



An  
Bord  
Pleanála

## Inspector's Report ABP-300046-17

---

<b>Development</b>	Change of use from warehouse to mixed use neighbourhood centre and medical services to provide for supermarket, 8 retail units, new foyer, shop front canopies, service yard, electrical switchroom, parking and associated site works.
<b>Location</b>	Kilrush Road, Clonroadbeg, Ennis, Co Clare.
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	17/613
<b>Applicants</b>	Clare Car and Tractor Parts Ltd, & Lohan Property Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party v Conditions Third Party v Permission
<b>Appellants</b>	Clare Car and Tractor Parts Ltd, & Lohan Property Ltd.,

Jim O' Leary,  
Karen & Noel Mulhaire,  
O'Sullivan Hansbury Motors,  
Harnett Homes & Estate Development  
Ltd and B Harnett,  
Donie O'Keefe and others.  
Daithi O'Connor.

**Observer**

**Date of Site Inspection**

22/02/2018

**Inspector**

Dolores McCague

## 1.0 Site Location and Description

- 1.1.1. The site is located at Cahircallamore, Ennis, south of the town and north of the ring road, between two roads from which it is accessed: the Kilrush Road and the Clonroadbeg Road. This area is currently on the outskirts of the town.
- 1.1.2. At this end of the Clonroadbeg Road industrial type development fronts the road. The opposite side of the Kilrush Road is fronted by a number of bungalows on individual sites one of which is in office use, and an access road to the Westgate Retail Park. North of the site there are single houses on large sites fronting both the Clonroadbeg Road and the Kilrush Road some with associated businesses. Ashline motors is to the north. To the south there is a tyre sales/fitting outlet and on the opposite side of the road a motor dealers, and further south, past the Clonroadbeg Road / Kilrush Road junction, is a grocery outlet and car dealership with a filling station forecourt to the front.
- 1.1.3. The subject site is occupied by a two storey building of recent origin. It is located set back from the boundary with the Kilrush Road with some car parking between the building and the roadside boundary. There is vehicular and pedestrian access from both the Kilrush Road and the Clonroadbeg Road. The building is double cranked so that it has an elevation facing the Kilrush Road with a shopfront facing that road, elevations with shopfronts face towards the car park (north and northwest) and an elevation with a shopfront faces east, towards an access driveway from the Clonroadbeg Road. The remaining building elevations face south, partly towards the Clonroadbeg Road and partly towards industrial type buildings/sheds (car sales and repairs) which lie between the site and the Clonroadbeg Road. The southern elevation is the building's rear elevation and a road running along this elevation provides access for deliveries. There is an electricity substation to the south of the building and two containers (on the date of inspection) on the ground to the rear of the building. Along the Clonroadbeg Road a small area of vacant ground is separated from the developed site by a block wall. This land, in separate ownership, is included within the site boundary.

- 1.1.4. The M18 connecting Limerick to Galway runs east of the town of Ennis. The N85 coming from the direction of Ennistimon / Lahinch encircles the town, west and south, and joins the M18 to the east. The N68 comes from the south-west extending from Kilrush, and runs under the N85 ring road, north eastwards to the Kilrush Road roundabout, which is south west of the site. The Kilrush Road roundabout is a four arm junction, one arm (south west) is formed by the Kilrush road, one (south east) extends to a roundabout on the N85, one serves the new Ennis National School (north west) and one (north east) continues towards the town centre as the R475 / Kilrush Road, along which the subject site is located. The Kilrush Road roundabout provides easy access to all the main roads accessing the town and surrounding area including the N68, N85 and the M18.
- 1.1.5. The site is about 1½ km from town centre, about ¼ km from the Kilrush Road roundabout, c.2 ½ km from Claregalway, c.12km from Shannon and c.25km from Limerick City.
- 1.1.6. The site is given as 1.245ha.

## **2.0 Proposed Development**

- 2.1. The proposed development is the change of use from and modifications to the existing retail warehouse development previously permitted (Reg Ref 05-134 Ennis Town Council), to mixed use neighbourhood centre and medical services.
- 2.1.1. At present there are 4 retail warehouse units at ground floor and one at first floor. Two of the ground floor units are occupied by The Home Gallery (furniture) and World of Wonder (toys). There are 216 car parking spaces on site and access from both the Kilrush Road and the Clonroadbeg Road.
- 2.1.2. It is proposed to amalgamate and change of the use of the four permitted ground floor retail warehouse units and to provide for an anchor supermarket licensed to sell alcohol and 8 retail units for unspecified use at ground level. At first floor there will be offices and a medical facility with consulting rooms (1347 sqm), a retail warehouse (The Home Gallery) relocated from ground floor (848 sqm) and storage associated with the anchor supermarket. The 8 retail units in total 800 sqm, and the anchor supermarket is 1832.8 sqm; total floor area 6015 sqm.

2.1.3. The proposal involves other alterations to the building and site and includes incorporation into the car park/circulation area a small additional area of land, currently undeveloped, adjoining the existing entrance on Clonroadbeg Road; alterations to car park levels; the provision of an electrical switch room; and ancillary site works. An extended electricity substation is indicated on the site layout plan but otherwise not referred to in the application.

2.1.4. The application is accompanied by a Retail Impact Statement, and a Traffic and Transport Impact Assessment.

## 2.2. Retail Impact Statement

2.2.1. The Retail Impact Statement refers to the methodology, following that in the Retail Planning Guidelines (RPGs) Appendix 4:

- Identification of catchment or study area;
- Estimation of expenditure available within the defined catchment or study area;
- Identification and estimation of the turnover of existing retail provision within the catchment area;
- Estimation of the turnover of the new development;
- Estimation of the new development's turnover as a proportion of available expenditure within the catchment;
- Estimation of the development's turnover as a proportion of growth in spending to the design year;
- Estimation of the proposed development's likely impact on retailing in its vicinity.

2.2.2. It refers to additional criteria in the Limerick Retail Study (LRS). The baseline is stated to be the CSO Population 2016 demographics & socio-economic statistics, in conjunction with projections in the Ennis Plan, the Regional Guidelines and the MWRS (Mid-West Regional Strategy 2010).

2.2.3. The assessment is focused on considering the proposed development in terms of the suitability of the location and the nature and scale of floor space proposed,

which is in accordance with the detail as set out in the Ennis Plan, in doing so the objective is to demonstrate that the neighbourhood of Cahircalla More requires the services proposed and that the catchment area to the south of the town can support the development without adversely impacting on the vitality and viability of other neighbourhood centres and the town centre.

The RPG's state that the planning system should assess the likelihood of any adverse impacts on the vitality and viability of the city or town centre as a whole. All small units are treated as comparison. The retail element of the proposed development can be described as a local centre or neighbourhood centre.

Retail Guidelines Jan 2012 – specific requirements for additional development will depend on long term performance of the economy trends in consumer spending and the way in which retailers react to changing market conditions. Development should be: (1) plan led; (2) promote greater vitality – sequential; (3) promote a competitive market; (4) secure a shift towards sustainable travel; and (5) realise quality urban design.

The Mid-West Retail Strategy MWRS 2010 states that the town of Ennis has a population 25,276 in 2016. It gives a headroom of €51.6m in retail expenditure by 2020 for the town. By 2016 5,140 sq m convenience floorspace will be required & a further 8,210 sq m by 2022. In 2016 11,971 sq m of comparison floorspace is required & by 2022 a further 9,515 sq m.

Paragraph 6.37 of the strategy is cited, which states a requirement for non bulky comparison goods floorspace and for convenience floorspace in Ennis.

It is considered that little additional convenience or substantial comparison floorspace has been provided in Ennis since 2010, ensuring adequate capacity and expenditure headroom to accommodate the proposed development.

The Clare County Development Plan 2017-2023 is cited. The strategy is to concentrate retailing in the town centre. Capacity for additional convenience

floorspace in Claureen, Cahircalla More & Clonroadmore is identified. Objective CDP7.4 identifies the subject lands for a neighbourhood centre.

Ennis Municipal District Plan (MDP) is cited. The plan refers to opportunity sites, and identifies the site as a neighbourhood centre for 1,000 to 1,200 sq m net retail convenience floorspace, anchored by a supermarket up to 1,200 sq m: COM6.

The proposed development complies with the sequential approach, in that it proposes retail development on a site specifically designated for such use.

Re. catchment definition & existing provision, the MWRS is the main source.

Drive time/distance – an 800m walking distance / 10min walk gives a population of 1,150 persons. This does not account for those who work in the area. A 5min drive includes Ennis Rural & Urban DEDs, a population of 25,276 representing an increase of 0.5% from 2011. For 2020, the design year, an increase of 0.8 % per annum would yield a population of 26,088. The CDP target is a population of 33,497 by 2023, an increase of 2.6%. The population within a 10m walk will grow to 1235 by 2020.

Existing floorspace in the catchment – the MWRS places Ennis in zone 8, together with Clarecastle & Ennistymon. The total convenience floorspace in zone 8 is 9,351 sqm and total comparison floorspace is 13,783 sqm. In Ennis Aldi, Lidl, Tesco & Dunnes have a net convenience floorspace of 6,200 sq m. The total comparison floorspace, which includes Penney's, Dunnes Stores and others, amounts to 10,960 sq m.

Per capita expenditure in Ennis (base year 2009) is €2,624 convenience and €2,094 comparison. 2009-2016 figures are taken from MWRS, and allow for increase in efficiency. For 2017-2020 figures are based on an average of the increases over the period identified in the MWRS & annual increment.

MWRS uses a 5.25% annual increase in comparison spending (73.5% 2009-2022) and a 0.95% annual increase in convenience spending (13.4% 2009-2022).

The spend per person in 2017 is €2,843 on comparison, and €2,836 on convenience. In 2020 the figures are €2,918 convenience and €3,489 comparison.

Table 2 of the report estimates the 2017 and 2020 expenditure available for convenience and comparison, based on the spend per person and population projections.

Turnover per m<sup>2</sup> of floorspace, taken from the MWRS, is €7,000 per m<sup>2</sup> in 2016 (2009 prices) for comparison and €10,000 per m<sup>2</sup> convenience. Efficiency increases of 0.5% per annum convenience and 1.75% per annum comparison – yields turnover per m<sup>2</sup> figures of €10,200 convenience & €7,632 comparison.

Table 3 of the report shows the worked efficiency calculations.

Table 4 calculates the turnover of the proposed development in 2020 by multiplying the floorspace x turnover per m<sup>2</sup> = yielding €11,730,000 convenience & €4,884,480 comparison.

#### Assessment of Impact

In the design year 2020, the turnover of the proposed development will represent 12.2% of total convenience expenditure in the catchment and 5.36% of total comparison expenditure in the catchment, which, they state, is a low level impact on the catchment. They state that the development represents only 8.6% of the convenience floorspace need to 2022, and only 2% of comparison floorspace need to 2022, per the MWRS.

- 2.2.4. Table 5 – sets out the existing convenience developments and expenditure capacity in the catchment and Table 6 sets out the existing comparison development and expenditure capacity in the catchment, and finds that there is €12,902,292 available for convenience spending and, post development, there will remain further capacity of €1,172,292 for convenience. For comparison the available spending is €7,395,246 and, remaining post development, there will be €2,510,766.



