the storm water infrastructure is essential for the development.

Second, Third Party, John Daly.

6.3. The objections in the appeal submitted on the Appellant's behalf by Stephen Ward and Associates are outlined below:

- The current proposal is no different from the previous unsuccessful proposal. The exposure to views from St Flannan's Cathedral interfering with the parkland setting of the Deanery is worse. It is not possible to assimilate the large-scale development into the site given the sensitive location.
- Lower intensity land-uses and low impact development only are acceptable at the Deanery and attendant curtilage. The purpose of the zoning is to protect the character and setting of the protected structure and surrounding landscape. The proposed development is clearly the opposite to the intended, low intensity ("light touch") development.
- A comprehensive masterplan approach which respects the integrity of the Deanery and the important approach to the heritage town is required. The effects of the high stone wall proposed on the eastern boundary has not been overcome and the tree survey does not address the capacity to accommodate the development, and there are implications for the water table and survival of trees including a specimen tree in the carpark. The trees proposed for screening are outside the site boundary.

- The store would be elevated above the ridge of the Deanery and adjoining developments to the south side. The Deanery would be dominated, the sylvan setting would be destroyed. The development would be insensitive to the curtilage and interfere with views from St. Flannan's.
- Not all the recommendations for additional information on architectural heritage concerns were followed up by the planning authority.
- The proposed development materially contravenes the zoning objective: "Lower density residential" (LDR6) in the East Clare Local Area Plan for the site location. It is not specified as a permissible land-use. A "shop" which is 'open to consideration' is not a supermarket, having regard to the definition in the Planning and Development Regulations 2001 as amended. (Part 2 Article 5 (1) which provides for, "*a self-service shop selling mainly food*". The Inspector in her report on the previous proposal indicated concern about this.
- The County Development Plan and the LAP do not include a 'supermarket' as a separate land use in the zoning matrix whereas it is distinguished in the North Tipperary County Development Plan covering Ballina.
- Convent Road is a well-defined southern boundary for the town core. The proposed development is not a natural extension to the town core and is a disproportionate "pull" southwards, is not balanced and would materially contravene the Development Plan policies that ensure that growth is relative and appropriate to the scale, size, and character of the town. It is not supported by the objective in the LAP for good quality convenience outlets in or at the edge of a town centre because the Convent Hill Centre is available.
- Carparking provision is deficient. The development plan standard, (in Appendix 1) is 8 spaces for 100 square metres gross floor area. 1,610 square metres requires 129 spaces. Only 80 dedicated spaces are provided, the remaining 25 being for public use.
- Replacement of on street parking by the off street spaces in a private development will affect sustainability of local businesses. The shortfall in provision to serve the development will be taken up by the public spaces within the development. It is not feasible to condition designation and reservation of spaces for public parking.

- The visibility splays required for the entrances necessitate removal of on street parking increasing the shortfall, unauthorised parking, interference with free flow of traffic and endangerment of public safety. The under-provision cannot be justified by reference to other Aldi developments where there are material differences. Monitoring and clamping takes place at some of these facilities. The site location would become a destination in itself making the development particularly car dependant Development Plan policies must take precedence.
- According to the development plan and Retail Strategy for the County there is no requirement for additional convenience retailing space within the town in the lifetime of the development plan for Tier 3, Level 2 settlements. Existing available net retail floor space is 941 square metres. It would increase to 2,000 with the development in place. (a 121% increase) in a stand-alone development. This is unwarranted and there is no zoning provision for development such as that proposed.
- Consideration of alternative site locations was deficient regarding use of evidence and quantitative data and the sequential test. The catchment area proposed is unrealistic and unsubstantiated. Trade diversion has not been considered. The Retail Impact Assessment does not accord with the recommendations in the Retail Planning Guidelines (2012) Annex 5.
- The quality of the design is substandard and alien to the settlement: It is a standard “box” and there are overbearing side elevations and no active street frontage. The Convent Shopping Centre has a fine grain format which wraps around and screens the supermarket.
- There is no capacity in the existing drainage system to accept surface water from the development and no clarity regarding an upgrade. Compliance with Condition No 10 is questionable. The Inspector’s concerns as to premature development in the case of the previous proposal over issues relating to surface water collection and disposal have not been addressed.

Third, Third Party: Michael and Joan Gough.

- 6.4. The appellant party’s residential property at Shantraud adjoins the south-eastern boundary of the application site. It is contended that the residential amenities of the

adjoining properties were not taken into consideration by the applicant and the planning authority and, that further analysis is required. According to the appeal:

- There are no details of defined boundary treatment for the shared boundary with the appellant property. Security is a major concern.
- There is potential for light pollution at the Appellant property. Condition No 8 is too vague and it lacks minimum or specific requirements.
- Noise pollution will occur, especially noise from refrigerated vehicles. The levelling dock is twenty-five metres from it. Vehicles may access the site outside the hours allowed for in Condition No 9.
- The waste management area is too close to the boundary. Compactors will cause noise pollution and there is no restriction on hours of operation.
- The necessity for the development is questionable on account of increases in online shopping. It could cease to trade, adding to the existing proliferation of vacant commercial properties in Killaloe.
- The existing foul drainage system is overloaded and there are no details of the proposed arrangements or restrictions imposed by the planning authority.
- There is a historical covenant mandating the flow to the old Mill stream in perpetuity. Diversion would contravene the covenant. Condition No 11 is a contradiction in to this requirement in that it stipulates that surface water is to be contained in the site curtilage. Attenuation may be necessary to avert flooding and ponding. The Appellant property is lower in level than the application site.

