



An
Bord
Pleanála

Inspector's Report

ABP-311569-21

Development	Change of use from retail warehouse to discount foodstore and extension.
Location	Westpoint Kilrush Rd, Clonroadbeg, Ennis, Co. Clare.
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	21756
Applicant(s)	Maom Property Ltd & Lohan Property Ltd
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Daithi O'Connor, Harnett Homes and Estate Developers Ltd & Mrs. Bridget Harnett, RGDATA and Paul & Kay Ryan
Observer(s)	Noel and Karen Mulhaire
Date of Site Inspection	31/03/22
Inspector	Adrian Ormsby

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1.0 Site Location and Description

- 1.1. The appeal site is located approximately 1.5km to the south west of Ennis town centre in County Clare. The site is within an existing two storey, contemporary style building and together is known as Westpoint Retail Park. The existing building includes current uses such as a HSE facility, a toy store and a furniture store.
- 1.2. The site is accessed from the R475 regional road or Kilrush Road and is c.400 m north east from its junction at a roundabout with the N68 National Road. It is then c. 350m further to the junction with the N85 Ennis ring road connecting to the M18 Motorway and west Co. Clare. The site is also accessed from the Clonroadbeg local road along its southern boundary.
- 1.3. There are a number of land uses in the general area of the site including residential to the north west, a commercial businesses to the west, a car dealership and Value Centre wholesalers to the south. The Westgate Business park is located opposite the site to the west. The Ennis National School is located c. 500m south west of the site.
- 1.4. The site has a stated area of 1.26 ha. The applicant is indicated as the owner. The proposal will avail of existing public services. The site benefits from a large amount of in curtilage car parking around the existing building.

2.0 Proposed Development

- 2.1. The proposed development comprises-
 - Change of use of part of the ground floor level and subdivision and change of use of part of the first floor level within the existing building from retail warehouse to a discount foodstore (including off licence use)
 - Extension of the existing building to include a new lobby area at the north elevation to serve the foodstore (c.29sqm);
 - Extension of the rear of the existing building to accommodate a new single storey loading bay HGV Loading bay ramp (c. 80sqm);
 - Total proposed gross floor area of 2,270sqm
 - 1,000 sq. m net retail area for the discount foodstore use

- Additional works to accommodate the subdivided first floor unit (no change of use proposed) will include:
 - Extension of the existing lobby at ground and first floor level at the northern elevation to accommodate a new entrance to the existing unit at the first floor level
 - Construction of a new goods lift and circulation stair core (southern elevation) at ground and first floor levels (resulting in a total of c.154sqm of additional new floor area) to serve the reconfigured (separate) existing unit at first floor level;
- Internal revised layout
- External alterations to the building
- Reconfiguration of the carpark layout including-
 - provision of 8 no. cycle spaces,
 - removal of the existing service yard and 7 no. carparking spaces
 - Erection of 2 no totem signs at site entrance,
 - Other signage
 - c. 121sqm of solar panels at roof level.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission on the 09/09/21 subject to 10 conditions generally of a standard nature and including-

- C1(b) subject to previous permission on site 18/632
- C2
 - a) a revised swept path analysis for HGVS serving the site from Clonroadbeg road.
 - b) 20 bicycle parking spaces

- c) Boundary treatment proposals along south part of site
 - d) External enclosures, equipment etc details
 - e) Landscaping plan
 - f) Lighting plan for the site
- C.3 Totem signs to be omitted, no other signage, details to be agreed
 - C.7 hours of operation and deliveries
 - C10 development contribution

4.0 Planning Authority Reports

4.1. Planning Reports

The planners report (dated 08/09/21) reflects the decision of the Planning Authority. The following is noted from the report-

- The site is zoned Commercial. Retailing is open for consideration providing a sequential test is carried out.
- There is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can therefore be excluded at preliminary examination and screening determination is not required.
- It is not considered the proposed development would be likely to have a significant effect individually or in combination with other plans or projects, on a European site.
- This is the second such application on these lands for the change of use of the building to provide for a supermarket. The first such application, Pl. Ref 17/613 was granted by the Planning Authority but refused on appeal to An Bord Pleanála for reasons of its scale and impact on Ennis town centre.
- Since that application permission has been granted for 18/632 for a medical services building and outpatients unit on the first floor of the subject property.
- The site is located on lands zoned as 'commercial' and specifically identified as 'COM6' in the Development Plan. The zoning objective for the site is

specific in that it seeks to secure the optimum re-use of the existing building on site by the provision of a neighbourhood centre anchored by a supermarket of up to 1200sqm. The zoning also allows for other uses and services on site.

- The current application is solely for a retail store (net area of 1,000sqm) meets the objectives and zoning of the Development Plan, is on an established commercial site which is fully serviced, with parking and good pedestrian access and allows for the revitalisation of this existing building part of which has been vacant for some time. The analysis and retail impact study consider that whilst the proposal may serve a population outside of the catchment (by reason of its proximity to the N65), there is still a sufficient population within the catchment to sustain this development. In this instance the principle of development is acceptable.
- A Traffic and Transport Assessment (TTA) was submitted. It concludes the proposal will be adequately accommodated by the existing road network.
- The existing car park is to be revised to provide 209 spaces. The TTA indicates 100 car parking spaces are sufficient for the Aldi store. 55 spaces are required by the medical centre (18/632). It may be argued there is a shortfall in parking, it is considered there will be a duality of uses. The number of spaces proposed would be acceptable in this instance.
- It is considered appropriate that bicycle parking be provided. The site is served by a cycle lane.
- The swept path analysis does not appear to have considered the cycle path along Clonroadmore. This can be addressed by condition.
- Totem signage at junctions into the parks are not considered appropriate. Signage to the building and extended lobby is sufficient.

4.2. Other Technical Reports

- Fire Authority
 - 27/08/21- No objections

4.3. Prescribed Bodies

- Irish Aviation Authority
 - 10/08/21- No observations
- Irish Water
 - 14/09/21- FI required, pre-connection enquiry (This was received after the decision)

4.4. Third Party Observations

Nine submissions were received and are on file. The main issues raised generally include those as set out in the grounds of appeal and further responses in section 7 below.

5.0 Planning History

5.1. This Site

- 18/632- change of use of part of the existing building on site from Retail Warehouse use to Medical Services incorporating outpatients facility. **Grant**, 28/10/2018.
- 17/613 and ABP-300046-17- Change of use from warehouse to mixed use neighbourhood centre and medical services (1,347 sq.m) to provide for supermarket (1,832.8 sq.m), 8 retail units (800 sq.m) etc. Total floor area 6,015 sqm. Granted by local authority **Refused by ABP** 29/05/2018 as follows-
 - *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 location of the site 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, and objective COM6, the proposed development would be of an excessive scale which is 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 Ennis 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 Cahircallamore neighbourhood area, as envisaged by objective COM6 in the Development Plan. 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 coordinate transport and land use planning thereby reducing the need to travel, and would conflict with objective V3(2)(8)(c) of the Development Plan, which seeks to encourage the provision of new neighbourhood centres...in order to provide a mix of uses and services suited to the scale of the local neighbourhood. Furthermore, having regard to the "Retail Planning Guidelines for Planning Authorities", issued by the Department of the Environment, Heritage and Local Government in April 2012, which seek to protect the vitality and viability of town centres as the primary focus for retailing development, the Board is not satisfied that a location closer to the town centre of Ennis is not available for the scale of development proposed. The proposed development would, therefore, be contrary to these Ministerial

Guidelines, to the overall provisions of the Development Plan and to the proper planning and sustainable development of the area.