In terms of diversion from existing centres they state that growth in comparison will be more than accommodated and the growth in convenience will be marginally less than the predicted turnover of the development and will draw some business, but this can be accommodated because there may be overtrading.

Table 7 – sets out the convenience retail impact of the proposed development on retail centres in the primary catchment area. Assumptions are that a maximum of 30% of turnover will be diverted from existing retail centres and 70% will be accommodated as a result of need in the area and expenditure surplus. They estimate retail impact as 4.1%.

Table 8 – is a similar exercise carried out in relation to comparison retail impact of the proposed development on Ballycummin and Rosedale Neighbourhood centres, assuming a maximum of 30% of turnover will be diverted from existing retail centres and 70% will be accommodated as a result of need in the area and expenditure surplus; the estimated retail impact is 0%.

### 2.3. Traffic and Transport Impact Assessment

The Traffic and Transport Impact Assessment, prepared by Alan Lipscombe Traffic and Transport Consultants, includes :

A review of the existing transport infrastructure in the vicinity of the proposed development, including an assessment of existing and future traffic flows.

A description of the nature of the proposed development and the traffic volumes that will be generated.

A description of the access junctions and internal layout, together with a swept path analysis.

A review of the impact of the development on the surrounding network.

A review of conditions for sustainable modes of travel.

A review of RSA collision statistics in the study area.

Traffic counts were carried out on Thursday the 25<sup>th</sup> May 2017.

The trip generation is based on the TRICS database.

Traffic is assigned to the road network in proportion to flows observed during the traffic count survey.

Detailed capacity tests were undertaken at the existing development access on the Kilrush Road; the existing development access on the Clonroadbeg Road; and the existing Kilrush Road / Clonroadbeg Road junction. For all scenarios modelled the junctions are forecast to operate within capacity.

Under the heading provision for sustainable modes of travel, it is stated that there are footpaths along both roads continued into the site. While dropped kerbs are provided, the provision of tactile paving (buff colour) should be considered at the access junctions and at all internal crossing points. Access for cyclist travelling to and from the site will be provided via the proposed access junctions with cycle parking in the form of 22 Sheffield stands for 44 bikes, provided on site in accordance with development plan requirements. There are no buses passing the site at present. This mode of travel is not therefore an option for residents and visitors to the proposed development.

Only one minor traffic collision was found in their review of RSA collision statistics (2005-2013) in the study area.

The results of a swept path analysis are shown in Appendix D.

The report concludes that the development will be adequately accommodated on the existing local highway network and the proposed access junctions on the R475 Kilrus Road and Clonroadbeg Road.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.2. The planning authority (PA) decided to grant permission subject to conditions, including:

2 - The 8 no. neighbourhood retail units with independent shop front entrances shall be omitted from the development.

Reason: In the interests of orderly development and having regard to the number of retail units proposed, the details as submitted with the application, including the retail impact assessment and the number of similarly sized units in the vicinity of the site, the Planning Authority considers that these units should be omitted from the development. In the interests of protecting the vitality and viability of Ennis Town Centre.

3 revisions for approval including: pedestrian access throughout the site; proposals for deliveries from the southwestern approach along the Clonroadbeg Road; signage and road markings, including those to facilitate any one-way systems; proposals to protect trees adjacent to proposed retaining wall to the east of the site, and cross section of the wall; 11 disabled drivers parking spaces and 20 parent and child; finishes and materials; and providing one parking space with a charging point (EV).

4 submit a revised layout plan and drawings including: details of canopy, wall and gates to delivery yard – the external face of any wall facing Clonroadbeg Road to be natural stone; details of external plant and lift enclosure; landscaping plan; lighting plan.

5 submit an internal layout of the medical facility and details of future occupiers; proposals to facilitate the walking bus.

6 management company.

7 control of litter.

8 plan for waste.

9 advertisements.

10 storage of goods.

11 hours of opening.

12 surface water.

13 Prior to the commencement of development, the developer shall pay a Special Development Contribution to Clare County Council as a special contribution towards the improvements of pedestrian infrastructure (namely the provision of a pedestrian crossing on the R475) which are necessary to facilitate the development

of the site and the overall area. The contribution payable will be based on the contribution rate applicable at the time of payment and not the rate in existence when permission is granted. The amount of the development contribution is set out below and is subject to annual revision with reference to the wholesale Price Index (Building and Construction), and in accordance with the terms of the Council's Development Contribution Scheme. The amount is currently €50,000.

3.3. The decision was in accordance with the planning recommendation.

#### 3.4. **Planning Authority Reports**

3.4.1. Planning Report, 29 Sept, 2017, including

3.4.2. Designation / Zoning

Zoned commercial in the development plan.

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

Neighbourhood centre – it is intended that land zoned for neighbourhood centre will be developed to provide an appropriate range of local services including commercial, retail and community uses, to support the population of the surrounding area.

#### COM6 Cahircallamore

The principal development objective for this site is to secure the optimum re-use of the existing building on site, by providing a neighbourhood centre...The centre shall provide for a mix of uses anchored by a supermarket / grocery store up to 1200m<sup>2</sup> (net floor area). Other services in the neighbourhood centre may include hairdresser/barber shop, storage or children's indoor play centre will be

encouraged. The planning authority also encourages the continued use of this site for the walking bus to the national school nearby.

COM6 - Development proposals on this site must be accompanied by a transport and traffic management plan.

Development Plan objectives: v3(a)4 and V3(a)8 are cited.

Planning history is listed – referred to under separate heading below.

Irish Water – no objection.

Assessment – At present only two stores are operating at ground floor level.

The floor area of the supermarket amounts to 1150 sq m net which includes off licence sales. The 8 units amount to almost 100 sq m each, use unknown.

The medical facility is to have a total floor area of 1347 sq m, floor area layout not yet finalised.

It is stated that the applicant is in negotiations with the public health service regarding the operation of the facility for out-patient treatment by appointment.

The proposal complies with the zoning.

It provides a mix of uses retail, retail warehousing, and medical and is consistent with the designation of the site for a neighbourhood centre.

The site has been through the development plan process, including public consultation and has been adopted early this year. The plan identifies the neighbourhood for expansion and recognises that there are significant areas of land zoned for residential purposes in the neighbourhood, including Ashline beside the school, and with planning applications on R5 zoning 17/237 (42 houses) and on LDR66 zoning TC007 strategic housing application for 148 units in addition to existing housing at Woodhaven. The development complies with the development plan.

A Retail Impact Assessment has been submitted, in general accordance with the Retail Planning Guidelines. A sequential test has not been carried out. The designation in the plan means the development is plan-led.

The RIA concludes that the proposal can be accommodated by available expenditure for convenience and comparison shopping. In terms of trade diversion,

it is concluded that the proposal will have an impact of 4.1% on existing convenience retailers within the catchment. While any RIA figures can be subject to dispute the information appears to be reasonable in terms of its approach to the assessment of the impact on the town centre, though there are some discrepancies.

The principle of development is acceptable here. Some of the concerns raised by objectors in relation to the scale of the proposal, with regard to the provision of 8 retail units are accepted. The number of such units in the vicinity is noted and the use of the units is not identified. Further analysis in the RIA would be required in order to permit same and should be omitted.

Outstanding traffic issues can be dealt with by condition.

Residential amenity – there are existing dwellings to the north and northeast. As there is an established commercial use on the site, the proposal is not considered to impact on existing residential amenities. The car park is to be raised and a retaining wall located here. Existing trees should be retained to protect amenities of adjoining properties; condition.

Connected to existing services. Condition re. surface water to be attached.

Development Contribution – established use on site; no development contribution. In the Municipal District office report a special contribution is stated to be required to facilitate a pedestrian crossing; condition. If the developer provides the crossing the contribution will be offset.

No appropriate assessment issues arise.

A separate AA screening report is attached.

3.5. Other Technical Reports:

3.6. Environmental Assessment Officer, 21 August 2017 including:

Given the importance of Newhall and Edenvale SAC's and the importance of the Ennis area in general to all bat species which are protected by law, consideration should be given to conditioning: the chosen lighting design should not create any increase in ambient light levels beyond the perimeter of the development footprint;

the lighting plan as submitted should be fitted with sensors to both reduce energy wastage and to reduce impact on foraging bat species; and the utilization of the solar clock to control the timing of lighting should be considered; conditions.

3.7. Roads Design, 27/9/2017, including:

A Traffic and Transport Assessment Report was included, which concluded that the proposed neighbourhood centre will be adequately accommodated by the existing local highway network.

There is no proposal to amend the existing vehicular access/egress points Kilrush Road and Clon Road Beg.

Swept path analysis concluded that the access junctions and internal layout turning requirements, for even the largest legal articulated HGV could be provided for. The Autotrack shows that the parking bays adjacent to the sub-station are encroached by the would-be movements. Further analysis required.

The layout has only one pedestrian crossing. More should be considered.

Legal agreement guaranteeing the current filtered permeability through the site / walking bus is required.

Pedestrian shoppers from Woodhaven will need to cross the Kilrush Road and a contribution for future pedestrian crossings ought to be sought.

Traffic management plan prior to construction including temporary location for the walking bus.

Measures to increase driver awareness of shared surfaces required.

Sightlines at entrances to be maintained unobstructed.

Existing signage, which directs eastern traffic to use the Clon Road Beg exit and western traffic to use the Kilrush Road, to be retained.

Signage required at Kilrush Road entrance, designating road (7) as one way and no right turn.

Timing of deliveries.

Change colour of tactile paving at crossings from red to buff.

Parking required, 229 spaces, proposed 216. The number of disabled spaces should be increased from 10 to 11 and 10% to be set aside for parent and child

parking, located as close as possible to building entrances. Accommodation for future electric charging points to be incorporated in bays.

Further information.

#### 3.7.1. Area Engineer - 29/09/17 including:

A crossing point is being considered for school children approx.. 10m from the existing pedestrian exit from the site in the direction of Kilrush, per attached drawing. The requirement is exacerbated by the proposed development, the shopping centre will become an attraction for pedestrians living close by. As it stands the crossing is proposed to be uncontrolled. Given the proposal for a neighbourhood centre, a change to controlled crossing may be warranted.

Similar type of controlled pedestrian crossings have cost in the region of €25k to €50k depending on site conditions. It should be provided as part of the development, prior to operation; by the developer in conjunction with MD office or by Special Contribution; conditions.

## 4.0 Planning History

- 05/21134 permission, for development to consist of the demolition of existing sheds and for permission to erect a retail warehouse development consisting of four ground floor units and one first floor unit, with bicycle and car parking and associated external works and services and to provide a new vehicular, access via the Kilrush road and a secondary access via the R475 link road from Kilrush Road to St Flannan's Drive; granted subject to conditions.
- 16/71 temporary change of use of an existing car showroom, office and garage complex to a funeral home with ancillary areas and associated site works; refused on grounds of zoning and traffic safety.

Across the road

- 10/21102 extend existing car showroom with internal layout modifications, reposition front entrance wall and site entrance connect to existing public



sewerage system and carry out ancillary site works; granted subject to conditions.