Applicant Response

6.5. A submission was received from the applicant's agent on 24th July, 2017. It includes a planning report in which the appeals are rebutted, photomontages, a transportation assessment with traffic count details, an engineering services report on drainage, an arboriculture impact assessment including a photomontage image of views from the Deanery grounds. According to the submission:

- The development is plan led and accords with the Clare County Development Plan, 2017-2023, The Retail Planning Guidelines and Retail Design Manual

(2012) the Retail Strategy for the Mid West Region 2010 0- 2016, enhances Killaloe as a shopping destination with benefit to the vitality and viability of the town centre.

- The applicant accepts and is willing to comply with the conditions attached to the planning authority decision to grant permission.
- One appeal is made by competing commercial business with an inherent interest in preventing the addition of a convenience retailer in Killaloe. It is contrary to the Retail Guidelines which requires the planning system to support competitiveness and choice commensurate with promotion of vitality and viability of city and town centres and not to take actions that inhibit competition. The store would clawback trade to the town and its catchment and is consistent with the development plan which supports additional and diversified convenience floor space provision in Killaloe.
- The curtilage of the protected structure is not defined but the planning authority, in agreement with the conservation architect and archaeologist representing the applicant agree that development is outside the curtilage.
- The current application addresses and responds to the concerns that arose in the previous unsuccessful proposal and respects the Deanery. There is a new position in the south west of the site, a fundamental redesign with reduced elevation and platforming, reduced car parking, increased retention of trees, a curtilage wall for the Deanery and a new stone wall on the southern boundary.
- The proposed development is not in material contravention of the zoning objectives. It comes under the definition of “Shop” and is permitted in principle within Commercial Zone. No development is on land zoned ‘Open Space’.
- Contentions as to an unbalanced, excessive and disproportionate “pull” away from the town centre are rejected. There were no concerns about the location relative to the town core in the reasons for refusal for the previous proposal.
- The commercial zoning provides for retailing subject to a sequential test being undertaken. The detailed sequential test in the submitted retail impact statement, is not deficient and it confirms that site location is suitable as it is immediately adjacent to the town core and within two hundred metres of the

centre, based on Main Street from Carrig's Lane. There are no suitable or viable derelict sites and several existing units would be required to accommodate the proposed development. The town has a compact core mostly of small, narrow plots around Church Street which extends to the Convent Hill shopping centre opposite the site. Linkage is enhanced by the pedestrian crossing for which the applicant is required to pay a special contribution under Condition No 3. Pedestrian linkages and not a 'virtual' driving distance along a one-way system according to an appeal are the key considerations according to the Guidelines.

- The site is the only site with potential to accommodate the expansion of the town centre uses which are more appropriate than the Part 8 permitted public carpark. It is a unique opportunity for a convenience store adjacent to the retail core and to revitalise the town centre which requires 'anchor' retailers to increase the appeal of the town as a retail destination. It accords with the Local Area Plan's retail objectives in assisting to claw back expenditure leakage from the catchment area identified in the Retail Strategy for the Mid-West Region to larger towns.
- The Retail Strategy for the Mid West Region (Col 8 of the Development Plan) does not state that additional convenience floors space in the county is not required. The retail strategy incorporated in the adopted development plan by the Council addresses the issues of capacity. A total of 2,200 square metres convenience floor space is identified in the catchment area 1,900 square metres of which is in Killaloe/Ballina catchment according to the submitted retail impact statement. The net retail floor space in Killaloe would be increased by sixty percent and not be increased by 121 per cent as asserted in one appeal where the comparison is solely with the Supervalu supermarket.
- Diversification of the retail offer the town accords with the retail objectives of the development plan for a balance of services and outlets (CDP7.11) and the store will not directly compete with existing retailers but it will reduce leakage. It is appropriate for a small town as defined in the settlement hierarchy.
- The catchment is not overestimated. There is more than sufficient capacity to accommodate the proposed development A designated Tier 3 Level 2 centre

serving a large rural hinterland and in East Clare. Killaloe is the highest order retail centre in the catchment. Even with the turnover figures set out in the Mid West retail strategy applied there is sufficient capacity with the catchment to accommodate the proposed development with and additional floor space. The turnover (at €8,000) is derived from similar discount retailers, is not overestimated and it is appropriate for meeting a proportion of convenience need. (References are made to assessments of previously permitted Discount Food store developments.)