- 05/21134- erect a retail warehouse development consisting of four ground floor units and one first floor unit. **Grant** 26/06/2006

5.2. Other Nearby Sites

- 18/265 and ABP-302966-18 approximately 1km east of the subject appeal site, located adjoining the R458 c. 1km north of the N85 link road and c. 1.3 km south of Ennis Town Centre. This application was for the construction of a neighbourhood centre including a Lidl discount foodstore of 2,270sq.m gross internal floor area with net sales space of 1,200sq.m. **Refused** on the 10/06/2019 for two reasons-
 - Counter attraction to existing town centre, impacting upon vitality and viability, dependent on private car, contravene the strategic aim of the current Clare County Development Plan, which seeks to consolidate town centres and co-ordinate transport and land use planning thereby reducing the need to travel, having regard to RPG 2012 the Board was not satisfied that a location closer to the town centre of Ennis is not available for the scale of retailing development proposed.

6.0 Policy Context

6.1. National Planning Framework

6.1.1. The NPF details an ambition to create a single vision, a shared set of goals for every community across the country. These goals are expressed as National Strategic Outcomes Relevant outcomes include-

- *National Strategic Outcome 1 Compact Growth*
 - *Carefully managing the sustainable growth of compact cities, towns and villages will add value and create more attractive places in which people can live and work. All our urban settlements contain many potential development areas, centrally located and frequently publicly*

owned, that are suitable and capable of re-use to provide housing, jobs, amenities and services, but which need a streamlined and co-ordinated approach to their development, with investment in enabling infrastructure and supporting amenities, to realise their potential. Activating these strategic areas and achieving effective density and consolidation, rather than more sprawl of urban development, is a top priority.

6.2. Regional Spatial & Economic Strategy for the Southern Region (RSES)

6.2.1. Section 1.1 details the RSES is a 12-year strategic regional development framework to guide change in the region. It establishes a broad framework for the way in which society, environment, economy and the use of land should evolve. Table 1.1 identifies settlement size with Ennis indicated as having a population of 25,276.

6.2.2. Table 3.2 outlines the 'Settlement Typology' for the region with Ennis identified as the second tier and as a 'Key Town'. Section 3.5 deals with these Key Towns in which the population of Ennis is described as having a very significant population scale. It states-

"These are major centres for delivery of public services, with large hospitals, third level institutions, courts, local and national government functions as well as economic and business roles and higher order retail functions."

6.2.3. Table 3.3 identifies Ennis within the 'Mid-West' Special Planning Area

6.2.4. Pages 52-55 discuss Ennis as a Key Town and states-

"The triangle of Limerick-Shannon-Ennis is recognised as the economic engine of the Mid-West"

Under Attributes the following is listed-

"Availability of various opportunity sites allowing expansion of the town centre"

6.2.5. The following Regional Planning Objectives are considered relevant-

- RPO 11 in relation to Key Towns seeks to-

....h) To support initiatives which seek to strengthen and develop niche retail and mixed-use services in town centres...

- RPO 13 in relation to Ennis seeks to-
 - a) *To support Ennis as a self-sustaining, regional economic driver and as a key location for investment choice in the Region, to support its enhanced development based on its strategic location relative to Limerick and Galway Cities and Shannon International Airport, as well as its role as a centre of employment and economic activity within the Region. The RSES recognises that this should be supported and enhanced through initiatives such as the Atlantic Economic Corridor;*
 - b) *To support the implementation of Ennis 2040 to set the long-term economic strategy for the county town with an agreed focus on an economic future and spatial pattern to 2040 and beyond. The RSES recognises the higher education growth potential of Ennis and its vision to become a centre for lifelong learning;*
 - c) *To support the delivery of the infrastructural requirements identified for Ennis, subject to the outcome of the planning process and environmental assessments;*
 - d) *To strengthen ‘steady state’ investment in existing rail infrastructure and seek investment for improved infrastructure and services to ensure its continued renewal and maintenance to a high level in order to provide quality levels of safety, service, accessibility and connectivity including improved frequency and journey times.*

- RPO 55- Retail, It is an objective to-
 - a) *Improve the physical appearance, vitality and vibrancy of city centre, town centre and village locations through collaboration between Planning Authorities and Retail Traders Associations in regeneration / public realm projects and other measures;*
 - b) *Ensure that retail development is focussed on urban and village centres with the application of a sequential approach to consideration of retail development which does not fall into this category;*
 - c) *Prepare Retail Strategies in accordance with the Retail Planning Guidelines including Joint Retail Strategies where applicable. Proposed*

public realm or urban regeneration projects should be assessed for potential impacts on the receiving environment including capacity of existing services at project level. Where public realm or urban regeneration projects would significantly increase shopper/visitor numbers, planning authorities should ensure that projects include sustainable management of increased demand for access to city/town centre locations.

6.3. Retail Strategy for the Mid West Region 2010-2016 (Volume 8 of County Development Plan (see section 6.5))

6.4. Ministerial Guidance

6.4.1. Retail Planning Guidelines for Planning Authorities April 2012

- Chapter 4 deals with Retailing and Development Management and outlines a number of 'Key Messages' including-
 - *The development management process must support applications for retail development which:*
 - *are in line with the role and function of the city or town in the settlement hierarchy of the relevant development plan; and*
 - *accord with the scale and type of retailing identified for that location in the development plan and relevant retail strategy.*
 - *Development proposals not according with the fundamental objective to support the vitality and viability of city and town centre sites must demonstrate compliance with the sequential approach before they can be approved.*
 - *Retail impact assessment and transport impact assessments may be required for significant retail development which due to their scale and/or location may impact on the vitality and viability of city and town centres.*

- *There should be a general presumption against large out-of-town retail centres in particular those located adjacent or close to existing, new or planned national roads/motorways.....*
- Section 4.4 deals with the 'Sequential Approach to the Location of Retail Development' and details-
 - *Planning applications for retail development proposals must comply with the criteria on location, suitability of use, size and scale and accessibility set out in the retail guidelines and development plan/joint or multi-authority retail strategy to ensure that the site chosen is the most suitable and best available site for the type of retailing proposed.*
 - *Where the location of a proposed retail development submitted on a planning application has demonstrated to the satisfaction of the planning authority that it complies with the policies and objectives of a development plan and/or relevant retail strategy to support city and town centre, additional supporting background studies such as a demonstration of compliance with the sequential approach, below, or additional retail impact studies are not required.*
 - *However, where the location of a proposed retail development submitted on a planning application is not consistent with the policies and objectives of the development plan and/or relevant retail strategy to support the city and town centre, then that development proposal, must be subject to the Sequential Approach and its policy principles and order of priority set out below and any departure from these principles must be justified.*
- Section 4.4.1: Policy Principles of the Sequential Approach
- Section 4.4.2: Order of Priority identifies area types including 'Out-of-Centre Sites'. It states-
 - *Where retail development on an out-of-centre site is being proposed, only in exceptional circumstances where the applicant can demonstrate and the planning authority is satisfied that there are no sites or potential sites either within the centre of a city, town or designated*

district centre or on the edge of the city/town/district centre that are (a) suitable (b) available and (c) viable, can that out-of-centre site be considered.

In relation to whether sites can demonstrate suitability, availability and viability, the following should be taken into account in implementing the sequential approach.

a) Suitability: Matters to be considered include whether or not the development is consistent with development plan objectives, in particular zoning objectives, current land use activity in the vicinity of the site, size, capacity to accommodate development, traffic and transportation issues; and/or;

b) Availability: this criterion relates to site ownership, ease of assembly and timing. Sites must be genuinely available for development at the time that site acquisition/assembly begins or within a reasonable time-frame; and/or;

c) Viability: the financial viability of a development is also a key consideration. The cost of site acquisition in the town centre may make a proposal unviable and force investors to look elsewhere in the area. Excessive development costs relative to values are also a consideration. For example, the requirement to deal with remediation for a brownfield site may have the potential to make a proposal unviable.