- Pre planning – issues raised zoning, retail impact, visual amenity.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The Clare County Development Plan (Clare CDP) 2017-2023 is the operative plan it includes in Volume 3: municipal district written statement and settlement plan for Ennis
- 5.1.2. Relevant provisions include:
- 5.1.3. Regard has been had to the Retail Planning – Guidelines for Planning Authorities 2012, the Mid-West Regional Planning Guidelines 2010-2022, 'A Strategy for Rural Retailing' – Retail Excellence Ireland, Retail Design Manual, 2012, and Retail Strategy for the Mid-West Region 2010-2016.
- 5.1.4. CDP7.1 - Objective: Retail Strategy: It is an objective of Clare County Council to work with relevant local authorities to prepare a Retail Strategy for the Limerick/Shannon Gateway and for the wider region, if deemed necessary, during the lifetime of this Plan.
- 5.1.5. CDP7.2 – Objective: To have regard to the guidance set out in 'Retail Planning – Guidelines for Planning Authorities 2012' in the assessment of development proposals for retail development.
- 5.1.6. CDP7.3 – Objective includes: to carefully consider qualitative factors in assessing the appropriate nature, scale and distribution of any future proposals for new retail development in Ennis town.
- 5.1.7. There is an identified need for additional convenience and comparison floorspace in the Ennis area during the lifetime of this Plan. Details of future quantitative and qualitative requirements and the preferred sites for such developments are set out in the Ennis and Environs Settlement Plan, contained in Volume 3(a) of this Plan.

- 5.1.8. CDP7.4 – Objective: To support the development of neighbourhood centres in the areas identified in Section 7.4.1 of this Plan, to provide a mix of uses and services suited to the scale of the local neighbourhood.
- 5.1.9. Volume 3 of the plan contains Municipal District Written Statement and Settlement Plans, for Ennis, Shannon, Killaloe and West Clare.

## 5.2. **Volume 3 Municipal District Written Statement and Settlement Plans**

The site is zoned Z1 – commercial and COM6.

11 Goals for Ennis include:

Goal 3 Ennis Town Centre: an Ennis with a strong and vibrant town centre with a diverse mix of retail, residential and other uses and an attractive public realm, which facilitates, encourages, and makes provisions for sustainable forms of mobility, access and permeability.

Goal 4 Retail Development: an Ennis with a vibrant and viable town centre, that has a retail and market offer of a quality, diversity, scale and function which fulfils all the shopping requirements of consumers from Ennis and the entire County.

A thriving town centre is essential to ensure the future growth of Ennis and its environs. Therefore town centre rejuvenation and expansion are central components of this County Plan and will be elaborated further in the Local Area Plan. It is recognised that, as the County Town, Ennis is the primary retail provider in County Clare and it is necessary to ensure that the town can continue to successfully fulfil that role in the future.

In order to achieve these aims the Council will provide direction for the expansion of the town centre, with the former Boys National School and adjoining lands on the Kilrush Road identified for new retail development. These new developments will be complemented by the proposed enhancements to the public realm and the green infrastructure network and the achievement of an improved pedestrian experience in Ennis town centre.

Opportunity Sites are identified which, when developed, will be drivers of change in the settlement area, opening up new lands for development in key locations, regenerating areas that have been at risk of decline, creating employment opportunities and providing new shops and services for local residents.

A total of eighteen Opportunity Sites have been identified. The Opportunity Sites are particularly important in relation to the expansion and rejuvenation of Ennis town centre, achieving economic growth and improvements to the public realm and the provision of improved levels of services and amenities for residents of the settlement area and the surrounding hinterland.

Strategic Aims for Ennis Town Centre are:

To make the town centre a pedestrian friendly area and provide additional parking at convenient locations to ease traffic flows in the town centre;

To support and strengthen the town centre and provide for the future expansion of the town centre by bringing forward anchor developments at the site of the former Ennis Boys National School and adjacent lands on the Kilrush Road;

The Opportunity Sites that have been identified in the town centre are central to the achievement of the overall vision for the area. In addition to the primary Opportunity Sites in the town centre such as the Former Boys National School (OP1) and the Post Office Field (OP5) there are a number of other Opportunity Sites that have been identified as potential locations for development/redevelopment

Ennis Town Centre Expansion Area - To provide for the additional defined quantum of retail accommodation (for modern retailers in Ennis town centre, whilst preserving the town's attractive historic character, the focus for expansion of new retail development will be on the western section of the town centre, key Opportunity Site OP1 has been identified.

Objective V3(a)6 - to provide for the additional defined quantum of convenience and non-bulky comparison retail, for modern retailers, in the Ennis Town Centre Expansion Area.

Edge-of-centre' is defined as a location within easy walking distance (no further than 400m generally) of the primary retail area of the town centre. It is not envisaged that edge-of-centre or out-of-centre convenience retail development will be required or permitted during the life time of this Plan.

Neighbourhood centres generally serve smaller more localised communities, where many of the inhabitants are able to access their daily needs within easy reach of their homes, preferably within walking distance. The concept of neighbourhood centres in Ennis is fundamental to anchoring communities and meeting daily convenience shopping needs.

Objective V3(a)4 To protect and enhance the vitality and mix of Ennis town centre land-use activities; to improve the suitability of the Ennis town centre retail accommodation for modern retailers, whilst preserving the town's attractive historic character; to accommodate the need for additional nonbulky comparison goods floor space within the town centre or town centre expansion area, ensuring it is integrated into the existing shopping facilities; to provide for neighbourhood facilities to serve existing neighbourhoods and those planned for growth; and to encourage a new focus of high quality out-of-centre bulky comparison retail warehousing provisions in identified areas, limiting the range of goods which can be sold from any new premises to those that will not compete with the town centre.

Neighbourhood Centres in Ennis - As a town with a population greater than 25,000 persons, there is a requirement for neighbourhood centres at appropriate locations in the Ennis and Environs area. These centres generally serve smaller more localised communities. They promote sustainable communities by meeting the daily convenience shopping needs of local residents, promoting social inclusion and reducing the need to travel by car into the town centre for daily essentials. They can also act as a focal point for the community and attract other small businesses such as hairdressers, newsagents etc. to locate nearby.

In Ennis there are existing neighbourhood centres serving the Roslevan and Lifford communities. However there is a need for similar services in other neighbourhoods in the town and its environs, namely the Claureen, Cahircalla More and Clonroadmore areas. Suitable sites for the development of neighbourhood centres in these communities are identified.

Retail Development - the retail sector in Ennis is a key contributor to the local economy and supporting a diverse and vibrant retail sector is one of the central aims of this Plan.

Retailing is a dynamic industry constantly subject to innovation, new formats, technologies and trends. The factors that directly impact on the retail sector cannot be viewed in isolation and require a variety of policy and operational responses. This Plan has been prepared in a time of increasing consumer confidence and in the context of a renewed focus on the revival and enhancement of the town centre. Recognising this, the Council's main aim is to seek to preserve and support existing retail businesses and to enhance the retail offer in the town centre via a multifaceted approach to land-use planning and management.

Strategic Aims for Retail Development – the focus will be on the following strategic aims:

- To maintain and enhance the attractive character, vitality and viability of the independent retailers and other speciality shops in Ennis town centre whilst ensuring a dynamic range and mix in the retail offer;
- To improve the suitability of Ennis town centre retail accommodation for modern retailers, whilst preserving the town's attractive historic character;
- To fully examine mechanisms that will enable the development of town centre sites as well as the redevelopment/rejuvenation of underutilised, vacant or derelict sites for appropriate town centre use;
- To facilitate a limited number of new or refurbished neighbourhood centres to serve new areas for housing development or to meet areas of local deficiency;
- To monitor the vibrancy, vitality and viability of retail in Ennis through the lifetime of the Plan (and brand) and promote Ennis as a niche retail destination.

Objective V3(a)8 objective

a To retain the vitality and viability of existing neighbourhood centres and local shops, ensuring their sustainable development;

- b To work to ensure that all residential areas have easy access to, and are adequately serviced by, local/neighbourhood facilities and services;
- c To encourage the provision of new neighbourhood centres, in the areas identified, to provide a mix of uses and services suited to the scale of the local neighbourhood. Such developments will be the subject of a retail impact assessment to ensure that there will be no resultant negative impacts on the vitality and viability of the town centre;
- d To ensure that a physical buffer is provided between new neighbourhood centres and adjoining residential areas to avoid disturbance and promote compatibility.

Site COM6 Cahircallamore -the principal development objective for this site is to secure the optimum re-use of the existing building on site, by providing a neighbourhood centre that serves the Cahircallamore neighbourhood. The neighbourhood centre shall provide for a mix of uses anchored by a supermarket/grocery store up to 1200m<sup>2</sup> (net floor area). Other services in the neighbourhood centre may include hairdresser/barber shop, café or restaurant. A limited amount of first floor uses such as medical services, office use, fitness centre, storage or children's indoor play centre will be encouraged. The Planning Authority also encourages the continued use of this site for the 'Walking Bus' to the national school nearby.

### **5.3. Retail Planning Guidelines for Planning Authorities Department of the Environment, Community and Local Government, 2012**

#### **4.11.6 Local Retail Units**

Local retail units such as corner shops or shops located in local or neighbourhood centres serving local residential districts perform an important function in urban areas. Where a planning authority can substantiate the local importance of such units in defined local centres, they should safeguard them in development plans, through appropriate land-use zoning. Development management decisions should support the provision of such units, particularly where they encompass both food-stores and important non-food outlets such as retail pharmacies, and have

significant social and economic functions in improving access to local facilities especially for the elderly and persons with mobility impairments, families with small children, and those without access to private transport.

Local Centre or Neighbourhood Centre comprise a small group of shops, typically comprising newsagent, small supermarket/general grocery store, sub-post office and other small shops of a local nature serving a small, localised catchment population.

Centre - for the purposes of these guidelines, a centre refers to a city or town centre and can also, refer to the centre of a district or neighbourhood centre which has been identified in the settlement hierarchy of a development plan

Annex 5.

Main Steps to the Assessment of Retail Impact

As indicated in Chapter 4 the assessment of retail impact is not intended to prevent competition or prevent trade diversion in itself, but its purpose is to promote healthy urban centres in the public interest. This must be borne in mind when carrying out these assessments.

It is commonly accepted that there are five main steps to the assessment of retail impact:

- I. Identification of catchment or study area;
- II. Estimation of expenditure available within the defined catchment or study area;
- III. Estimation of the turnover of existing centres within the catchment area which is likely to be affected by a new development;
- IV. Estimation of the turnover of the new development for which a planning application is being lodged; and
- V. Estimation of the quantum of consumer retail spending available in the catchment area which will be diverted from existing centres to the new retail development.

Annex 5.2 Estimate of Trade Diversion from Centres in the Retail System

Many of these steps in the assessment of retail impact are relatively straightforward and make use of readily available data. The one matter that is less clear cut in the assessment of impact is step (v) which is where the estimate of trade diversion from each of the centres in the retail system to the proposed development is made. A variety of approaches can be adopted at this stage of the assessment, some more sophisticated than others. It is not intended to impose a required methodology to this stage of the calculation. It is important for all approaches to be clearly substantiated, however, preferably using up to date information and survey evidence as far as possible. Unsubstantiated judgements and assertions do not assist in providing a clear assessment.