- Architectural heritage impact was comprehensively assessed in the application and by the planning officer in his reports on original and further information submission. The conditions attached to the decision demonstrate that detailed consideration was given to the to the potential impact on protected structures.
- The photomontages included in Appendix 2 and images within the submission show that the fundamental redesign of the current proposal addresses concerns about impact on views from St. Flannan's Cathedral and Belfry and Abbey House. Mature trees are retained at the northern end of the site. The store is a passive structure within the wider urban context with the carpark screened by the Liscannor stone wall. The 2.2. metre high mortared limestone wall along the Deanery's boundary, (required by Condition) will further reduce visual impact to the east and south. Existing development, such as the SuperValu development has a much greater impact on views from the Belfry the views from which are not normally experienced in the day to day public realm.
- The relationship between the proposed development and the Deanery was a key consideration to the levels and positioning on the site, the design, landscaping and boundary treatment including the required 2.2 metre high mortared limestone wall. The store will not be visible, facing west from the Deanery. (Photomontage in Appendix 7 of the submission refers.)
- The revised design provides for the increased retention of trees including and the band of trees on the northern boundary which addresses the contentions about tree removal in the appeal. The preservation plan accords with BS

5837:2012. The site is not a parkland but a greenfield site with typical tree species for grazing lands. The Scots Pines, large oak and beach trees are to be retained. But the beach tree is in poor condition and should be removed. (Appendix 5 refers.)

- The store has a modern and high-quality design and layout which is positive and functional to the use and location. It is site specific and similar to previous proposals that have been considered and accepted by the Board.
- Based on application of a requirement for five spaces per 100 square metres, eighty-one parking spaces are required and this quantum is justified in the submitted traffic impact statement. (Appendix 3 refers.) There is planning gain. Twenty-five public parking spaces are provided and they compensate for any loss of public on street spaces. Some ALDI store extensions elsewhere have reduced on-site parking provision. (Clamping is not operated in ALDI car parks.)
- The traffic impact assessment is not deficient. The traffic surveys are undertaken in accordance with the Guidelines in "*Traffic Transport Assessment Guidelines National Roads Authority*" (September 2014) and Guidelines for Traffic Impact Assessments.
- Irish Water considers that development wastewater from the development at less than 5 PE would not affect the performance of the waste treatment plant which is operating over capacity but is due for upgrade.
- The applicant is aware of the historical covenant relating to the flow of water to the old Mill Stream and diversions, removal of natural watercourse or alterations are proposed that conflict with the covenant. Concerns about potential flooding and ponding are addressed in the surface water run-off proposals which include the fully sealed underground drainage network and attenuation storage system which is to be lined within impermeable membrane. Hard standing and roof surface water and sub surface rainwater water off will be lower than the current greenfield rates.
- Comprehensive boundary treatment proposals address concerns about security at the south east corner of the site. The existing timber post fence and wire fence is to be retained.

- Light pollution will not occur at the property at Shantaud. The proposed public lighting system will be implemented in accordance with Condition No 8 along the eastern boundary where lights face inwards. Drawing No MJA-P105-4468-A refers. Lux levels fall away from the boundary with adjoining development.
- With regard to concerns about noise pollution the applicant undertakes to comply with the requirement of condition no 9 which precludes deliveries outside certain hours.

Planning Authority Responses

6.6. In an initial submission in response to the appeals received on 20th July, 2017 the planning authority confirms that it is satisfied with the assessment of the application as covered in the planning officer and technical reports at application stage and that there are no additional observations.

6.7. A further submission was received on 30th August, 2017 with observations on the submission of the applicant in response to the appeals. According to the submission:

- The commercial and open space zoning objectives for the site are confirmed. The SEA (p 713) supported the change (from the zoning objective LDR to Commercial COM5) because this zoning is in line with the sequential approach with scope for employment opportunities from the area and because of sufficient proximity to the town centre and pedestrian and transport modes.
- Views between the Deanery and site are limited. The landscaping will reinforce the natural screening. The revised Architectural Heritage Assessment submitted demonstrates that the development addresses the reasons for refusal on the prior proposal and there is no negative impact on the protected structure.
- The Retail Impact Assessment submitted with the application which indicates the site as “edge of centre” and it is the ‘next best option’ where the town centre retail core does not have an available site. The reference to a high degree of connectivity in the assessment, in the ‘Health Check’ of Killaloe and Ballina in the RIA is accepted by the planning authority.

- The car parking provision for ALDI store and the 25 spaces for the public car park accords with development plan standards. The dimensions exceed those in Appendix 1 of the Development Management Guidelines. If reduced the total could be increased to 118 spaces. The planning officer took the reason for refusal for the previous proposal on grounds of oversupply of carparking and consequential impact on the protected structure into account. The design and number of parking spaces addresses this concern.
- There are two potential access routes to the twenty-five spaces in the public carpark but one gated access only being shown on in the further information submission. Clarification is required on this, on hours of operation of the public carpark (which would differ from those for the private ALDI carpark) and, whether a charge for use of the public carpark is intended. Condition No 5 (b): was attached and it is appropriate. (*“Prior to the commencement of the development, full details as to the operation and management of the public car parking spaces identified and proposed by the applicants on drawing no 14049/P/004 received on 1 December 2015 and drawing no 14049/P/004 received on 13 April, 2017 shall be submitted to the Planning Authority for agreement.”*)

Further Submission of John Daly. (Second, Third Party.)

6.8. A further submission was received from the Appellant’s agent on 5th September 2017 in which the appeal grounds are re-affirmed. According to the submission.