- 4.5 deals with the Application of the Sequential Approach and requires
“flexibility and realism on the part of both retail developers and planning authorities, to ensure that the various forms of retailing are developed in the most appropriate locations”

It details-

“Only in cases where it is not possible,. to provide for the form and scale of development that is required on a site within the city/town centre, should consideration be given to a site on the edge of the city/town centre. As part of this proactive approach to facilitate the

provision of an adequate supply and variety of retail facilities for the city and town, the planning authority may itself identify potential edge-of-centre sites for consideration. In this way the planning authority can guide development toward the most sequentially preferable of the edge-of-centre sites.

It concludes-

“Only in exceptional circumstances should out-of-town sites be considered and only after the sequential approach has been applied to these sites also.”

- Section 4.6 deals with ‘Sequential Approach and Extension – Change of Use Applications’ and states-

“The sequential approach should also be used to assess proposals for the extension or material change of use of existing development where they are of a scale which could have a significant impact on the role and function of the city/town centre. Such extensions will of course also have to be assessed in the context of the floorspace requirements of the development plan/relevant retail strategy where appropriate.”

- Section 4.8 deals with ‘Out-of-Centre Retailing’ and states-

“An out-of-centre site is defined as a location which is clearly not classifiable as a city or town centre location as defined in these Guidelines but which is within the urban area, including planned extensions to the urban area in a development plan. New large-scale out-of-centre developments are likely to have an adverse impact on the vitality and viability of established city/town centres. This is a consequence of the competitive environment in which retailing operates. It is not the purpose of the planning system to prevent competition or trade diversion in itself, but rather the goal is to promote healthy urban centres, in the public interest. Where proposed new retail developments have the potential to significantly undermine and compromise the goal of maintaining the vitality and viability of established city/town centres, they should be subject to a detailed retail impact assessment where these issues, in particular the issue of

significant trade diversion from the city or town centre, are addressed, in detail and mitigation of such impacts considered.

Where, following the sequential approach, the planning authority has determined that no city/town centre or edge-of-centre sites are suitable, viable and available and which can provide the form and scale of development required under the development plan or relevant retail strategies, the planning authority must not approve such development unless it is satisfied that there will be no negative impact on the vitality and viability of the retail core.

- Section 4.9 deals with 'Retail Impact Assessment' and states-

"..... Through the RIA, the applicant must address the following criteria and demonstrate whether or not the proposal would:

- *support the long-term strategy for city/town centres as established in the retail strategy/development plan, and not materially diminish the prospect of attracting private sector investment into one or more such centres;*
- *have the potential to increase employment opportunities and promote economic regeneration;*
- *have the potential to increase competition within the area and thereby attract further consumers to the area;*
- *respond to consumer demand for its retail offering and not diminish the range of activities and services that an urban centre can support;*
- *cause an adverse impact on one or more city/town centres, either singly or cumulatively with recent developments or other outstanding planning permissions (which have a realistic prospect of implementation) sufficient to undermine the quality of the centre or its wider function in the promotion and encouragement of the arts, culture, leisure, public realm function of the town centre critical to the economic and social life of the community;*

- *cause an increase in the number of vacant properties in the primary retail area that is likely to persist in the long term;*
- *ensure a high standard of access both by public transport, foot and private car so that the proposal is easily accessible by all sections of society; and/or*
- *link effectively with an existing city/town centre so that there is likely to be commercial synergy.*

.....

Where a development proposal fails to satisfy the sequential approach or is likely to have a significant adverse impact as demonstrated by an assessment of the above criteria, planning permission should be refused.”

- Section 4.10 deals with Transport Impact Assessment including setting thresholds for same.
- Section 4.11 deals with Assessment of Specific Categories of Retail Development. 4.11.1 deals with ‘Large Convenience Goods Stores’ and describes these as providing-

“primarily for the weekly convenience goods shopping of households. They require extensive open areas of floorspace together with adjacent car parking as the majority (but not all) their customers undertake their bulk convenience shopping trips by car”

This section states inter alia-

- *Large convenience goods stores should be located in city or town centres or in district centres or on the edge of these centres*
- *In certain limited circumstances however, it may not be possible to bring forward suitable sites in or on the edge of a city or town centre..... In these cases, the sequential approach should be used to find the most preferable sites.*
- *The balance between the convenience and comparison element of the proposed store drawings is a critical element in the assessment of the suitability of the development proposal.*

- *The distinction between ‘discount stores’ and other convenience goods stores which was contained in the 2005 Retail Planning Guidelines will no longer apply*
- Annex 1 sets out a Glossary of terms. The following are considered relevant-
 - *Net Retail Floorspace – the area within the shop or store which is visible to the public and to which the public has access including fitting rooms, checkouts, the area in front of checkouts, serving counters and the area behind used by serving staff, areas occupied by retail concessionaires, customer service areas, and internal lobbies in which goods are displayed, but excluding storage areas, circulation space to which the public does not have access to, cafes, and customer toilets.*
 - *Supermarket- Single level, self service store selling mainly food, with a net retail floorspace of less than 2,500 m²*
 - *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.*
 - *Out-of-Centre- A location that is clearly separate from a town centre but within the town development boundary, as indicated in a development plan or local area plan.*
- Annex 5 deals with ‘The Assessment of Retail Impact’.

6.4.2. Transport Infrastructure Ireland’s ‘Traffic and Transport Assessment Guidelines May 2014’.

6.4.3. Design Manual for Urban Roads and Streets (2013, updated 2019)

- Section 4.3.3 Corner Radii Figures 4.42 & 4.43
- Section 4.4.3 Junction Design (‘reduce kerb radii’- slowing turning vehicles)

6.5. **Clare County Development Plan 2017-2023 (CDP)**

6.5.1. **Volume 1- Main Written Statement**

- Section 1.5 sets out a number of Goals. The Plan states-

“It is through the delivery of these goals that this common vision for County Clare will be realised.”

Goal VI states-

“A County Clare with viable and vibrant town and village centres, that have shopping areas and markets at appropriate scales and locations and which function to serve their communities and rural hinterlands”.

- Retail Objectives are set out in Chapter 7.
- Section 7.3.1 deals with the Retail Hierarchy for Clare and identifies Ennis highest on the tier and as a ‘Hub town/County Town’

- Section 7.4.1 refers specifically to area types in Ennis and states-

“The strategy for retail development in the Ennis area is to concentrate comparison and convenience retail outlets in Ennis town centre, including the identified town centre expansion area. There is additional capacity for convenience retail in the Clareen, Cahircalla More and Clonroadmore neighbourhoods.

.....

It is not anticipated that there will be any requirement for new edge-of-centre or out of-centre bulky, convenience or comparison floorspace in the Ennis area during the lifetime of this Plan.”

- Page 106 provides a section on ‘Additional Retail Floorspace’ and states-

“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.”

- Page 106 also provides a section on ‘Neighbourhood Centres in Ennis’ and states-

“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 Claugreen, Cahircalla More and Clonroadmore areas. Suitable sites for the development of neighbourhood centres in these communities are identified in the Ennis Settlement Plan contained in Volume 3(a) of this Plan.

- Development Plan Objective CDP7.4 states-
 - *Development Plan Objective: Neighbourhood Centres in Ennis It is an objective of the Development Plan:*

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.”
- Section 19.4 ‘Nature of Zonings’- This describes the individual zonings proposed in each of the settlement plans/local area plans.
 - Commercial is described as-
 - *The use of land zoned for ‘commercial’ purposes shall be 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 on this zoning, 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 is described as-*
 - *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.*

- CDP19.3 Development Plan Objective: Compliance with Zoning

It is an objective of Clare County Council: To require development proposals to comply with the zoning of the subject site in the settlement plans and local area plans.