#### **5.4. Mid-West Regional Planning Guidelines 2010 – 2022, Mid-West Regional Authority/ Southern Assembly**

The recent assessment of retailing indicates that the Region as a whole is already overprovided with shopping facilities, fuelled by a doubling of retail floor space supply over the past 7 years and exacerbated by the severe economic downturn of the past 12 months, which has badly hit retailer demand. All categories of goods are estimated to be currently under-trading across the Region as a whole.

The amount of retail development that has been approved but not yet constructed is substantial and, combined with the existing retail facilities, there is no need for any additional retail floor space in the Mid-West Region as a whole through to 2016 (the end date of the current Retail Strategy). The only exception is with respect to non-bulky and bulky comparison goods floor space at 2022, for which there is a modest level of need. It is unlikely that new schemes will come forward seeking planning permission when existing schemes (with full planning permission) are not being implemented.

The Mid-West Region is now at a crossroads where, if further uncontrolled/ unrestricted retail development is allowed, there will be a detrimental impact to Limerick City Centre. Whilst Limerick City is at the top of the retail hierarchy, it has suffered most from competition from other suburban and out of centre comparison



shopping destinations. Retail developments over the last few years have shown that new retail development in one location unsupported by a corresponding growth in expenditure will divert trade from an existing location elsewhere, with a consequent disinvestment and loss of jobs there. Future retail development other than in North Tipperary should have regard to the proposed Mid-West Retail Strategy.

Planning Authorities should expressly recognise the role of retailing as a key contributor to a vital and viable town centre by identifying and facilitating the provision of retailing in Core Retail Areas. Prioritisation of town and city centre locations for large retail developments.

In the context of Limerick City and its environs such developments should be reserved for the City Centre. However, in those areas of the Region that have a proven qualitative and quantitative need in both the convenience and comparison retail sectors it is recognised that strategies that are suitable for each specific area should be developed. In this context it is noted that Shannon and Ennis are part of a linked Gateway/Hub and have significant roles in catering for the population of the Region that resides in the County Clare area.

To date these towns have not realised their respective retail potentials. These towns will continue to expand as key growth towns and their retail markets must, therefore, also expand. In this context there may be a requirement for the development of district centres in Ennis and Shannon in order to more appropriately cater for the family shopping market.

#### **5.5. Mid West Area Strategic Plan 2012-2030 (MWASP) Planning, Land Use and Transportation Strategy**

The emphasis of the strategy is on protecting Limerick City Centre and its role as the primary retail centre in the region which is threatened.

There was a significant decrease in the numbers employed in the wholesale & retail trade between 2007 and 2011. In 2011, 20,100 (13.2% of total) people were employed in the wholesale & retail trade, a decrease 5,200 (-21%) jobs since 2007.

The drop in the numbers employed in this sector in the Region was greater than the national average (-13%).

Retail Strategy for the Mid-West Region, 2010 to 2016, (Colliers, CRE Retail Strategy for the Mid-West Region, 2010 - 2016) highlights that Limerick City Centre has fallen behind other cities in the State and no longer performs to its Tier 1 Status in the shopping hierarchy. The Strategy highlights that if the redundancy of the City Centre as a retail destination continues, it will accelerate the broader deterioration of the City where it may never regain its premier position in the region. The Strategy finds that too much trade has been lost to suburban locations.

#### **5.6. Colliers, CRE Retail Strategy for the Mid-West Region, 2010 – 2016**

The pace of new build combined with the economic downturn, has, of course, led to a huge existing over-supply of retail floorspace stock in the Mid West with around 86,000 sq m net now estimated to be vacant.

It is estimated that many of the retailers across the Mid West are currently under-trading, and therefore must capture some of the future growth in spend in order for them to return to previous levels of trading viability.

It is important that each Council incorporates the strategy into their Development Plans and, when exercising their powers and deciding on planning applications, take into consideration both the impact of the development itself, and the development in conjunction with other recently approved or proposed developments, on the retail sector, both within their own administrative area and on centres within the administrative area of adjoining Councils.

Sequential Test - the sequential test should be stringently applied to the assessment of all retail proposals, other than those intended to serve a local population. It is a fundamental part of the national retail strategy to seek to direct new retail development to town centres and thereby capture the benefits that this can bring forward in terms of protecting and enhancing existing centres, sustainable development and social inclusion. It is important to ensure that the scale and

function of the proposed retail development accords with that of the centre in which it is to be situated.

5.6.1. The strategy for Ennis should:

Seek to improve the suitability of town centre retail accommodation for modern retailers, whilst preserving the town's attractive historic character; seek to accommodate the need for additional non-bulky comparison goods floorspace within or on the edge of the town centre, ensuring it is integrated into the existing shopping facilities; encourage a new focus of out of centre bulky comparison goods retail provision in suitable areas, limiting the range of goods which can be sold from any new permission by condition to those that will not compete with the Town Centre; accommodate the required additional convenience floorspace in a suitably located district centre if this cannot be achieved within the town centre; harness the potential of any appropriate opportunity/brownfield sites within or adjacent to the town centre; maintain and expand the attractive network of independent fashion boutiques and other speciality shops in the town centre, which combined with the character of the town and its public space creates a niche shopping experience for residents and tourists.

5.7. **Draft National Planning Framework, Ireland 2040 - Our Plan**

Analysis in preparing Ireland 2040 shows that more than anything else, getting the physical form and location of future development right offers the best prospects to unlock regional potential. At present the fastest growing areas are at the edges of and outside our cities and towns, meaning: a mismatch with infrastructure, services, amenities and jobs, remarkably high levels of car dependency and difficulty in providing good public transport; a gradual process of run-down of city and town centre and established suburban areas as jobs, retail and housing move out, leaving behind declining school enrolments, empty buildings and a lack of sufficient people to create strong and vibrant places, both day and night,

An increase in the proportion of more compact forms of growth in the development of settlements of all sizes, from the largest cities to the smallest villages, has the potential to make a significant difference. It can bring new life and footfall, contribute to the viability of services, shops and public transport, increase housing

supply and enabling more people to be closer to employment opportunities, as well as to walk or cycle more and use the car less.

Creating more compact and smarter development in Ireland has been traditionally more difficult to achieve than a continuous process of pushing development outwards towards greenfield locations and requires continuous focus.

#### 5.8. **Smarter Travel A Sustainable transport Future - A new transport policy for Ireland 2009-2020, Department of Transport 2009.**

It is intended that there will be a shift to public transport and other sustainable forms of travel by 2020; and that land use planning and the provision of transport infrastructure and services will be better integrated.

Five key goals, which form the basis of the policy aim to:

- Improve quality of life and accessibility to transport for all and, in particular, for people with reduced mobility and those who may experience isolation due to lack of transport
- Improve economic competitiveness through maximising the efficiency of the transport system and alleviating congestion and infrastructural bottlenecks
- Minimise the negative impacts of transport on the local and global environment through reducing localised air pollutants and greenhouse gas emissions
- **Reduce overall travel demand and commuting distances travelled by the private car**
- Improve security of energy supply by reducing dependency on imported fossil fuels.

#### 5.9. **Natural Heritage Designations**

- 5.9.1. The Newhall and Edenvale Complex SAC, site code 002091, is the nearest Natura Site located approx. 1.5km away. Features of Interest: caves not open to the public, and Lesser Horseshoe Bat (*Rhinolophus hipposideros*).

## 6.0 The Appeals

### 6.1. Clare Car and Tractor Parts Ltd, & Lohan Property Ltd.

6.1.1. HRA have lodged an appeal on behalf of the first party. Clare Car and Tractor Parts Ltd, & Lohan Property Ltd, against condition no 2. The grounds includes:

- It is unreasonable an impractical, and the reason contradicts the development objective for the site.
- The applicant proposes to reduce the number of units from 8 to 4 and provides a revised layout for the Board's consideration. The layout shows units 1-4 with floor areas in the region of 96-100 sq m and unit 5 of 474 sq m, in the area where units 1-8 were previously shown.
- The site is zoned commercial and neighbourhood centre – COM6. A supermarket/store up to 1200m<sup>2</sup> is referred to. The development proposal is exactly as anticipated in the development plan; like Rosleven or Lifford. The development plan does not present a hierarchy of neighbourhood centres. It is reasonable that a similar range of uses as that of other centres would be available.
- The impact was fully assessed in the RIA. The planning authority (PA) acknowledge that they have no objection in principle and they acknowledge the zoning objective. The reason is disputable and unreasonable.
- Clare CDP is recent and in its making they would have been mindful of the existing provision. Revisiting the site in principle is not appropriate. It is a contradiction of the development plan.
- Since the application the planning authority have expressed a preference for 4 units. A revised layout is provided.

### 6.2. Clare Car and Tractor Parts Ltd, & Lohan Property Ltd.

6.2.1. A first party appeal has been lodged by Martin O'Malley on behalf of Clare Car and Tractor Parts Ltd, & Brian Lohan on behalf of Lohan Property Ltd, against condition no. 13 which requires the payment of a development charge. The grounds includes:

- There is insufficient justification for the levying of the charge:
  - The building has been occupied for 10 years.
  - There are footpaths serving the site.
  - The municipal engineer's report refers to the intention to provide a crossing point for schoolchildren.
  - There is nothing in the development plan and nothing in the objectives for the site to require such provision.
  - The development contribution scheme includes 'road refurbishment and provision of pedestrian facilities'.
  - The Development Management Guidelines, paragraph 7.12, requires such contributions to arise directly as a result of / in order to facilitate a development.
- No detailed costings have been provided. The municipal engineer's report is referred to. In the range of €25,000 to €50,000 is stated, whereas S48(12) requires the condition to specify particular works. The Development Management Guidelines, paragraph 7.12, requires the basis for the calculation to be stated.
- Other benefitting parties have not been identified and there has been no attempt to assign costs to others. It is not clear from the municipal engineer's report that a condition should levy the full amount. The benefits to other developments have not been considered, Westgate Business Park, for example. They request the setting aside of the condition or apportionment.

### 6.3. **Jim O' Leary**

6.3.1. A third party has been lodged against the decision to grant permission by Jim O' Leary, Blarney, Co Cork. The grounds includes:

- Zoning & Retail Impact – condition 2 does not deliver a mix of uses. The assessment of retail impact should have been carried out using further information.

- The redesign and change of layout, condition 2 also conditions 3, 4 and 5 would be without reference to third parties.
- There has been weak assessment.
- He requests refusal.

#### **6.4. Karen & Noel Mulhaire**

6.4.1. A third party has been lodged against the decision to grant permission by Karen & Noel Mulhaire, 2 Riverside, Clonroadmore. The grounds includes:

- A development was refused under ref 16/71 on the grounds of traffic hazard. It was much smaller in scale and would have produced less and more infrequent traffic. The PA have not addressed the danger of the road junction.
- Condition 2 - they have approved the development with substantial changes and requested revised drawings which the public will not have a right to appeal; and similarly re. revised arrangements re. HGV deliveries.