- The impact on the built heritage, (St Flannan’s Cathedral and Belfry, Abbey House Royal Parade and the Deanery) relative to the previous proposal is worse in visual impact, design and layout.
- The development as revised conflicts with Reason 1 of the prior refusal of permission in that six mature trees will be removed which is fifty per cent of the tree coverage and this will have catastrophic impact on the parkland sensitive landscape and protected structures. There is a long established rookery in the trees to be removed there is specific objective to protect urban ecology in Clare County Development Plan, 2017-2023. (section 14.12.)
- The lack of distinction between ‘shop’ and ‘supermarket’ in the zoning matrix in Appendix 2 of the development plan is noted. The proposed development is

not a shop and that the location is removed from the town centre and is unsuitable. The requirement to meet sequential test requirements is “glossed over” and the application is silent with regard to compliance with this requirement under Policy 7.17 in the Clare County Development Plan, 2017-2023, which reflects the Retail Planning Guidelines.(s 4.4.2 refers.) Alternative sites were not meaningfully subjected to robust analysis or even considered. Undesirable precedent will be set by the proposed development.

Further Submission of Michael and Joan Gough. Third, third Party

6.9. A further submission was received from the Appellant was received on 4th September 2017 in which the view that permission should be refused is reaffirmed. It is contended that neither the applicant or planning authority have considered and addressed concerns about adverse impact on the property of the appellant over security, boundary treatment, light pollution and absence of mitigation of light spillage, noise from the deliveries area and nuisance from the waters storage area contravention of the historical covenant regarding direction of flow to the Mill stream, treatment of surface water run-off, flooding and ponding are reiterated. The assertion about the 5PE equivalent being generated and being insignificant is not accepted. It is contended that the existing problem will be exacerbated.

Further Submission of Michael and Joan Gough. Third, third Party

- 6.10. A further submission was received from the appellant on 26th September, 2017 in response to observations of the Planning Authority. It is submitted that:
- The proposed car parking arrangements are contrary to the proper planning and development as envisaged by the planning authority because it considers the carpark provision as if it is situated in the town centre whereas it is outside the boundary of the town centre.
 - Carrig’s Lane is well removed from the development. The planning authority is incorrect in stating that the development forms part of the retail core because Carrig’s Lane provides a direct connection to the Main Street. It is also poorly surfaced and unsuitable for access to and from the Main Street.
 - The proposed development will be as visually obtrusive in the context of the Deanery and adjacent properties as the previous unsuccessful proposal.

Further submission of the Applicant.

6.11. A further submission was received from the applicant's agent on 27th September, 2017 in the response to observations of the Planning Authority which includes photomontages illustrating views from the Deanery. It is stated that the design and relocation of the proposed store and carpark within the site and the landscaping and screening proposals address the requirements of the planning authority and the concerns in the Reasons for Refusal of permission for the previous proposal.

7.0 Assessment

7.1. The application is a modified proposal which, according to the applicant's submissions, overcomes the reasons attached to the refusal of permission, following third party appeal for the previous proposal. The Clare County Development Plan, 2011-2017 which was applied to the previous proposal has now been superseded and the policies and objectives of the relatively recently adopted Clare County Development Plan, 2017-2023 apply. The current proposal differs in several respects from the previous unsuccessful proposal.

The issues central to the determination of the decision can be considered under the broad sub categories along with Appropriate Assessment below:

Zoning Objectives.

Strategic and Local Retail Policy and Site Location.

Architectural and Archaeological Heritage

Visual Impact

Trip Generation, Vehicular and Pedestrian Circulation and Parking Facilities

Flooding, Surface Water Drainage

Foul Water Drainage

Residential Amenities

7.2. Zoning Objectives:

7.2.1. The change in land use zoning for most of the site from "Low Density Residential" in the now superseded Clare County Development Plan, 2011 – 2017 to "Commercial" in the current statutory Clare County Development Plan 2017-2023 is a significant

consideration. It is noted that the proposed development will not be located within the space at the east side of the site subject to the zoning objective “Open Space”.

- 7.2.2. There is no outright presumption of acceptance in principle of convenience store/supermarket development having regard to the development plan policy objective for Commercial use. To this end, it is noted that according to the development plan, “Commercial” zoning provides for *“commercial and business uses including offices, service industry, warehousing and the facilitation of enterprise/retail park/office uses as appropriate”*. Retailing is *“open for consideration”* in a commercial zone *“provided a sequential test is carried out and the lands are demonstrably the optimum location for the nature and quantum of retail development proposed”*. The planning officer draws attention to the SEA for the development plan in which it is stated in relation to the then proposed change in zoning that, *“provision in this area for commercial use in line with the sequential approach and may provide employment opportunities for the surrounding residential areas. It is close to the town centre providing for pedestrian and other sustainable transport modes for the application site”*.
- 7.2.3. As such any a proposal for retail use, namely convenience store retailing is the primary desired land-use for commercial zoned lands but that each convenience store proposal should be considered on its own merits and, be subject to satisfaction of several criteria under the zoning and strategic policy objectives and standards that are applicable to retail development. The proposed development includes some scope for employment opportunities but it is considered that many commercial uses would be more effective in delivery of employment in this regard.
- 7.2.4. It is agreed that it is questionable as to whether “shop” use which is ‘permitted in principle’ within a Commercial zone can be extended to include, “supermarket/convenience retailing/discount stores” such as the proposed development. Although not specifically provided for in the development descriptions within the zoning matrix, flexibility in the interpretation of the nature of the retail development considered would be reasonable having regard to the range of policies and objectives specified for the commercial zoning objective. In line with the “open for consideration” provision for the zoning objective, it is considered reasonable that the proposed land use be accepted subject to the proposal satisfying the strategic policies and criteria for convenience retailing in the municipal district of Killaloe and