- Appendix 1 sets out Development Management Guidelines including the following-

- A1.9.3 Car Parking Residential Developments. Requirements can be summarised as follows-

Land Use	Town Centres	Other Areas	Cycle Parking
Convenience Retail	5-7 spaces per 100m ² (dependent on site characteristics)	8 spaces per 100m ²	1 space per 8 employees 20 spaces per 1000m ²

- Appendix 2 details the Indicative Land Use Zoning Matrix. ‘Shop’ is indicated as *‘Will normally be acceptable in principle’* in ‘commercial’ zonings.

6.5.2. Volume 3a- Ennis Municipal District

- This section of the Plan provides two land use zoning maps and an Opportunity Sites Map for Ennis.
 - Zoning Map No. PLP-18-0001-24 clearly identify the site as zoned ‘Commercial’. It also identifies a specific zoning objective COM6.

- The ‘Opportunity Sites’ Map outlines such sites and OP1 is located on the same road approximately 1km north east of the site towards the town centre.
- Chapter 1 deals with Ennis. Map 1A sets out ‘Neighbourhoods’ and the site is located within the identified boundary of the ‘Cahircalla More’ neighbourhood.
- Section 1.6.2 identifies a number of Opportunity Sites in the Town Centre
- Section 1.6.4 identifies a number of Vacant Sites in Ennis.
- Section 1.7 deals with Retail Development and section 1.7.1 sets out Strategic Aims for Retail Development with focus on-

“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;.....”

- Section 1.7.2 deals with the ‘Retail Strategy for Ennis’ and states-

“The ‘Retail Strategy for the Mid-West Region 2010-2016’ sets out the requirements in relation to additional retail floor space up to 2016. The Strategy identifies a requirement in Ennis for an additional 10,813m² non-bulky comparison goods floor space and an additional 6,049m² of convenience floor space.”
- Objective V3(a)4 states-
 - It is an objective of Clare County Council:

- a. *To protect and enhance the vitality and mix of Ennis town centre land-use activities;*
 - b. *To improve the suitability of the Ennis town centre retail accommodation for modern retailers, whilst preserving the town's attractive historic character;*
 - c. *To accommodate the need for additional non-bulky comparison goods floor space within the town centre or town centre expansion area, ensuring it is integrated into the existing shopping facilities;*
 - d. *To provide for neighbourhood facilities to serve existing neighbourhoods and those planned for growth;....*
- Table 1 is titled 'Allocated Quantum of floor space at the preferred sites for retail provision'.
 - This table allocates 1000 – 1200 sq.m of convenience space to the designated 'neighbourhood centre' at Cahircalla More' .
 - Section 1.7.4 deals with 'Ennis Town Centre Expansion Area' and identifies Key Opportunity Sites OP1- Former Boys National School Site and Adjoining Lands, Kilrush Road. This site is described as

significant brownfield site is in a strategic location, ideally positioned to accommodate the need for the allocated quantum of additional convenience and non-bulky comparison goods floor space directly adjoining the existing town centre. The development of the site will contribute significantly to the enhancement of the retail experience in Ennis and the site has the potential, via the resultant increase in footfall, to transform and revitalise the western side of the town, providing strong pedestrian linkages to the market area and the existing town centre.
 - Objective V3(a)7 states-

"It is an objective of Clare County Council:

To promote Opportunity Site OP1 as the preferred site for the expansion of retail development and to facilitate such development, in accordance with the caps on floor space as identified in Table 1, along with the necessary associated improvements in vehicular and pedestrian linkages to the town centre.”

- Section 1.7.6 deals with Neighbourhood Centres and states-

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.

.....in other neighbourhoods, particularly neighbourhoods identified for expansion, there is currently a deficit in service provision. This Plan aims to address this deficit through the identification of sites for the development of local shops/neighbourhood centres, thereby meeting the needs of the resident communities. The following sites are proposed for the development of new neighbourhood centres during the lifetime of this Plan:.....

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 1200m² (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.

- Objective V3(a)8 states-

It is an objective of Clare County Council:

- 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.*
- Section 2 is titled ‘*Ennis and Environs Technical Guidance*’.
 - Section 2.1 ‘*Technical Guidance – Zoning*’ and provides guidance on zoning, zoning objectives, and the indicative land use zoning matrix is set out in Volume 1 of the Plan.
 - Section 2.2 is titled ‘*Technical Guidance – Neighbourhoods*’. Section 2.5 deals specifically with ‘*Cahircalla More Neighbourhood*’ and section 2.5.1 is titled ‘*Shopping in Cahircalla More*’ and states-

Cahircalla More neighbourhood, which is identified for expansion, there is currently a deficit in service provision. This Plan aims to address this deficit through the identification of a site for the development of local shops/neighbourhood centres.

The principal development objective for the site zoned commercial at the Westpoint Business Park (former Curley’s premises) is to secure the optimum re-use of the existing building on site, by providing a neighbourhood centre that serves the Cahircalla More neighbourhood.

- Referring to ‘Site COM6 Commercial Lands at Cahircalla More’ site specific zoning guidance is provided and state-

Development proposals for these sites must be accompanied by a Transport and Traffic Assessment undertaken in accordance with NRA/TII Traffic and Transport Assessment Guidelines (2014). This must also include an assessment of the cumulative impact of traffic/transport generated by planned development in the area on significant junctions in the vicinity. See also section 1.7.6 Neighbourhood Centres.

6.5.3. Volume 8- Retail Strategy for the Mid West Region 2010-2016

- A Glossary of terms is provided and describes a number of terms. The following are considered relevant-
 - *Core Retail Area- The area including and immediately adjacent to the defined “prime pitch” which is the area which achieves the highest rentals, best yields and is most in demand from operators. Typically for these reasons it has a high proportion of units occupied by shops.*
 - *Edge of Centre A location within easy walking distance (usually not more than 300 – 400 metres) of the primary retail area of a town centre, and providing parking facilities that serve the centre as well as the new development thus enabling one trip to serve several purposes.*
 - *Out of Centre- A location that is clearly separate from a town centre but within the urban area, including programmed extensions to the urban area in approved or adopted Development Plans.*
 - *District Centre- Either a traditional or purpose built group of shops, separate from the town centre and either located within the built up urban area or in a suburban location on the edge of the urban area, usually containing at least one food supermarket or superstore and non retail services such as banks, building societies, and restaurants.*
 - *Local Centre or Neighbourhood Centre- Small groups of shops typically comprising a newsagent, small supermarket/general grocery store,*

sub-post office and other small shops of a local nature serving a small, localised catchment population.

- *Discount Food Store Single level, self service store normally of between 1,000 – 1,500 sq m of gross floorspace selling limited range of goods at competitive prices, often with adjacent car parking.*
- Section 6.38 details the Policy Guidance and 'Strategy for Ennis-
 - *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.*
- Section 6.59 deals with Development Management and states-

"For this Strategy to have a real impact, it is important that each Council incorporates the strategy into their Development Plans...."
- Section 6.62 deals with Sequential tests and states-

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.

- **Section 6.66**

When seeking to demonstrate that certain sequentially preferable sites are not appropriate, applicants should provide clear evidence to demonstrate why in the following terms:-

- *Availability: the sites are not currently available and are unlikely to become available for development within a reasonable period of time (to be determined by the relevant Planning Authority but typically five years);*
- *Suitability: sites are not suitable for the type of development proposed;*
- *Viability: the development would not be viable on the proposed site due to the costs of construction/implementation.*

- Page 105 provides a Map identifying the 'Core Shopping Centre Boundary' for Ennis.