#### **6.5. Harnett Homes & Estate Development Ltd and B Harnett**

6.5.1. A third party has been lodged against the decision to grant permission by Harnett Homes & Estate Development Ltd and Mrs Bridget Harnett. The grounds includes:

- They own a mixed use development at O'Sullivan & Hansbury Motors, Ashline, Kilrush Road, Ennis; a mixed use, commercial and residential development. The commercial uses consists of the O'Sullivan Hansbury Citroen dealership, Campus Fuel dealership, Mace Supermarket, Auto Crash Repair centre and James Quinn Butchers. They have great concern about the impact on their client's businesses, on the future of their mixed use development and on the vitality and viability of Ennis town centre.
- They are seeking an overturn of the decision to grant permission or, if disposed to granting permission, either a refusal of the 8 neighbourhood retail units or a condition like no. 2 of the decision.
- The policy context is referred to.

- They have not demonstrated need at this time.
- The Cahircalla More neighbourhood has a very low number of housing units, and has not experienced any significant housing development since Woodhaven was developed in 2000.
- This neighbourhood is adequately served by local services.
- They provide a map of the neighbourhoods (1A).
- There is an estimated population of 614 persons in the neighbourhood.
- The plan is to develop a neighbourhood around the new Ennis national school and lands are earmarked.
- It is not established.
- There is a risk that population targets will not be achieved during plan period.
- This disaggregated approach is contrary to the retail guidelines, which advises that retail development should not precede other development.
- The development is premature.
- Local services are adequate, and listed.
- The development is contrary to policies which seek to protect the town centre.
- Both the 2003-2008 plan and the 2008-2014 plan are referred to in relation to uses permitted on the site.
- There is no justification for the turnaround and it is contrary to the Retail Planning Guidelines (RPGs).
- RPGs are quoted re. retail warehousing.
- Units in Westgate Retail Park have changed from retail warehousing to various other uses.
- Only two units remain.
- The proposal would be contrary to the CDP (7.6.2) which states the need to consolidate retail warehousing.



- The objective to regenerate a largely unoccupied building is not sufficient reason to relocate uses out of town.
- The scale should only serve local residents.
- The scale is excessive.
- RPG definition of neighbourhood centre: a small group of shops, typically comprising newsagent, small supermarket/general grocery store, sub post-office and other small shops of a local nature serving a small localised catchment population.
- The proposal is more appropriate to a district centre.
- Proposed development is designed to capture trade and custom from a wide catchment.
- It should be smaller scale and with commensurate services.
- The medical services are proposed to serve well beyond the catchment.
- The location is out of town.
- It should be centrally located to the neighbourhood it serves. It is cut off from the majority.
- It serves a small local population.
- It depends on drawing in from other areas.
- A smaller development would suit.
- There are barriers to pedestrian movement. R475 and Clonroadbeg Road. It is not easily or safely accessible by foot, bicycle or public transport. It is car dependent. The only crossing of the R475 is at the traffic lights at Cootes Cross and an uncontrolled crossing associated with Ennis National school outside O'Sullivan & Hansbury's where there is vehicle priority. There are no adjoining residential areas.
- Condition No 13 – one pedestrian crossing will not be adequate to ensure pedestrian safety.

- It doesn't serve objective V3(2)(8)(b) to ensure all residential areas have easy access to local shops. It will offer an attractive alternative to the town centre and impact on the vitality and viability of the town centre.
- The Retail Impact Assessment has failed to address that Ennis town centre is not in robust health. GEOVIEW is cited as stating that commercial vacancy is 18.9%.
- There is a high level of charity shops & discount stores. Many buildings are in poor condition.
- The farmer's market has relocated to a neighbourhood centre.
- An RIA is a loose form. The data is out of date by up to 10 years.
- RSMWR (Retail Strategy for the Mid-West Region) 2010-2016 is based on 2007/2008 and spring 2009 research.
- It states that local authorities should monitor trends. It was generated during a huge economic boom. Most projections turned out to be grossly over estimated.
- Section 5.3 of the RIS refers to zone 8 as a group comprising Ennis, Claregalway and Ennistymon with 9.351 sq m. Ennistymon is not included in this zone.
- From their figures for 2020 convenience - €76,142,492 the proposed development at €11,730,000 represents 15.41% not 12.2% as stated.
- Section 1.4 of the RIS 'estimation of the proposed development's likely impact on retailing in its vicinity' is of particular concern.
- Table 5 cites a MWRS figure of 6,200sq m which doesn't exist in the MWRS report.  
  
6,200 sq m is the combined floor area of Dunnes, Tesco, Aldi and Lidl. This excludes other convenience stores, which they list, and the total floor area 9,351sq m is 51% higher.
- Table 5, adjusted for the incorrect floor area, is given; showing remaining expenditure as minus €30,867,908.

- The total capacity has been divided by only a portion (65%) of floor space producing the erroneous view that the remaining 35% is expenditure capacity. All available expenditure is currently being spent (based on turnover per sq m). That expenditure is available is not founded on any logic.
- A more logical method to estimate total expenditure, expenditure capacity and the impact of trade diversion, would be:
  - Identify the population catchment
  - Use expenditure per head of convenience (CSO Household Budget) to identify total available expenditure.
  - Market share – Kantar World Panel to distribute (allowing for adjustment as there is no Supervalu in Ennis).
  - Market penetration.
  - Impact trade diversion.
- Tables of worked estimates are provided – 13% market share is stated to be conservative. Trade diversion of 9% from the town centre and 4% from other centres in the vicinity has not been addressed in the RIS.
- Regarding the convenience estimates set out in section 7.3.1 of RIS
  - Table 7 Col 7 - there is no basis for the assumption that only 30% will be diverted from existing centres.
  - Table 7 Col 8 is not relevant.
  - All turnover will come from existing centres.
  - Table 7 Col 5 is based on 65% floor area and is not useful.
  - Table 7 Col 9 is based on Col 8 and Col 5, neither has any basis.
  - Col 10 is based on Col 9, for which there is no basis and Col 2 is based on incorrect sq m.
  - Col 11 is based on Col 10 as a % of Col 5.
- Trade diversion (estimated at 4.1%) is underestimated and their submission provides a sounder, more logical basis.

- The trade will be 100% diversion from existing businesses, representing 13% of total expenditure in the area; comprising 9% from the town centre and 4% from other neighbourhood centres. Expenditure surplus has been shown not to exist.
- Re. section 4.5.1 of the RIS - it is not reasonable to include all Ennis in the catchment.
- Base year 2009 + annual increment – is not valid.
- There is no reference to specific centres. Figures used are incorrect. It gives an incorrect impression of overtrading, lacks credibility and misleads.
- Net retail area and spend per sq m taken from MWRS is 2009 is irrelevant in 2017. It suggests that if floor area was doubled turnover would double. It lacks credibility.
- Re. the quantum of diversion – a 30% figure is used for which there is no justification and no logic.
- Col 11, table 7, 4.1% impact on town centre is stated to be acceptable – no impact on town centre is acceptable. Table 8 ‘Ballycummin & Rosedale’ – is a misprint?
- The assessing planner states that there are discrepancies in the RIS but doesn’t follow up. No sequential test was carried out. The commercial zoning requires a sequential test.
- Opportunity site OP1, in the town centre, is sequentially preferable.
- V3(a)6 states in relation to OP1 – ‘It is an objective of Clare County Council to provide for the additional defined quantum of convenience and non-bulky comparison retail accommodation for modern retailers in the Ennis Town Centre Expansion Area’. Facilitating a 1,150 sq m store €11.7m annual turnover, 1.2km from OP1, is not justifiable.
- Local Services/Businesses - 4.11.6 of the RPG is cited re. the importance in serving local communities. The basket of items available overlaps with local shops. It will have a devastating effect on local businesses. A diversion of 50% (a conservative assessment) or €1.5m would see many of them close.

- Planning permission 16/339 at Westgate for a change of use of a unit is cited, where the planning authority was concerned about the impact on the established retailing facilities within this area.
- Intensification – planning permission 05/134, the history attached to this site, is cited, opening times as currently proposed - 6.00 to 23.00 7 days; whereas the existing opening hours are Mon Sat 9-6 Sunday 12-6.
- Traffic – there is congestion at school drop off and collection times and also congestion associated with Éire Óg.
- Traffic hazard:
  - Traffic will increase. It will encourage private car use.
  - Kilrush road – the traffic will cross spaces 01-16 and 154- 162 where cars will be reversing – conflict.
  - One way HGV's from Clonroadbeg Autotrack using St Flannan's Drive (most via motorway) exit to Kilrush Road in the direction of Ennis.
  - The engineer's drawings and Architect's drawings conflict.
  - There are no road markings or signage provided.
  - P16/71 adjacent to the west was refused. Refusal reason 2 is cited re traffic safety.
- Parking
  - 216 spaces are existing but there is significant intensification. Retail warehousing requires 5 per 100m<sup>2</sup> and supermarket 8 per 100m<sup>2</sup>. The deficit is acknowledged,
  - COM6 a walking bus at St Flannan's Drive. Pupils are dropped off and parent volunteers (10-12) park in existing car park. The bus leaves at 8.30 with parents returning to their cars at 9.00. These spaces have not been accounted for.
  - The development requires 229 car spaces and 2 lorry spaces. No lorry spaces are proposed. Spaces nos. 70&72 are not to required standard, 6m width is required to the rear. Spaces to the rear of the loading bay are

not suitable. Spaces are being used by parents at school collection times and by car poolers.

- The medical facilities require 55 spaces. The development will cause congestion from on-road parking.
- The layout is dictated by parking and is not pedestrian friendly.
- Residential Amenity
  - Noise; anti social behaviour; heating cooking?
  - The proposed change in site level will require a 40m retaining wall. Planting will be removed.
  - There will be overlooking from the increase in site level by 1.2m.
  - Objective V3(2)(8) requires neighbourhood centres to provide a buffer.
- Surface Water - 05/134 storm water infiltration and overflow; have the conditions been complied with.
- Previous Board decisions are referred to as precedent
  - 28.244860 (Cork)
  - 17.242582 Dunboyne/Clonee/Pace Meath
  - 28.247701 (Cork)
  - 04.244354 Youghal
  - 17.236886 Dunshaughlin Meath
- Conclusion: counter attraction to town centre.
- They request the Board to refuse permission or if granting to impose a condition like no. 2 of the decision.

## 6.6. O'Sullivan & Hansbury Motors

- 6.6.1. A third party has been lodged against the decision to grant permission by Coleman & Associates on behalf of O'Sullivan & Hansbury Motors Ashline, Kilrush Road, Ennis. The grounds includes:

- Their business consists of O'Sullivan & Hansbury Citroen dealership, Campus Fuel dealership and Mace Supermarket. They have very serious concern about the impact on their business, and on the vitality and viability of Ennis town centre.
- They are seeking an overturn of the decision to grant permission or if disposed to granting permission either a refusal of the 8 neighbourhood retail units, or a condition like no. 2 of the decision.
- Most of the issues raised in the Harnett Homes & Estate Development Ltd and Mrs Bridget Harnett appeal, are raised in this appeal also, and therefore not restated here.