other criteria relating to capacity, heritage and other technical considerations. A significant consideration is that the Reasons for Refusal of Permission for the previous proposal did not include any reference to a “supermarket/convenience retailing/discount store” being in material contravention of the then “LDR” zoning objective which was applicable to the site location under the now superseded development plan.

7.3. Strategic and Local Retail Policy and Site Location.

- 7.3.1. Further to the determination of the decision on the previous proposal there has been no significant, material change in the relevant strategic retail policies and objectives of the Clare County Development Plan, 2017-2023. Killaloe within the Killaloe Municipal District is categorised as a small town (according to Table 2.1) within the settlement hierarchy. The Retail Strategy for the Mid-West Region, 2010-2016 identifies which Killaloe is a Tier 3, Level 2 settlement, for which it is an objective to enhance the quality of convenience goods provision and construction of modern food store outlets. As there is no major material change in the retail policy context, regarding catchment, capacity and as the nature of the convenience store proposed relative to the prior proposal, a presumption of acceptance in principle of a new convenience store within Killaloe is reasonable. The methodology used in the quantitative assessment for the catchment area, justifying the proposed development within the Retail Impact Statement is acceptable.
- 7.3.2. Reconsideration of the current proposal would therefore constitute a departure from the prior implicit acceptance in principle of the introduction of a convenience store in Killaloe in that no relevant issues were included in the reasons for refusal of the previous proposal under P. A. Reg. Ref. 14/465 (PL 245531). A detailed assessment of the strategic retail policy considerations is therefore unwarranted except for some minor specific considerations. It can be concluded, that that Killaloe can accept the addition of a convenience store outlet to the existing retail offer, in that it will complement rather than compromise the viability of the existing retail offer, should not undermine the vitality of the existing retail sector and would be acceptable having regard to trade diversion.
- 7.3.3. The acceptance of the specific site on the south side of Abbey Street, as a location at “edge of centre” to the retail core as provided for in the sequential testing, having

regard to the recommendations in the Retail Planning Guidelines, (DOEC&LG 2012) has also been previously established in principle. There is no reference to any relevant concerns in this regard in the reasons for refusal of permission under P.A. Reg. Ref. 14/467 (PL 245531). The site layout and building footprint for the current proposal on the site are changed to address and overcome the architectural heritage and visual impact concerns over which the previous proposal was rejected.

7.3.4. As a result, the proposed building is more removed and distanced from Abbey Street and the town core although the main entrance for vehicular and pedestrian access, which is to be supplemented by a pedestrian crossing to the north side of Abbey Street, are to be located at the northern end. Linkage with the town core (on the north side of Abbey Street) has been established and is enhanced in the provision for the pedestrian crossing linking the proposed development and existing town centre and, the availability of parking providing for the development and a separate carpark for general public use within the site.

7.3.5. However, of note are the opportunity sites identified as having scope for mixed use development which are identified within the settlement plan in Killaloe in Volume 3 of the Clare County Development Plan, 2017-2023. (page 20). These sites are not assessed in the application submissions irrespective of whether they could be deemed suitable or unsuitable for a convenience store development. The objections in the appeals regarding lack of consideration of all alternative sites in the sequential testing exercise conducted are therefore reasonable. However, vacant units in the town centre street network are identified.

7.4. Architectural and Archaeological Heritage

7.4.1. Although no recorded monuments are within the site area, potential for disturbance of archaeological material, the presence of a mill race within the site having been noted. This consideration can be addressed satisfactorily through compliance with an appropriate archaeological monitoring condition inclusive of the requirement for pre development testing as recommended in the archaeological assessment report accompanying the application and the planning authority's conservation officer.

7.4.2. There is no doubt about that Killaloe is a significant mediaeval settlement which has significant architectural heritage interest as is recognised in the range of protected structures and the designated statutory architectural conservation area within the

town centre area. As such the sensitivity of the town core and adjacent areas limit the carrying capacity for development within and, adjacent to the town centre.