6.6. Natural Heritage Designations

The site is located-

- c.1.8km west of the Lower River Shannon SAC (002165),
- c. 1.5km north of the Newhall and Edenvale Complex SAC (002091)
- c. 2.6 km east of the Pouladatig Cave SAC (000037)
- c. 4 km south of the Ballyallia Lough SPA (004041)

- c. 2.9 km north east of the River Shannon and River Fergus Estuaries SPA (004077).

6.7. EIA Screening

6.7.1. An Environmental Impact Assessment Screening report has not been submitted with the application. The Council's Planners Report considers the need for EIA can be excluded at preliminary examination stage and a screening determination is not required.

6.7.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Urban development which would involve an area greater than
 - 2 ha in the case of a business district,
 - 10 ha in the case of other parts of a built-up area¹ and
 - 20 ha elsewhere.

(In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

6.7.3. The application proposes a change of use from part of a retail warehouse to a discount foodstore with an extension of 263 sq.m of new floor area as per question 12 of the planning application form. The site has an area of 1.26ha. The development can be considered to fall under "business district" as Ennis is considered a 'former urban district' or 'town' under Section 10 (3) (b) and Schedule 6, Part 2 of the Local Government Act 2001. The site area is therefore below the applicable threshold of 2 ha.

6.7.4. The application involves a change of use of an existing building with minor extension. In this context the proposal will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage.

¹ Built-up Area' means a city or town (where 'city' and 'town' have the meaning assigned to them by the Local Government Act 2001) or an adjoining developed area (defined in Article 3, Planning and Development Regulations 2001 as amended). An adjoining developed area can be taken to mean contiguous suburbs.

- 6.7.5. The development proposes making use of existing connections to the public water and drainage services of Irish Water and Clare County Council. The applicants have submitted a report from Downes Associates. This details the proposed development shall not result in any intensification of use with regard water demand or wastewater drainage. Changes as regards surface water may comprise minor rerouting of drains and resetting gullies. In this context, I am satisfied that the proposed development would not give rise to significant increases in waste, pollution or other nuisances that differ from that arising from the existing and/or other developments in the general area. It would not give rise to a risk of major accidents or risks to human health.
- 6.7.6. The application site is not directly connected to a European Site. Further consideration of significant effects, if any on European Sites are set out in Section 8.7 below. Impacts in terms of EIA are not significant.
- 6.7.7. I consider that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that upon 'Preliminary Examination', an 'Environmental Impact Assessment Report' for the proposed development was not necessary in this case.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. Four third party appeal has been received from the following-

- 1) Mr Daithi O'Connor, owner of World of Wonder, Unit 2 Westpoint Retail Park, Ennis. This appeal is prepared by P. Coleman & Associates, Consulting Engineers & Planners,
- 2) Harnett Homes and Estate Developers Ltd & Ms. Bridget Harnett, This appeal is also prepared by P. Coleman & Associates,
- 3) Ms. Tara Buckley of RGDATA (Retail Grocery Dairy & Allied Trades Association).
- 4) Paul & Kay Ryan of Ryan's Centra, Clonroadmore, Ennis, Co. Clare. This appeal is prepared by Brock McClure Planning & Development Consultants

The grounds of appeal are extensive but generally raise the same substantive issues which I summarise as follows-

- Non-compliance with the statutory planning context including the Clare County Development Plan and the Retail Planning Guidelines 2012 (RPG's) which conflict with the zoning for the site including consideration of 'Neighbourhood Centre'.
- The scale and out of centre location is a threat to vitality and viability of the existing town centre.
- The submitted RIA is flawed in its assumptions of catchment area and application of sequential testing by virtue of inadequate consideration of Opportunity Site 1.
- The proposed development will not be sustained by a local need and will instead have a wider catchment given its proximity to the road network resulting in car dependency and a significant under provision of car parking
- As a result the proposal will lead to a number of road and traffic safety concerns thereby endangering public safety.
- Procedural matters relating to the notification of decision to grant permission being addressed to a person not named as an applicant in the application or public notices.
- Significant omissions and discrepancies in the drawings and details provided including details on the proposed off licence.
- The application is a split of the previously refused permission 17/613 with the medical centre granted under 18/632 and the proposal now under appeal. The proposal should not be considered in isolation and overall remains excessive in scale.
- There is significant vacancy in the town centre
- Precedent of ABP decisions to refuse similar developments of this scale at this location ABP-300046-17 and nearby ABP-302966-18.

7.2. Applicant Response

The substantive matters raised in the applicants response to the third party appeals can be summarised as follows-

- The proposal represents a plan led approach to the use of the site to facilitate a neighbourhood centre at this location in accordance with the County Development Plan.
- The proposal will complement existing retail provision in the town centre and will sell a limited number of products at competitive prices.
- The RPGs are clear that it is not the purpose of the planning system to prevent competition or to protect commercial interests but it does play a role in supporting competitiveness and choice in the retail sector commensurate with promoting the vitality and viability of city and town centres.
- In relation to the out of centre location of the site, it is argued that a sequential test is not required under the RPG's and that the proposal is plan led entirely in keeping with the-
 - Zoning and COM6 objectives for the site
 - Retail Planning Guidelines 2012
 - Ennis Municipal District Written Statement
 - Regional Spatial Economic Strategy 2020-32 (RSES)
- In relation to OP1 'Former Boys National School and Adjoining Site' the sequential test detailed that this site was not available. The RPG's criteria of suitability, availability and viability of alternative sites was considered.
 - Suitability the site is considered an 'edge of centre' site and is not within the defined retail core and therefore requires justification in terms of sequential approach. Other difficulties include the size of the site c. 1.3 ha, the size requirements of an Aldi and feasibility of servicing the site including HGV access and movements. The site is essentially landlocked with further site assembly required which brings its own difficulties. A report is submitted by TPS M Moran & Associates reviewing the traffic impact at OP1 (section 3.0).

- Availability- The site is not on the market for sale with its most recent acquisition in 2017/18. The applicants are not aware of the site being for sale at this time.
- Viability- Additional site assembly would result in an unviable site size and cost. The site is sequentially unfavourable as it is an 'edge of centre' site.
- In relation to Neighbourhood Catchment
 - Section 8.8 of the RIS details the methodology used to identify the appropriate catchment for the proposal. The identified catchment is considered appropriate in terms of pedestrian connectivity.
 - Section 4.22 of the RIS detail recent residential planning permissions and developments under construction within the Cahircalla Neighbourhood. The area is also identified for further residential growth with large tracts of residential zoned land.
- Neighbourhood Centre definition
 - The RPG's definition includes- 'small supermarket/general grocery store'
 - Any suggestion of extensions to of proposed net retail floor area would be subject to a new planning application. No such extension is proposed.
 - The net retail space proposed 1,000 sq.m is below the 1,200 sq.m identified in the Development Plan for this neighbourhood.
- Conflict with previous ABP decisions-
 - The permission refused under 302966 involved construction of a new building. The subject proposal is to change the use of an existing commercial/retail use.
 - The subject proposal has demonstrated a need and demand for convenience use within the catchment area.
 - The proposal is also smaller with 1,000 sq.m net compared to 1,200 sq.m net.