#### 6.7. Donie O'Keeffe and others

6.7.1. A third party has been lodged against the decision to grant permission by Coleman & Associates on behalf of

Donie O'Keeffe, Champion Meats Ltd, 1-2 Turnpike Road

Matt Waters, Clare Fruit and Vegetables, 4 Turnpike Road

Jim O'Dowd, O'Dowd's Convenience Store, Turnpike

Patricia Russell, Health Connection, Unit 1, 1 Turnpike Road and

John & Carmel Mangan, Yvonne's Takeaway, Turnpike.

6.7.2. The grounds includes:

- They operate businesses in the Turnpike area of Ennis which is within close proximity to the proposed development.
- They are seeking an overturn of the decision to grant permission or if disposed to granting permission either a refusal of the 8 neighbourhood retail units, or a condition like no. 2 of the decision.
- Most of the issues raised in the Harnett Homes & Estate Development Ltd and Mrs Bridget Harnett appeal, are raised in this appeal also, and therefore not restated here.

## 6.8. **Planning Authority Response**

6.9. The planning authority have responded to the first party grounds of appeal, concerns were expressed regarding the impact of the number of retail units as proposed having regard to the extent of similar sized retail units in the vicinity. The PA consider that a limited number of units for neighbourhood services as opposed to retail use, may be more appropriate in the event that the Board is considering a grant of permission. The planning authority have responded to the third party grounds of appeal referring the Board to the planner's report and stating that the proposal in general complies with the zoning provisions and the wider objectives for the town and provides for a mix of uses and is consistent with the designation of the site for a neighbourhood centre.

6.10. The planning authority have responded to the first party grounds of appeal in relation to the special development contribution, stating that the proposed development will generate significant footfall, including to surrounding residential estates, and they consider it appropriate that a special development contribution to facilitate pedestrian access is provided in this instance.

## 6.11. **First Party Response**

6.12. HRA have responded to the third party grounds of appeal on behalf of the first party, stating that there is substantial duplication, and in the interests of convenience and efficiency there will be reference to previous responses where appropriate. The response includes:

6.13. Response to the appeal by Harnett Homes & Estate Development Ltd and Mrs Bridget Harnett:

6.13.1. Regarding the concerns at the impact on their businesses and that the development should not precede residential development. The development is consistent with the objectives and strategy for neighbourhood, having a neighbourhood centre designation; the commercial mixed use development objective COM6, only recently adopted. The comments regarding planning policy and neighbourhood development relate more to the validity of the objectives. Council policy cannot be dismissed or diluted by the appellant. The Development Plan provisions have legal effect.



- 6.13.2. The appellants have declared a vested interest and may be influenced by personal gain. The Board is requested to keep this in mind.
- 6.13.3. The main arguments relate to change of use, size of development and Retail Impact Assessment (RIA), including the impact on the town centre and some technical points, development contributions, traffic, parking, planning conditions and the potential for residential impact.

Re. change of use:

- 6.13.4. The appellants seek to validate the proposal against the previous CDP 2008-2014. The appellants suggest that the terms of the previous permission ref. 05/834 is in some way a material consideration. This serves to fabricate an argument that does not facilitate the appeal. The 2008-2014 plan provisions are no longer, and have been replaced by the CDP 2017-2022 and the provisions for Ennis MD in the appendix 3a.
- 6.13.5. The rationale for the policy change in relation to this area is apparent.
- 6.13.6. The site is suitably and centrally positioned within an established suburban area, identified for future development. There is no ambiguity in the policy. The development plan presents a degree of planning certainty, insofar as the intended uses of this site are concerned.
- 6.13.7. The contention that there is limited existing housing in the area is a short-sighted perspective. Neighbourhoods and people are not pre-fixed within a defined boundary. The applicant submits, and through the plan the council consider, that there is sufficient residential base, existing and planned, to support the establishment of a neighbourhood centre. There are only 3 strategically identified neighbourhood centres in Ennis. The development presents an opportunity to contribute to a plan-led neighbourhood, which will be in place as new areas are developed.
- 6.13.8. There is no provision restricting change of use. The suggestion that it would be contrary to Sec. 7.6.2 of the Development Plan re. retail parks / retail warehousing, is a further misunderstanding.
- 6.13.9. The current objective for bulky warehousing does not include the subject site.

Re. Retail Assessment including size and potential effects on the town centre:

- 6.13.10. The RPG's Section 4.4 are cited, regarding support for city and town centres. A RIA was not and should not have been required to support the convenience element as the plan supports 1,000 to 1,200 sq m of net convenience floorspace. The MWRS 2010-2016 has informed the Plan. It is the only retail document which provides a unified and accepted approach to retail policy and which has been adopted by relevant Councils. Objective V3(a)4 is clear. There is no out of town or district centre, only the town centre. Section 1.7.2 of the Ennis Municipal Plan states that the strategy identifies a requirement for an additional 10,873 sq m of non-bulky comparison floorspace and an additional 6,049 sq m of convenience floorspace.
- 6.13.11. Table 1 of the Ennis Municipal Plan is specific about the allocation to preferred sites, allocating 1,000 to 1,200 sq m of net convenience floorspace to Cahircallamore Neighbourhood Centre. The convenience element should not have been subject to RIA.
- 6.13.12. The appellant highlights a discrepancy in the RIS, which overestimates the existing convenience floor space in Ennis, as 6,200 sq m rather than 5,421 sq m, a difference of 779 sq m. According to the appellant there is already an excessive level of convenience retailing in Ennis, with inadequate expenditure capacity in the order of 25% which will be increased to 30% by the proposed development. The response submits that these figures are at odds with findings of the MWRS which are based on the same figures. The appellant has failed to take account of a wider catchment (including spending from adjoining zones 9 and 7) and from tourism (an estimated €2.3m (2007 prices)) (Appendix 4c); not accounted for in the appellant's Table 2 or in the RIS supporting the proposed development. The MWRS (Appendix 6D Table 7, confirms that 57.9% of the population from Zone 9 and 11.6% from Zone 7 spend money on convenience shopping in Ennis. The available expenditure in the catchment, as detailed in Table 5.0 of the RIS, and reused by the appellant, has been significantly underestimated.
- 6.13.13. Re. the alternative method proposed by the appellant to establish total expenditure, expenditure capacity and the impact of trade diversion, using: expenditure per head from the CSO Household Budget Survey 2015 and National Market Share Figures

as per Kantar World Panel. These figures differ substantially from the adopted MWRS and the Minister has rejected the Household Budget Survey as a source for calculating per capita expenditure; it being considerably below other sources and regarded as unreliable, and never intended to measure expenditure aggregates in the retail sector. Bespoke estimates of consumer spend were produced for the MWRS. The market share statistics from Kantar are based on 3,000 households and therefore limited. The appellants base trade diversion is based on Kantar figures and manipulates national results for Ennis without any detailed supporting rationale or justification. The calculation of trade diversion, as presented by the appellant, has no regard to existing consumer expenditure, future growth in population and expenditure, location, expenditure leakage and the health of the town centre.

- 6.13.14. The RIS submitted assumes that 30% of the turnover of the proposed development will be diverted from the town centre. This is considered to be an overestimation representing a worst case scenario. Only 86.5% of the population in Zone 8, which includes Ennis, spends their money in Ennis. This suggests significant expenditure leakage, 13% of potential expenditure, from the town, and it is anticipated that the proposed development will absorb some of this leakage. The population of the catchment area is to increase by 812 people between 2017 and the design year 2020 and this will result in additional expenditure in the area, some of which will be absorbed by the proposed development. There is significant land zoned for residential development at Ashline. There is also a need for additional convenience floorspace in Ennis up to 2022. The proposed development will satisfy only 19 percent of this requirement. The appellants contention that 100% of the spend will be diverted from existing businesses is inaccurate and completely undermines the findings of the MWRS, the CDP, and disregards any potential for future growth in need in Ennis town.
- 6.13.15. Retail impact is linked to the health of a town centre. A visual inspection of Ennis would suggest that the town is relatively vibrant with low levels of vacancy. The appellant makes a random statement that Ennis is not robust, quoting commercial vacancy as published by GEOVIEW. This study is of the entirety of Ennis. All non-residential address points are classified as commercial. The 18.9% quoted is

misleading, as it relates to the broader service sector. They submit that Ennis town centre is vibrant and healthy.

- 6.13.16. Re. the promotion of OP1 as a suitable alternative, there is no disputing the fact; however, per the MWRS and the CDP, there exists adequate capacity to accommodate additional convenience floorspace on both sites. Per Section 4.4 of the Retail Planning Guidelines, since the location complies with the policies in the development plan, additional supporting background studies such as demonstration of compliance with the sequential approach or additional retail impact studies are not required.

Re. the adequacy or otherwise of Condition 13, the special development contribution:

- 6.13.17. The appellant raises this condition. The applicant states that per S48(2)(c) it is not valid, citing S48(2)(c) and the Development Management Guidelines in this regard. The building has been occupied for 10 years. There are wide footpaths serving the site. The development contribution scheme 2017 includes 'road refurbishment and provision of pedestrian facilities'. The scheme is therefore to be used for the provision of pedestrian crossings, and the condition would be double charging.
- 6.13.18. The applicant has facilitated the Walking Bus through the property, it is inequitable that they should have to pay further costs for pedestrian infrastructure which is already in situ and fit for purpose.
- 6.13.19. There is nothing in the development plan which states a requirement for the pedestrian crossing. The site specific development objectives for the site in the development plan, make no requirement for a pedestrian crossing. The TIA lodged with the application has not identified any such need.
- 6.13.20. No effort has been made to specifically identify site specific costs, or to justify the contribution of €50,000, which is a guesstimate; and no apportionment justification to the development, or assessment of benefit to other parties has been carried out.
- 6.13.21. Any suggestion by the third party appellant that the contribution is insufficient is irrelevant as the applicant considers that the attachment of the condition is not in accordance either with Section 48(2)(c) or with Section 48(12) of the Planning Act.

### Traffic Assessment and Parking

- 6.13.22. Re. the appellant's concerns that the proposed development would exacerbate existing problems with traffic congestion and traffic safety and obstruction, by generating significant additional traffic and turning movements, and references to car movements and HGV movements with the suggestion of anomalies in the layout arrangements. The Traffic and Transport Assessment lodged with the application has not been challenged. It was prepared in accordance with the guidance set out by the NRA (now TII) document 'Guidelines for Traffic and Transport Assessments' and considered all relevant traffic considerations.
- 6.13.23. The development will be adequately accommodated by the existing road network and all junctions will operate within capacity to 2034. The findings were accepted by the Road's Department.
- 6.13.24. Re. car parking – the proposed development provides for virtually a full complement of car parking provision. The Council accepted that it is both likely and reasonable to assume that there will be duality of uses on site, that some trips are likely to be made on foot, and the proposal is consistent with the Council's approach in respect of duality of uses and flexibility regarding underutilised site.
- 6.13.25. Other technical matters can be addressed by condition 3.