- 7.4.3. It can be confirmed that development does not involve material interference with historic fabric.
- 7.4.4. In the current application, there is a major change to the convenience store's location which is at the south western end of the site at an increased distance from Abbey Street and the historic centre of the town. This overcomes the serious concerns over the impact on architectural heritage in previous proposal which prompted the refusal of permission. This separation distance and screening of views from the Deanery and from Abbey Street and St Flannan's mitigates any potential for interruption of the relationship between these important structures in the historic context. The proposed form, design, materials and levels along with a reduced size parking area to the north, is optimal in this regard. The proposed boundary treatment inclusive of extensive limestone wall construction to screen and separate the Deanery, required by condition attached the planning authority decision which the applicant has accepted, and landscaping providing for tree retention, are effective in sensitively separating and distinguishing the site of proposed development from the immediate grounds of the Deanery.
- 7.4.5. In this regard, it is of note that there is no information available in connection with the designation of the Deanery as a protected structure as to the extent of the space around the buildings that comes under full statutory protection. While historically, the lands within the site area would have remained undeveloped and would have been an integral part of landholding of the Deanery, it is reasonable to consider the site area, particularly the area in which the store and parking are to be located as coming within "attendant grounds", historically as opposed to coming within the direct curtilage or immediate surrounds of the Deanery, incorporating associated adjoining structures, trees and woodlands.
- 7.4.6. It is considered that the proposed development as shown in the further information submission and in the appeal (including the requirement by condition for lime stone wall construction and tree retention) is acceptable. Subject to implementation in accordance with good building conservation practice, no further requirements are considered necessary.

7.4.7. The applicant has submitted a public lighting scheme the specification for which is sensitive to the surrounding historic environment and which prevents adverse impact by lighting on the historic context of the Deanery. Resolution of any fine detail could be addressed by condition.

7.4.8. There are no objections to the proposed signage. The exclusion of internally illumination and restriction of operation of the illumination of the signage on the building facades under condition No 15 of the planning authority decision to trading hours only is noted.

7.5. Trip Generation, Vehicular and Pedestrian Circulation and Parking Facilities

7.5.1. Further to a review the traffic impact assessment, it is apparent that the capacity concerns relate primarily to the use of the one way, traffic light controlled bridge linking Ballina and Killaloe and associated queuing. Although there is uncertainty about the timeframe for construction and commissioning of the Killaloe Bypass the existing limitations can be regarded as short to medium term. Following commissioning, traffic using the bridge is projected to be reduced by forty percent.

7.5.2. The greatest concern over traffic congestion and queuing to use the bridge is in the morning peak hours. The survey data and to the modelling conducted as part of the submitted TIA demonstrate that the peak morning hours is the period of heaviest congestion and delay. Trip generation attributable to the proposed development during the morning peak hours is minimal whereas it peaks towards the later evening peak period. According to the TIA and the technical reports of the planning authority there is agreement notwithstanding the limitations of the road network capacity, that the proposed development could proceed within the existing and future capacity up to 2033. Furthermore, there are no materially different considerations over this issue that have arisen in the first instance in the current proposal.

7.5.3. Deferral of favourable consideration on grounds of prematurity over the capacity of the existing road network would be unwarranted, particularly if it is accepted that the proposed development is justified in the context regional and local level retail policies and objectives. There is no objection to the proposed access from Abbey Street, and it has been satisfactorily demonstrated that adequate technical standards, consistent with the recommendations in DMURS can be provided for vehicles and pedestrians within the site and within the public realm in the proposed entrance arrangements.

- 7.5.4. Apart from some matters of detail regarding management, internal entrance arrangements and circulation, both the quantum and quality of the parking dedicated to the proposed development and the public parking spaces proposed are considered to be satisfactory. The proposed public parking spaces within the development more than compensates quantitatively for the displacement of on street parking on Abbey Street which is necessary to facilitate the construction of the proposed entrance.
- 7.5.5. As is pointed out in the applicant's submissions, it can be anticipated that customer parking within the dedicated spaces for the proposed development would also facilitate customers who wish to walk across Abbey Street to conduct business in the existing town centre instead of using alternative town centre parking spaces. This is positive both in terms of facilitating access to the retail and commercial facilities of the town core and, potential pressure on existing public parking facilities. It is therefore considered that an appropriate quantum of parking facilities is provided to serve the proposed convenience store development and, dedicated public parking facilities having regard to development plan standards and the details provided in connection with similar Aldi Store developments.
- 7.5.6. No other additional requirements to those indicated in the further information submissions and the submissions made in the response to the appeals are considered necessary regarding parking, access, circulation and pedestrian facilities and connectivity.
- 7.5.7. With regard to concerns about arrangements for Deliveries, it is of note that it is normal practice for one or two arrivals to take place daily in HGVs from the Distribution Centre at Mitchelstown and that the delivery policy of the applicant is for the driver to unload roller pallets (within the site) to the service bay docking area in early morning non peak hours within a turnaround time of circa twenty minutes. In addition, some other non-customer or staff movements can be anticipated such as services traffic. This arrangement should minimise any perceptible adverse impact on residential amenities if undertaken during daytime hours. The delivery during the early morning peak hours is desirable in several respects but in the case of the subject proposal, given the current limitations in traffic circulation, it may be desirable for an arrangement to be in place whereby HGV vehicles do not use the routing over the Bridge during the morning peak, pending the availability of the Killaloe by-pass

which will relieve all traffic. If considered necessary, an appropriate condition could be included whereby deliveries could take place after the morning peak, for example, between 10.00 am and 12.00 pm.