- Reuse of an existing building is a planning gain.
- Public Transport does serve the site.
- Pedestrian Connectivity is provided on all approaches to the site with a pedestrian crossing on Kilrush Road.
- In terms of Car Parking the applicants submit that Aldi operates 4 free standing stores in Clare with sales area ranging from 1075-1140sq.m and parking provision of 82-122. They contend based on gross floor area 1 space per 20 sq.m would be sufficient for an Aldi store and therefore 83 spaces could serve the store. Provision of 100 spaces provides a 'comfort factor'. 216 spaces can be used by all trips accessing the retail park.
- The matter of the Walking Bus is a condition of 18/632 to which compliance agreement has been reached with the Council. The matter is between the school and the management company.
- The submission is accompanied by a number of Appendices including-
 - A letter from the Architects involved with the project which details-
 - Drafting errors to submitted drawings, clarification on certain demolitions, parking provisions, existing loading bays to which works are not proposed and certain non-relevant annotations.
 - A letter from the Management Company for the site detailing the temporary closure of the Clonroad entrance which is now back in use and matters relating to compliance with condition 4 (c) of 18/632 i.e. walking bus
 - Land Registry details for OP1 site
 - TPS M Moran & Associates Traffic Report
 - Drawings

7.3. Planning Authority Response

- 7.3.1. The Planning Authority's response to the grounds of appeal dated the 29/10/21 can be summarised as follows-

- The issues as raised have been addressed in the planning report on file.
- The proposal is in general compliance with the zoning objective for the site which is to facilitate a neighbourhood centre. Regard has been had to established commercial use of the site, the scale and retail use proposed, the land use zoning and the provisions as set out in Volume 3a of the Development Plan.

7.3.2. The Planning Authority's response dated the 25/11/21 to the Applicants Response can be summarised as follows-

- No further comments

7.4. **Observations**

One observation has been received from Noel and Karen Mulhaire (dated 03/10/21 but received 02/11/21). The substantive matters from this observation are generally similar to those as set out in the grounds of appeal and the following are also considered of note-

- The overall scale of the proposed development when combined with other uses on site would exceed 6,000 sq.m served by 216 parking spaces.
- The anchor supermarket in this application relates to 2,270 sq.m 24% more than that refused previously.
- Aldi engages in a significant advertising campaign to challenge customers to swap their entire shop shopping to see savings and thereby offer a full shopping experience eliminating the needs of customers to visit the town centre.
- The suggested catchment population of 1,235 is not enough to sustain a business like Aldi.

7.5. **Further Responses**

The following further responses were received and additional substantive comments summarised as follows-

- Mr Daithi O'Connor, prepared by P. Coleman & Associates, Consulting Engineers & Planners
 - (02/11/21)-
 - Each of the three other third party appeals are supported
 - Concerns as set out in the grounds of appeal are generally repeated
 - (07/12/21)- Comments on first party response
 - No comments made in relation to procedural concerns
 - The proposal wrongly relies on it being 'plan led' without consideration of proper planning and sustainable development.
 - The proposal remains excessive in scale creating a counter attraction to the town centre.
 - The appellant is not a competitor
 - Road safety, Car parking, traffic management and loading bay concerns remain
 - Drafting errors are acknowledged
- Harnett Homes and Estate Developers Ltd & Ms. Bridget Harnett, prepared by P. Coleman & Associates, Consulting Engineers & Planners
 - 07/12/21
 - Includes many of the comments made in Mr Daithi O'Connor submission of same date
 - The proposal will be a retail destination and beyond just local need.
 - The applicants are avoiding pursuing OP1
 - The one daily local bus stop to and from the HSE facility is not considered well serviced with no defined bus stop.
 - The walking bus is not currently operating from the site.
- Noel and Karen Mulhaire (07/12/21)

- Aldi do not provide a limited offering
- Underutilisation of the site maybe due to poor advertising of vacancy
- The actual floor area of the site to which planning is proposed is not vacant and is utilised by the Home Gallery
- The council have restricted retail sales type of a nearby store to eastern European foodstuffs to protect vitality and viability of the area yet permit this unrestricted supermarket thereby give a competitive advantage.
- The proposal will compete with the town centre.
- Little population growth in the area over recent years.
- The previous decision to refuse by ABP considered the combined site and not just the retail element as now proposed. The retail element is also comparable to that previously refused.
- Shortfall in parkin has not been addressed.

8.0 Assessment

8.1. Introduction

8.1.1. I have examined the application details and all other documentation on file, including all the submissions received in relation to the appeal. I have inspected the site and have had regard to relevant local/regional/national policies and guidance.

8.1.2. Having reviewed and considered the planning history on the site including the fundamental issues identified in the Boards Order under reference number ABP-300046-17, I am satisfied the substantive issues arising from the grounds of the third party appeal relate to the following matters-

- Zoning and the Principle of the Development
- An Bord Pleanála's Order for ABP-300046-17 (17/613)
- Retail Impact
- Traffic and Road Safety Matters

- Other Matters
- Appropriate Assessment

8.2. Zoning and the Principle of the Development

- 8.2.1. The settlement boundary for Ennis is identified on Land Use Zoning Map within Volume 3a of the County Development Plan (CDP). The site is identified on this map as zoned 'Commercial' with the annotation COM6. COM6 appears to be a specific zoning objective related to section 1.7.6 of Volume 3a of the CDP i.e. Neighbourhood Centres.
- 8.2.2. Within this section the paragraph titled 'Site COM6 Cahircallamore' states-
- “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 1200m2 (net floor area).....”*
- 8.2.3. Section 2 of Volume 3a provides Technical Guidance and section 2.5 deals with the 'Cahircalla More Neighbourhood'. 2.5.1 details this area has been identified for expansion, but there is currently a deficit in service provision. The Plan aims to address this deficit through the identification of a site for the development of local shops/neighbourhood centres. This is to be done through the principal development objective as set out under COM6.
- 8.2.4. Section 2.5.1 also requires development proposals to be accompanied by a Transport and Traffic Assessment (TTA) to include an assessment of the cumulative impact of traffic/ transport generated by planned development in the area on significant junctions in the vicinity. A TTA has been submitted with the application and is considered under section 8.5 below.
- 8.2.5. Section 2.5.2 identifies a number of sites proposed for residential development which in my opinion emphasises the planned housing delivery projected and the planning need for an appropriate 'Neighbourhood Centre' to service that demand as per COM6.

8.2.6. This application proposes the change of use of part of existing building to provide for an Aldi food store/supermarket with off licence and ancillary extensions. The proposed net floor area is 1,000m with a gross floor area of 2,270 sq.m. If permitted the proposal will provide an Aldi style supermarket and will contribute to a mix of uses within the overall building, which includes a furniture store, a toy store and a HSE medical centre.

8.2.7. I have considered the above, in the context of section 19.4 and 19.5 of the CDP Volume 1, including descriptions provided for 'Commercial' and 'Neighbourhood Centre' zonings and the land use zoning matrix where 'Shop' is a 'Permitted in Principle Use'. The proposed development appears to generally be in accordance with Development Plan Objective CDP 19.3 i.e. 'Compliance with Zoning'.

8.2.8. There are also a number of other relevant Development Plan considerations that are pertinent as set out in section 6.5 above. However, in my opinion the following are most relevant-

- Vol 1 Goal VI section 1.5-

“A County Clare with viable and vibrant town and village centres, that have shopping areas and markets at appropriate scales and locations and which function to serve their communities and rural hinterlands”.

- Objective V3(a)4 seeks-

a. To protect and enhance the vitality and mix of Ennis town centre land-use activities;

b.

c. To provide for neighbourhood facilities to serve existing neighbourhoods and those planned for growth;....

- Objective V3(a)8 seeks to-

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;

8.2.9. Notwithstanding the apparent acceptability of the proposal as per the land use zoning and COM6 zoning objective including net floor space requirements, I have concerns over the provision of an Aldi style supermarket or what I consider a 'Large Convenience Goods Stores' at an out of town centre location, in terms of its impacts relating to the vitality and viability of the existing town centre, the nature and scale of the Aldi and the Council's consideration of a 'Neighbourhood Centre'.