### Residential Amenity

- 6.13.26. The appellant fails to identify any likely effects that would arise consequent to the proposed development that have not already been established under the existing permission. The proposed development is operating generally within the envelop of the established development on site and there is no proposal to alter or undermine the integrity of existing boundaries. No adverse impact on residential amenity will result.

### Surface Water

- 6.13.27. The appellant refutes any contention raised and condition 12 refers.

## Precedent

- 6.13.28. None of the cases present any evidence of any decision being made by the Board in respect of a similar development proposal on this site and under the provisions of the current Clare County Development Plan.

### Response to the appeal by O'Sullivan & Hansbury Motors:

- 6.13.29. The response refers to their rebuttal of the Harnett Homes & Estate Development Ltd and Mrs Bridget Harnett appeal.

### Response to the appeal by Donie O'Keeffe, Matt Waters, Patricia Russell, Jim O'Dowd, and John & Carmel Mangan:

- 6.13.30. The response refers to their rebuttal of the Harnett Homes & Estate Development Ltd and Mrs Bridget Harnett appeal.

### Response to the appeal by Karen & Noel Mulhaire:

- 6.13.31. The appellant states that the appeal should be refused as ref 16/71, on adjoining lands, was refused for reason of traffic safety, and re. condition 8 that it denies them their constitutional rights. The response states that the traffic circumstances of this proposal and ref 16/71 are different. Ref 16/71, for temporary change of use of existing car showroom, office and garage complex to a funeral home with ancillary areas, was submitted without a traffic impact assessment or details of traffic management arrangements. Such details are influential or decisive in the assessment. In the current case sufficient information, to confirm that the proposed development can be accommodated safely within the site, with no effects on the road network, has been provided.
- 6.13.32. In light of condition 2, and subject to the determination by the Board of the first party appeal, the use of the units will remain as originally authorised under the former permission for retail warehousing. The constitutional rights of third parties have not been affected.

Response to the appeal by Jim O' Leary:

- 6.13.33. The appellant states that the omission of the 8 retail units is contrary to the zoning and there should be a more appropriate mix of uses and that an appropriate retail impact assessment should be submitted to address this, and that conditions will considerably revise and alter the scheme.
- 6.13.34. The response agrees with the argument regarding mixed use, and it has been raised in their appeal. The Roslevan and Lifford established neighbourhood centres include an anchor retail convenience store with associated independently accessed smaller retail units providing localised neighbouring commercial and retail services. The proposal is consistent with the site -specific development objectives for the site and with other neighbourhood centres, referenced in the Development Plan as exemplar development models.
- 6.13.35. Re. retail impact assessment, the appellant is clearly unaware of the information enclosed with the planning application and the comprehensive retail impact assessment carried out.
- 6.13.36. Re. conditions, compliance with same would not materially alter the development so as to make it inconsistent with the original proposal and would have no material effect on third parties or the appellant.

#### 6.14. **Third Party Response**

- 6.15. Coleman & Associates on behalf of Harnett Homes & Estate Development Ltd and Mrs Bridge Harnett, have submitted a response to the first party appeal, which includes:
- 6.15.1. Re. the proposal to reduce the number of neighbourhood retail units. It is unclear if the remaining retail unit (No. 5) is to remain as an existing retail warehouse unit or a fifth neighbourhood shop. This requires clarification. They do not accept the alteration as no further RIA has been submitted. They are concerned that members of the public have not been given an opportunity to comment; being that it represents significant change.

- 6.15.2. Re. comparison with Roslevan and Lifford, there are significant differences between the areas in terms of housing units and population, and they refer to a map provided by them in that regard. Roslevan and Lifford lacked existing local services at the time they were developed. Neither had the level of existing local services in place as presently exist in Cahircalla More. Both those centres are more accessible to the neighbourhood they serve.
- 6.15.3. They further comment on the RIA. They accept that the development is acceptable in principle by complying with the zoning but for the list of reasons they set out, all of which were covered in their appeal, does not comply with the proper planning and sustainable development of the area.
- 6.15.4. They support the other third party appeals.
- 6.16. Coleman & Associates on behalf of O'Sullivan & Hansbury Motors have submitted a response to the first party appeal, which could be summarises as per the foregoing.

## 7.0 **Observer**

- 7.1. An observation on the appeals lodged has been made by Coleman & Associates on behalf of Daithi O'Connor, World of Wonder, Unit 2 Westpoint Business Park, Kilrush Road, Ennis. The observation includes:
- 7.1.1. He operates a toy and nursery store and has very serious concerns regarding the proposed development as there is no provision made in the proposed development to accommodate his existing well-established business. Additional concerns are set out which are similar to those in the third appeals made by Coleman & Associates on behalf of other parties.
- 7.1.2. Re. the proposal to reduce the number of neighbourhood retail units. It is unclear if the remaining retail unit (No. 5) is to remain as an existing retail warehouse unit or a fifth neighbourhood shop; this requires clarification. He does not accept the alteration as no further RIA has been submitted and is concerned that members of the public have not been given an opportunity to comment; as it represents significant change.



- 7.1.3. He supports the third party appeals.
- 7.1.4. He strongly objects to the proposed development on the basis that his existing well established business has been totally excluded from the development proposals.
- 7.1.5. The proposal is to divide his unit into 4 separate units, with office foyer and management areas.
- 7.1.6. He is seeking to have his business fully protected.
- 7.1.7. He has not been approached by the owners/applicants about any change of use or subdivision of his unit which he has leased and occupied since 2007.
- 7.1.8. He notes that the proposal is to relocate the only other existing unit to the first floor but there is no mention of his business.
- 7.1.9. He has a 20 year lease and then intends to exercise his statutory entitlement to acquire a new lease. His solicitor's letter is attached.
- 7.1.10. When he took out the lease it was on the basis of the planning permission for five retail warehouse units. The Westpoint Retail Park, which was developed as a retail warehouse park, had ample car parking with easy access to the M18 via the N85 all of which are important factor's to his business.
- 7.1.11. His is one of only two toy/nursery stores located in County Clare and provides a valuable service to the whole county and particularly the town of Ennis and surrounding settlements.
- 7.1.12. He requires the full extent of the floor area he occupies: 898 sqm.
- 7.1.13. The ease of access for deliveries and customers with free and ample parking is absolutely necessary for his business. If his business was forced to close there would be significant leakage of expenditure to Smyth's Toy Superstores in Limerick.
- 7.1.14. He is concerned that traffic congestion will affect his business as existing customers may seek to shop elsewhere.
- 7.1.15. He supports and re-iterates many of the points made in the third party appeals.
- 7.1.16. If the Board is minded to grant permission, he requests that they would either refuse the subdivision of his unit into 4 separate units, office, foyer and management areas, or include a condition such as Condition No 2 which requires

the omission of the neighbourhood centre retail units with independent shop front entrances.

- 7.1.17. The letter supplied with the observation, from John Galvin Solicitor, states that his clients Liam and Daithi O'Connor, trading as World of Wonder, have a lease for a period of 21 years from the 1<sup>st</sup> October 2007 expiring on the 1<sup>st</sup> October 2028, at which point they intend to acquire a new lease.

## **8.0 Assessment**

- 8.1. The issues which arise in relation to this appeal are: appropriate assessment, retail impact, traffic and transport, and residential amenity and the following assessment is dealt with under those headings.

### **8.2. Appropriate Assessment**

- 8.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

### **8.3. Retail Impact**

- 8.3.1. Of primary concern in the assessment of any substantial retail development is the impact it is likely to have on the vitality and viability of the town centre. The primacy of the town centre has been established in planning since it was set out in planning guidance in 1982 and is reflected in the Clare County Development Plan including Volume 3 of the plan which contains the Ennis Municipal District Written Statement and Settlement Plan.
- 8.3.2. The development plan includes the objective (CDP7.4) to support the development of neighbourhood centres in areas identified, to provide a mix of uses and services suited to the scale of the local neighbourhood.
- 8.3.3. The Ennis Municipal District Written Statement, volume 3 of the plan, includes that it is the Council's main aim is to seek to preserve and support existing retail

businesses and to enhance the retail offer in the town centre via a multifaceted approach to land-use planning and management.

- 8.3.4. It identifies Opportunity Sites in the town centre which are central to the achievement of the overall vision for the area, the most notable being the Former Boys National School (OP1).
- 8.3.5. Objectives include to support and strengthen the town centre and provide for the future expansion of the town centre by bringing forward anchor developments at the site of the former Ennis Boys National School and adjacent lands on the Kilrush Road;
- 8.3.6. Its strategic aims for retail development – state that the focus will include to facilitate a limited number of new or refurbished neighbourhood centres to serve new areas for housing development or to meet areas of local deficiency;
- 8.3.7. Objective V3(a) 4 includes:
- d) to provide for neighbourhood facilities to serve existing neighbourhoods and those planned for growth.
- 8.3.8. In relation to neighbourhood centres it states that the concept of neighbourhood centres in Ennis is fundamental to anchoring communities and meeting daily convenience shopping needs. Neighbourhood centres generally serve smaller more localised communities, where many of the inhabitants are able to access their daily needs within easy reach of their homes, preferably within walking distance.
- 8.3.9. Objective V3(a) 8 includes:
- c) to encourage the provision of new neighbourhood centres, in the areas identified, to provide a mix of uses and services suited to the scale of the local neighbourhood. Such developments will be the subject of a retail impact assessment to ensure that there will be no resultant negative impacts on the vitality and viability of the town centre.
- 8.3.10. For site COM6 Cahircallamore - the principal development objective is to secure the optimum re-use of the existing building on site, by providing a neighbourhood centre that serves the Cahircallamore neighbourhood. The neighbourhood centre shall provide for a mix of uses anchored by a supermarket/grocery store up to 1200m<sup>2</sup> (net floor area). Other services in the neighbourhood centre may include

hairdresser/barber shop, café or restaurant. A limited amount of first floor uses such as medical services, office use, fitness centre, storage or children's indoor play centre will be encouraged. The Planning Authority also encourages the continued use of this site for the 'Walking Bus' to the national school nearby.

- 8.3.11. The Retail Planning Guidelines (2012) state that a Local Centre or Neighbourhood Centre comprises a small group of shops, typically comprising newsagent, small supermarket/general grocery store, sub-post office and other small shops of a local nature servicing a small, localised catchment population. The Ennis settlement plan reflects this.
- 8.3.12. The policy context is therefore for retail development to be focused principally in the town centre and secondly that the needs of a local community should be served by local retail provision. In the case of the subject site there is a specific objective for a neighbourhood centre of a scale to serve the local neighbourhood for residents preferably within walking distance; and which will be subject to a retail impact assessment to ensure that there will be no resultant negative impacts on the vitality and viability of the town centre.
- 8.3.13. The grounds of appeal states that the applicants have not demonstrated need at this time, it expresses concern at the impact of the proposed development on the town centre and on various local businesses, many of the operators of which are parties to the appeal.
- 8.3.14. Retail Planning Guidelines in relation to the assessment of retail impact lists as step one of a five step process: identification of catchment or study area.
- 8.3.15. The Retail Impact Statement submitted identifies the catchment as the area within an 800m walking distance / 10min walk, which gives a population of 1,150 persons, (which does not account for those who work in the area); and a further 5min drive time distance which includes Ennis Rural & Urban DEDs, a population of 25,276.
- 8.3.16. In my opinion the 800m walking distance / 10min walk is a suitable neighbourhood catchment. The entire Ennis Rural & Urban DEDs, population of 25,276, is not the catchment that either the Retail Planning Guidelines or the Ennis settlement plan envisaged as being served by a neighbourhood centre.
- 8.3.17. The grounds of appeal contests the methodology and figures used in the Retail Impact Statement, including that the figures taken from the Mid Western Retail

Strategy are incorrect. In response the first party states that the development is plan led and that a RIA (retail impact assessment) was not and should not have been required to support the convenience element, as the plan supports 1,000 to 1,200 sq m of net convenience floorspace at this location. However objective V3(a) 8 on which the proposed development relies includes at item (c): that such developments will be the subject of a retail impact assessment to ensure that there will be no resultant negative impacts on the vitality and viability of the town centre.