7.6. Flooding and Surface Water Drainage

- 7.6.1. The concerns in the Appeals as to potential for flooding risk are noted. As indicated in the flood risk assessment submitted with the application there are no watercourses and no record of flooding within the site which is elevated and within Flood Zone C having regard to the categorisation in “*The Planning System and the Flood Risk Management Guidelines for Planning Authorities*” issued in November 2009. (FRM Guidelines.) The applicant has satisfactorily demonstrated achievement of a system which can accommodate a return period of 100 years plus 10 % climate change for the proposed storm water drainage arrangements. These proposed arrangements provide for achievement of discharge to the public sewer in the R463 at greenfield run off rates for all surface water generated by the development, which is to be collected, attenuated using an underground storage system and hydro broke flow control device with the upgrade works are to be carried out at the applicant’s expense.
- 7.6.2. Resolution of any dispute as to material contravention of an historic covenant relating to the direction of flow of surface water to the Mill Stream would be a matter for the legal system. No evidence to demonstrate such a breach is available connection with the application and appeals.

7.7. Foul Water Drainage Arrangements

- 7.7.1. Connection to the public network via an existing 150 mm sewer in the site via a 225 mm diam. spur through the Deanery lands (for which a Wayleave has been obtained) to the public sewer to the east is indicated in the proposed. The estimated maximum of 15 employees at the building is considered reasonable as a basis for the calculations which indicate suitability of the proposed foul drainage arrangements. The relative increase in loading on the existing sewage treatment plant which is stated to be operating at capacity is not significant. Any deferral of favourable consideration pending an upgrade as sought by the Appellants is not supported, given the limited addition to the loading on the existing facility that would be attributable to the proposed development.

7.8. Residential Amenities

- 7.8.1. Residential development adjoins the site at the south east, south and south west and is to the east, north and west on the opposite sides of the public roads which adjoin the site boundaries. It is acknowledged that the characteristics of the immediate environs of the adjoining residential properties will change radically from that of undeveloped agricultural use to that of convenience retailing.
- 7.8.2. While, relative to the previous unsuccessful proposal, the site layout for the current proposal brings the footprint of the building closer to adjoining residential properties, including the property of one of the Appellant parties. There are no major concerns as to adverse impact, subject to good management of the proposed development once it is operational. The landscaping works provide for minimal intervention to existing features and for retention of existing boundaries, trees and vegetation adjoining residential properties which are downslope. Given that there is a minimum separation distance of twenty-five metres from the bin store and loading bay ramp, which are to be enclosed by a retaining wall and, the management of deliveries and the limited trips, it is considered that the proposed development does not give rise to undue adverse impact on residential amenities of adjoining properties. The contentions as to adverse impact on residential amenities by one of the appellant parties for reasons relating to noise, traffic, odours and light spillage are therefore not supported.

7.9. Appropriate Assessment

- 7.9.1. The application was accompanied by an Appropriate Assessment Screening report prepared by Openfield Ecological Services on behalf of the applicant which has been consulted for purposes of screening for the proposed development.
- 7.9.2. The site of the proposed development at circa one hectare in area is a greenfield site at the edge of the town centre and the project is a purpose-built convenience retailing outlet with associated carparking and ancillary development.
- 7.9.3. The site location is not located within any European sites but it is approximately one hundred metres from the Lower River Shannon SAC (Code 2155). Several habitats and aquatic species are qualifying interest and the general conservation objective is to maintain or achieve favourable conservation status in the foreseeable future.

Specific water quality objectives are set for the Atlantic Salmon and Freshwater Pearl Mussel.

- 7.9.4. Potential risk to water quality in the river could be from contaminated surface water during construction stage or from contaminants and/or changes in flow of surface water run-off from the development at operational stage. Surface water drainage at operational stage is to the existing public sewers for surface water, incorporating underground attenuation with a hydro-brake system.
- 7.9.5. Foul water drainage is also via the public sewer system to the existing sewage treatment plant. Although the existing sewage treatment plant is operating and an upgrade is required, the additional loading of foul water emanating from the project would be marginal.
- 7.9.6. Given the limited additional loading on the sewage treatment plant and given the proposed attenuation measures provide for in the surface water drainage system it is considered that the proposed development would not be likely to have a significant effect on the SAC.
- 7.9.7. The site is approximately 1,000 metres from the Lough Derg SPA (Code 4058). The features of interest are some bird species and the overall conservation objective is to provide for stabilisation or increase in the population in the long term. The status of the bird species with the SPA are unknown.
- 7.9.8. Although in relatively close proximity to the site there are no source pathway linkages between the site and the SPA.
- 7.9.9. Having regard to the nature and scale of the proposed convenience store development, associated parking, arrangements for foul and surface water drainage and site development works it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on Lower River Shannon SAC, the Lough Derg SPA or any other European site in view of their conservation objectives. A stage 2 Appropriate Assessment is therefore not required.