8.3. An Bord Pleanála's Order for ABP-300046-17 (17/613)

8.3.1. The Planning Authority originally decided to grant permission for the change of use from retail warehouse to mixed use neighbourhood centre including a supermarket (1995.3 sq.m) and medical services (1,347 sq.m) (Total floor area of 6,015 sq.m). They decided to omit the 8 retail units (800 sq.m) in condition 2 of their decision for reason including the number of units proposed, the number of similar sized units in the vicinity and the interests of protecting the vitality and viability of Ennis Town Centre.

8.3.2. This decision was appealed by both first and third parties. On the 29/05/2018 ABP decided to accept the recommendation of its Planning Inspector and refuse permission for the development for one reason.

8.3.3. The Board's extensive reason referred to-

- the scale of the 6,000 sq.m proposal,
- the mix and significant scale of uses proposed,
- the pattern of development in the area, the distance of the site from the town centre of Ennis,
- the location of the site on a major link road between the town centre and the N85 ring road and M18 motorway and
- the existing quantum of retail and commercial development within Ennis and the level of vacancy currently prevailing therein.

It considered that, notwithstanding the zoning of the site for use as a neighbourhood centre, and objective COM6, the proposed development would be of an excessive scale which is 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 seriously impacting on the vitality and vibrancy of Ennis 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 Cahircallamore neighbourhood area.

It considered the proposal would conflict with objective V3(2)(8)(c)² of the Development Plan, which seeks to encourage the provision of new neighbourhood centres...in order to provide a mix of uses and services suited to the scale of the local neighbourhood.

Furthermore, having regard to the RPG's which seek to protect the vitality and viability of town centres as the primary focus for retailing development, the Board were not satisfied that a location closer to the town centre of Ennis is not available for the scale of development proposed.

- 8.3.4. Since this decision to refuse, Clare County Council have granted permission for a Medical Services incorporating Outpatients Facility under reference number 18/632 on the 28/10/2018 on this site. This permitted a use with a proposed floor area of c. 1,521 sq.m within the existing building and 55 car parking spaces. This use appears to be c.174 sq.m larger than that refused previously. During my inspection, I noted this use was now operational.
- 8.3.5. A number of the Appellant's raise serious concerns that the current proposal is simply the previously refused application split to achieve the originally intended requirements. They contend the proposal should not be considered in isolation and overall it remains excessive in scale.
- 8.3.6. Section 4.0 of the Planning Report submitted with this application discusses the Planning History of the site. In section 4.6 – 4.12 they respond to the refusal under ABP-300046-17. In particular I note the following responses-

² Possible typing error- Objective V3(a)8(c)

- The proposal has been significantly reduced in size and scale. The application is proposes a change of use to include 1,000 sq.m net floor space Aldi discount foodstore which is below the 1,200 sq.m net provision envisaged in the County Development Plan (CDP). The net floor space refused is not mentioned but I note page 6 of the Planning Statement submitted with ABP-300046-17, the drawings with that application and from the Inspectors Report on the file it was proposed at 1,150 sq.m.
- A catchment area has been established including a review of 800m – 1km walking range radius of the site. Aldi stores include limited provision of convenience goods and it is expected customers will continue to visit town centre for specialist foods and comparison goods not provided in Aldi. The store will serve the surrounding area and complement the existing town core.
- The Ennis Town Centre Health Check Report, January 2018 identified 17% of units vacant in the town centre area. None of the vacant units as identified in volume 8 of the plan were suitable to accommodate an Aldi. A sequential test is submitted.
- The RPG's provide a description of neighbourhood centres. The proposed Aldi will provide a small supermarket at the site serving the local population. It is considered the proposal will operate in accordance with the RPG's definition.

8.3.7. The Planning Authority's planning report details the grant of permission for the medical services building and outpatient unit has been granted. It refers to the Boards previous decision to refuse and notes-

- This proposal is now for a retail store of 1,000 sq.m net floor space with ancillary services (2,270 sq.m). The retail component is not of the same scale previously applied for. This is consistent with the Development Plan.
- The proposal will enhance the mix of uses on site. The store would be an appropriate use for this building which has been underutilised for some time.
- The proximity of the site to the ring road is noted, however there is a need and requirement to enhance the retail offering at this location. 180 housing units permitted in the neighbourhood since 2017.

- The applicants have undertaken sequential test and analysis/health check of the town with details summarised. Opportunity Site OP1 is identified as not available for purchase. The retail analysis provided is reasonable in terms of catchment identification and spending figures.
- Concerns regarding the catchment available to serve the development and proximity to the road network and a wider catchment are noted. However the Development Plan provisions allow for a retail unit of the size proposed at this location and there is a significant local population to be served within 10 minute walking time of the site.

8.3.8. The proposed application entails a number of changes and differs substantially from the application previously refused by the Board under ABP-300046-17 as follows-

- The medical services element has already been permitted by the Council and larger in size than that refused i.e. c. 174 sq.m. It is now in operation.
- The net floor area of the proposed supermarket has reduced from 1,150 sq.m to 1,000 sq.m
- The proposed gross floor area of the supermarket is now 2,270 sq.m up from 1,995.3 sq.m (based on floor plan drawings showing supermarket 1,352 sq.m, foyer 88.3 sq.m and services 555 sq.m)
- Omission of eight retail units of 800 sq.m.
- A sequential test was not carried out previously but has been submitted with this application.

8.3.9. I have considered all of the above in the context of the sites 'Commercial' zoning and COM6 'Neighbourhood Centre' zoning objective. I highlight the now permitted and operational medical centre, the existing retail uses and the extent of vacant retail warehousing space on this site. I accept this application only proposes to change the retail warehouse use of part of the building with no other additional retail units proposed. However, having particular regard, to one of the Boards main considerations for refusal i.e. the excessive scale beyond what would be reasonably envisaged for a 'Neighbourhood Centre' I am not convinced a reduction of 150 sq.m in net floor space for the supermarket or c. 13% over that proposed under the previous application represents a significant reduction in scale to one reasonably

envisaged for a neighbourhood centre. The provision of a c. 250 sq.m larger gross floor space over that previously refused is also questionable for a smaller net floor area and the intended catchment area.

8.4. Retail Impact

- 8.4.1. The Appellants raise concerns relating to the retail impact of the proposed development. They challenge the assumptions set out in the Retail Impact Assessment (RIA) including the neighbourhood centre function, likely catchment area and question the application of sequential testing including the inadequate consideration of Opportunity Site 1.
- 8.4.2. Section 4 of the Retail Planning Guidelines (RPG's) deals with 'Retailing and Development Management'. 'Key Messages' of this section include-
- proposals not according with the fundamental objective to support the vitality and viability of city and town centre sites must demonstrate compliance with the sequential approach before they can be approved.
 - Retail impact assessment and transport impact assessments may be required for significant retail development which due to their scale and/or location may impact on the vitality and viability of city and town centres.
 - There should be a general presumption against large out-of-town retail centres in particular those located adjacent or close to existing, new or planned national roads/motorways.
- 8.4.3. The Applicants refer to section 4.4. of the RPG's which state-

*Where the location of a proposed retail development submitted on a planning application has demonstrated to the satisfaction of the planning authority that it complies with the policies and objectives of a development plan and/or relevant retail strategy to support city and town centre, additional supporting background studies such as a demonstration of compliance with the sequential approach, below, or additional retail impact studies are **not required**.*

While I acknowledge the basis of this contention in the context of the RPG's, I note the Board in their previous decision on this site highlighted concerns over the scale

of the proposal and were not satisfied that a location closer to the town centre of Ennis was not available. The applicants recognise that the site is an 'out of centre' site and have submitted additional retail impact studies including a sequential assessment. This is considered appropriate.