- 8.4. In relation to the question of need at this time, the first party response states that the contention that there is limited existing housing in the area is a short-sighted perspective; neighbourhoods and people are not pre-fixed within a defined boundary; it is their submission that there is sufficient residential base, existing and planned, to support the establishment of a neighbourhood centre; the site is suitably and centrally positioned within an established suburban area, identified for future development; there is no ambiguity in the policy; the development plan presents a degree of planning certainty, insofar as the intended uses of this site are concerned.
- 8.5. The grounds of appeal states that the proposed development is designed to capture trade and custom from a wide catchment. Based on the Retail Impact Statement submitted with the application, the entire Ennis Rural & Urban DEDs is included in the catchment. The response to the grounds of appeal, includes further areas, stating that the appellant has failed to take account of a wider catchment (including spending from adjoining zones 9 and 7) and from tourism (an estimated €2.3m (2007 prices)) (Appendix 4c); not accounted for in the appellant's Table 2 or in the RIS supporting the proposed development; and that the MWRS (Appendix 6D Table 7, confirms that 57.9% of the population from Zone 9 and 11.6% from Zone 7 spend money on convenience shopping in Ennis. They state that the available expenditure in the catchment, as detailed in Table 5.0 of the RIS, and reused by the appellant has been significantly underestimated.

It should be noted that the location of the site, about ¼ km from the Kilrush Road roundabout, where easy access can be gained to all the main roads accessing the town and surrounding area including the N68, N85 and the M18, would allow a development at this location to siphon off a considerable amount of car based shopping trips.

- 8.5.1. Although in the longer term there may be more residential development occurring in the vicinity of the site, no population projection of such an area has been given and no estimated quantum of retail need provided. It is stated that the population within a 10 minute walk will grow to 1,235 persons, from 1,150, by 2020, which is not a significant population. The zoning appears to provide for a relatively limited amount of currently undeveloped residential land in this area.
- 8.5.2. It is the stated intention to serve a large area including the entire town and surrounding areas. The development would therefore be required to satisfy a sequential test, which the first party accepts it would fail. It has not therefore been demonstrated that the proposed development would not impact adversely on the vitality and viability of the town centre. In my opinion it would have an adverse impact; and this is a reason to refuse permission.
- 8.5.3. I note the statement in the Mid West Retail Strategy / Colliers, CRE Retail Strategy for the Mid-West Region, 2010 – 2016, that additional convenience floorspace could be accommodated in a suitably located district centre if it cannot be achieved within the town centre. This concept has not been addressed in the Development Plan and is not the stated intention of the subject development, nor could it be contemplated in the absence of detailed justification and development plan policy support.

## **8.6. Traffic and Transport**

- 8.6.1. The third parties' grounds of appeal includes the concern that the development will encourage the use of cars; that it will cause traffic congestion; that there is insufficient parking provided; that it will be a traffic hazard and in this regard reference is made a previous application in the vicinity which was refused on grounds of traffic hazard; and that there are traffic safety problems with the site layout. The observer is concerned that traffic congestion will affect his business as existing customers may seek to shop elsewhere.

The response refers to the traffic circumstances of this proposal and the previous refusal in the area (ref 16/71) stating that the circumstances are different. In the 2016 application for temporary change of use of existing car showroom, office and garage complex to a funeral home with ancillary areas, a traffic impact assessment

or details of traffic management arrangements were not submitted which were issues influential or decisive in the assessment. In the current case sufficient information, to confirm that the proposed development can be accommodated safely within the site, with no effects on the road network, has been provided.

- 8.6.2. Regarding traffic safety, traffic congestion and the site layout, the first party notes that the Traffic and Transport Assessment, lodged with the application has not been challenged; that it was prepared in accordance with guidance, and considered all relevant traffic considerations, and that it found that the development will be adequately accommodated by the existing road network, and that all junctions will operate within capacity to 2034. They further note that the findings were accepted by the Road's Department.
- 8.6.3. Regarding sufficiency of on-site parking, the response states that the proposed development provides for virtually a full complement of car parking provision. The Council accepted that it is both likely and reasonable to assume that there will be duality of uses on site, that some trips are likely to be made on foot, and the proposal is consistent with the Council's approach in respect of duality of uses and flexibility regarding underutilised site.
- 8.6.4. I note condition 3 of the decision which includes alterations to the site layout and minor changes to parking bays and that the planning authority have accepted that the quantum of spaces is acceptable and I agree with this assessment.
- 8.6.5. In relation to other modes of transport, the Traffic and Transport Assessment notes that there are no buses passing the site at present and that this mode of travel is not an option. Although this is an urban site with footpaths along both roads continued into the site, it appears to me that the proportion of shoppers, or users of the medical facilities, who will be able to avail of sustainable modes of travel will be very small and that for the most part this development will be car dependent. That is contrary to the government policy on transport which seeks to achieve a shift to public transport and other sustainable forms of travel by 2020 using land use planning for this purpose, and that this is a reason to refuse permission.

I am satisfied that the proposed development is provided with excellent public road connectivity and will not cause traffic congestion. I am satisfied that the car parking

provision is adequate. I accept the need for the pedestrian crossing referred to in condition 13 to facilitate pedestrian access from the limited walkable customer base. The funding of the provision of this crossing is the subject to an appeal from the first party and is referred to under a separate heading below.

## **8.7. Residential Impact**

The third parties' grounds of appeal includes concerns regarding residential amenity; possible noise, antisocial behaviour, or overlooking. The response states that the site has been in commercial use and that the grounds fails to identify any likely effects that would arise consequent to the proposed development that have not already been established under the existing permission.

The car park area will be adjusted and at the east of the site the level of part of the site will be raised, and a retaining wall provided. The alteration in levels can be seen by comparing the drawings T081-01 and T081-02. A section through the retaining wall is also shown on the latter drawing.

There is existing screening along the affected boundary. I am satisfied that any concerns in relation to overlooking are amenable to condition such as 3(d) of the decision and that residential amenity should not be a reason to refuse permission.

## **8.8. Condition to No 13**

- 8.8.1. Condition to No 13, which requires the payment of a development charge for the provision of a pedestrian crossing, has been appealed by the first party. The first party makes the point that the building is currently in use and is served by footpaths; that the municipal engineer's report refers to the intention to provide a crossing point for schoolchildren; if a crossing is required it should be paid for out of the development contribution scheme which includes provision for pedestrian facilities; and that the neither the amount of the contribution or its apportionment to other beneficiaries has been justified.
- 8.8.2. Third parties responding to the appeal request the Board, if mindful to grant permission, to impose a similar condition to No 13 to provide for a pedestrian crossing.



- 8.8.3. I accept the need to provide a pedestrian crossing to serve the proposed development. Notwithstanding the foregoing assessment in relation to traffic and transport, that the majority of trips to the site will be made by car, the objective for the site is to provide a neighbourhood centre. The Kilrush Road is a barrier to pedestrian movement and to pedestrian access to the site. I accept the arguments made regarding detailed costings and the benefit of the pedestrian crossing to other pedestrians in addition to those availing of services within the site. Should the Board be minded to grant permission it may be necessary to obtain additional information from the planning authority in this regard.
- 8.8.4. In relation to the use of a special development contribution it seems to me that if the provision of such a facility was an objective of the development plan it could be argued that the development contribution scheme should cover its provision. The provision of this pedestrian crossing is not an objective of the plan. I consider therefore that the provision of the pedestrian crossing in this case would involve exceptional costs not covered by the scheme.

#### 8.9. **Condition to No 2**

- 8.9.1. Condition to No 2 requires the omission of the 8 no neighbourhood shops. This is the subject of an appeal by the first party. In light of the foregoing assessment of the overall development I do not propose further assessment of this condition.

#### 8.10. **Other Issues**

- 8.10.1. The observation made by Coleman & Associates on behalf of Daithi O'Connor, World of Wonder, Unit 2 Westpoint Business Park includes reference to contractual arrangements between parties. In my opinion the planning system is not equipped to deal with such disputes and S 34 (13) of the Planning and Development Act<sup>1</sup>s covers this situation. The Board should note in this regard that the first party has not been afforded an opportunity to respond to the observation.

---

<sup>1</sup> A person shall not be entitled solely by reason of a permission under this section to carry out any development

## 9.0 Recommendation

- 9.1. In the light of the above assessment I recommend that planning permission be refused for the following reasons and considerations.

## 10.0 Reasons and Considerations

Having regard to-

- (a) the scale of the proposed development which would provide for a total floor area in excess of 6,000 square metres served by 216 car-parking spaces,
- (b) the mix of uses proposed including retail and medical uses of a significant scale in the context of Ennis
- (c) the pattern of development in the area, the distance of the site from the town centre of Ennis and the site location on a major link road between the town centre and the N85 ring road and M18 motorway, and
- (d) the existing quantum of retail and commercial development within Ennis and the level of vacancy currently prevailing therein, it is considered that, notwithstanding the zoning of the site for use as a neighbourhood centre, the proposed development would be of an excessive scale far beyond what would be reasonably envisaged for a neighbourhood centre in this area and would be of a nature and scale that would create a counter-attraction to existing town centre services. This would seriously impact on the vitality and vibrancy of the town centre and would constitute an unsustainable form of development which would be principally dependent on private car based transport and on serving a wider catchment than the immediate area. The proposed development would, therefore, contravene the policies of the Mid West Retail Strategy and Mid West Regional Planning Guidelines 2010-2022 and the strategic aim of the current Clare County Development Plan, which seek to consolidate town centres and co-ordinate transport and land use planning thereby reducing the need to travel. The proposed

development would, therefore, be contrary to the proper planning and sustainable development of the area.

---

Planning Inspector

26<sup>th</sup> April 2018

### **Appendices**

- 1 Photographs
- 2 Extracts from the Development Plan 2016-2022
- 3 Extracts from the Mid West Retail Strategy
- 4 Extracts from the Mid West Regional Guidelines 2010-2022
- 5 Extracts from the Mid West Area Strategic Plan 2012-2030
- 6 Extracts from Smarter Travel A Sustainable Transport Future - A new transport policy for Ireland 2009-2020
- 7 Extracts from the Draft National Planning Framework, Ireland 2040 - Our Plan