8.0 Recommendation

- 8.1. In view of the foregoing, it is recommended that the planning authority decision to grant permission be upheld and that the appeals be rejected. Draft Reasons and Considerations and Conditions are set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to:

- the provisions of the Clare County Development Plan, 2017-2023, and to the provisions therein for the Killaloe Municipal District;
- to the area within the site in which the proposed convenience store, carparking and site development works which is subject to the zoning objective; "Commercial",
- to the proposed layout, mass, design and finishes of the proposed building, and to the proposed landscaping, planting and screen wall construction, and,
- to the proposed carparking provision and arrangements for access to and circulation within the site,

it is considered that, subject to compliance with the conditions set out below, the proposed development, would not adversely affect the vitality and viability of the existing town core retail area, would not be visually intrusive or seriously injure the integrity and character of the Deanery, St. Flannan's Cathedral and Belfry and Abbey House (protected structures) or the adjoining Town Core Architectural Conservation Area, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health and would not seriously injure the residential amenities of adjoining properties. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 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 on 13th April, 2017 and, by the further plans

and particulars received by An Bord Pleanála on 24th July, 2017 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.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the applicant shall construct a lime mortared masonry wall along the entire boundary of the site adjoining the Deanery between Abbey Street and the south-eastern corner adjacent to carpark space No 105 to the satisfaction of the planning authority. It shall be constructed at a height of two metres in weathered limestone in regular, horizontal courses of 400. mm high, bedded in 3.5 NHL mortar and capped with Liscannor flagstone not less than 50 mm thickness. Prior to the commencement of development revised plans and a method statement shall be submitted and agreed in writing with the planning authority.

Reason: in the interest of the protection of the context and setting of The Deanery, (a protected structure) and the visual amenities of the area.

3. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. The developer shall:
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) shall appoint a suitably qualified archaeologist, (licensed under the National Monuments Acts, 1930-1994) who shall carry out predevelopment testing, assess the site and monitor all site development works.

The archaeological assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site,
and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including any additional archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination. No subsurface works may without the prior written consent of the archaeologist. No preparatory or construction shall be undertaken until such time as the archaeological assessment report has been submitted to and agreed in writing by the Planning Authority.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

4. Prior to the commencement of the development the applicant shall submit and agree in writing with the planning authority full details of the proposed management arrangements for use of the public and dedicated convenience store parking facilities including vehicular and pedestrian circulation and access to and egress from the segregated public carparking spaces shown on the drawings submitted with the application as amended by Drawing No R-22013-43 A submitted to An Bord Pleanála on 24th July, 2017.

Reason: In the interest of clarity and orderly development.

5. Details of the materials, colours and textures of all external finishes, including samples for the proposed development shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of visual amenity.

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall be in accordance with the specifications for the proposed arrangements submitted with the application and appeal and shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. Prior to the commencement of the development the applicant shall submit and agree in writing with the planning authority, full details of lighting for all proposed signage within the site. The scheme shall be confined to spot lighting or flooding lighting. Internally illuminated lighting for signage is not permitted. The external lighting of signage shall be switched on to the hours of operation of the convenience store only. Awnings, canopies or projecting signs shall not be erected without a prior grant of planning permission.

Reason: In the interests of visual and residential amenity.

8. No additional development shall take place above roof parapet level, including air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, equipment, unless authorised by a further grant of planning permission.

Reason: In the interest of orderly development and visual amenity.

9. The public lighting scheme details of which were submitted to the planning authority on 13th April 2017 shall be fully implemented and made operational prior to the opening of the proposed convenience store for business. The scheme shall not spill over into the area of trees and hedgerows.

Reason: In the interest of the protection of the visual amenities and historic building characteristics of the area.

10. The internal road network serving the proposed development including loading bay, junctions, parking area, footpaths and kerbs, and the surface finishes and markings, shall comply with detailed standards of the planning authority for such works.

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

11. All service cables associated with the proposed development (such as electrical and telecommunications) shall be located underground. All existing overhead cables crossing or bounding the site shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

12. No display or storage of goods, produce, waste, plant, packaging or crates, machinery or equipment shall be stacked or stored on this site at any time except within such buildings or storage areas as may be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

- 13 Any internal shutters shall be only of the perforated type, coloured to match the shopfront colour. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. External roller shutters are not permitted. No adhesive material shall be affixed to the windows of the shopfront

Reason: In the interest of visual amenity.

14 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 include provision for a dedicated bunded space for storage of fuels and all pollutant materials during the construction state. details of construction practice for the development, including construction hours, noise management measures and off-site disposal of construction/demolition waste.

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

15 Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of 2 metres from the trunk of the tree or the centre of the shrub, and to a distance of 2 metres on each side of the hedge for its full length, and shall be maintained until the development has been completed. No construction equipment, machinery or materials shall be brought onto the site until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

16 Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and

construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region.

Reason: In the interest of sustainable waste management.

17 The convenience store shall not be open to the public outside the hours of 0900 to 2200 Monday to Saturday inclusive, nor outside the hours 1000 to 1900 on Sundays or public holidays. Deliveries shall not take place before the hour of 0700 Monday to Saturday inclusive, before the hour of 0800 on Sundays and public holidays, or after 2200 hours on any day.

Reason: In the interest of residential amenity.

18 The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the costs of provision of a pedestrian crossing at Abbey Street facilitating the development. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be 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.

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

19 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.

Jane Dennehy
Senior Planning Inspector
29th September, 2017.