- 8.4.4. The applicants have submitted a Retail Impact Statement (RIS) with the application. This includes consideration of the national, regional and local retail planning context for Ennis and specifically to the site. The RIS provides a qualitative assessment and health check assessment of Ennis. The RIS also includes a quantitative assessment to consider the capacity for additional convenience and comparison retail floorspace within the catchment area and for its population.
- 8.4.5. Section 8.9 of the RIS defines the proposed catchment area on the basis of 800m-1 km or 10-15 minute walking radius the site based on the sites role as a neighbourhood centre for surrounding residential properties. This is not in my opinion a realistic catchment within driving range. Such consideration of catchment is necessary given the nature of the Aldi store as a supermarket as per the description of 'Large Convenience Goods Stores' in section 4.11.1 of the RPG's which details the majority of these customers undertake their bulk convenience shopping trips by car.
- 8.4.6. The population of the identified catchment is proposed at 5,422 and forecast to 5,930 by 2024. The population was obtained from the 2016 census small area population data and the extent of these Electoral Divisions passing outside the catchment area is acknowledged. A conservative growth rate of 1% was used to forecast growth. Section 8.11 details the catchment is entirely outside of the boundaries of the Town Centre as identified by the zoning map. Section 8.14 recognises the catchment area is not closed and allowances for tourism influences is not included. The RIS goes on to consider expenditure, turnover, as well as the existing retail floorspace in the catchment area and concludes there is more than adequate capacity in 2024 for the proposed Aldi and the proposal will not have an adverse impact of any significance on existing retail provision in the catchment area.
- 8.4.7. While I acknowledge the concerns of the Appellants, I note the site is zoned commercial with an objective to provide a Neighbourhood Centre with net floor area up to 1,200sq.m. The submitted RIS is considered a robust, comprehensive and

realistic retail analysis for the proposed development. However the lack of consideration of the driving range catchment is in my view a significant shortcoming for an Aldi style development.

- 8.4.8. The RPG's make it clear 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. The focus therefore is on the impact of the development on the town centre. The driving range catchment is important as trade diversion from the town centre to this site could impact the town centre negatively.
- 8.4.9. As highlighted in section 8.4.3 above, the applicants have submitted a sequential assessment. Section 4.4.2 of the RPG's identifies 'order of priority' for such retail development. I note the applicants argument in section 1.5 of their Sequential Assessment in which they consider the site "*will serve the needs of the immediate catchment area only*" and to be 'in centre' based on the site being within a defined 'neighbourhood centre'. I note the RPG's do not provide for an 'In centre' category in their order of priority and the 'City and Town Centre' category only makes provisions for the city/town centre and 'district centre if appropriate'. The site is not designated a 'district centre' as defined by the RPG's or as discussed in Volume 8 of the Development Plan i.e. the Retail Strategy for the Mid West Region 2010-16.
- 8.4.10. Accordingly, the site is best considered as an 'Out of Centre Site' for the purpose of the RPG's. The order of priority set out in the guidelines is clear-

"only in exceptional circumstances where the applicant can demonstrate and the planning authority is satisfied that there are no sites or potential sites either within the centre of a city, town or designated district centre or on the edge of the city/town/district centre that are (a) suitable (b) available and (c) viable, can that out-of-centre site be considered."

- 8.4.11. The applicants sequential assessment considers all Development Plan opportunity sites identified within the town centre boundary and on the edge of the centre. In section 3.2 they contend that only Opportunity Sites (OP) 2 and 3 are located within the 'Town Core Shopping Boundary Map' as identified within the retail strategy as set out in Volume 8 of the Development Plan. Notwithstanding this the applicants assessment provides a justification for each opportunity site. I note there is no justification provided for OP9 and OP11 which the development plan describes as-

OP9- “major opportunity to provide a flagship waterfront development of outstanding design and quality to diversify and strengthen the mix of activities in the town centre. The site is located in the heart of the town with excellent links to the prime shopping streets. It is zoned for mixed use and open space uses.”

OP11- “This site is considered suitable for the provision of parking which is convenient to the town centre..... The zoning of this site as Mixed Use, which may accommodate car parking, does not restrict the future use of the lands for educational purposes.”

I note the proximity of these sites to each other and based on their location and further description in the Development Plan these site could be considered suitable for the proposed development subject to availability, viability and other planning considerations.

8.4.12. The Appellants raise considerable concerns in relation to the applicants justification for OP1 in which they argue the site is not available for purchase and part of the site is occupied by an Eir exchange which cannot be relocated.

8.4.13. In the Applicants response to the appeals they address this concern of the Appellants further. They consider OP1 to be an ‘edge of centre’ site in retail planning terms and detail it would require justification in terms of sequential approach to retail development. In this regard, section 1.7.4 of Volume 3a of the CDP identifies OP1 within the ‘Town Centre Expansion Area’ Objective V3(a)6 seeks-

“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.”

In my view, OP1 should be considered to be within the town centre in this context.

8.4.14. The Applicants response to the Appeal provides a more detailed justification for why OP1 would not be suitable for the proposed development. In particular they substantially address suitability, availability and viability. I consider the content and conclusion of this submission to be robust for the purpose of the sequential assessment and the site can reasonably be considered as not an option.

8.4.15. Section 4.5 of the RPG's is clear that the sequential approach requires flexibility and realism on the part of both retail developers and planning authorities, to ensure that the various forms of retailing are developed in the most appropriate locations. In this regard, it is not appropriate to force developers to pursue other sites and the contents of the submitted sequential assessment and response to the appeals are considered robust and reasonable. In saying this, the omission of commentary on OP9 and 11 is concerning.

8.4.16. However as highlighted above, the RPGs requires the application of the sequential approach to be flexible. There is an existing Aldi store c.200m as the crow flies to the east of OP 9 and 11 and from a pragmatic commercial view point it would not be reasonable to insist on locating another Aldi store in such close proximity.

8.4.17. Section 2.1 of the RPG's states-

*“this chapter identifies overarching retail policy considerations and objectives (See Section 2.5) to be implemented by planning authorities across their **development planning and management functions.**”* (emphasis added)

8.4.18. Section 2.5 provides Policy Objectives and 2.5.2 deals specifically with the 'Sequential Development Approach' and states-

The second national policy objective is to promote greater vitality in city and town centres by promoting a sequential approach to retail development.

The guidelines go on to detail that-

.....only in exceptional circumstances where it can be demonstrated that there are no sites or potential sites available either within the centre or on the edge of these centres should an out-of-centre site be considered.

Section 4.4.2 'Order of Priority' further restates the requirement for exceptional circumstances.

8.4.19. The applicants have proposed the development based on its zoning and COM6 objective. They have demonstrated flexibility by reducing the scale of the store to 1,000 sq.m net floor space (from 1,150 sq.m in the previous refusal) where the Development Plan provides for up to 1,200 sq.m at the site. The applicants have submitted a sequential assessment which I have considered generally reasonable

and robust. In this regard the proposed 'out of centre' site would appear to be appropriate.

8.4.20. However, the RPG's clearly details-

Only in exceptional circumstances should out-of-town sites be considered and only after the sequential approach has been applied to these sites also.

I do not consider a proposed development's compliance with zoning and zoning objectives to constitute exceptional circumstances and further consideration after sequential assessment is therefore necessary in order to determine what or if any exceptional circumstance applies.

8.4.21. In considering the above I refer to some useful descriptions/definitions set out in the RPG's including-

- *'Supermarket- Single level, self service store selling mainly food, with a net retail floorspace of less than 2,500 M2.*
- *'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*
- *Large Convenience Goods Stores- comprising of supermarkets....are now an accepted element of retailing in....large towns. They provide primarily for the weekly convenience goods shopping of households. They require extensive open areas of floorspace together with adjacent car parking as the majority (but not all) their customers undertake their bulk convenience shopping trips by car.*

8.4.22. It is clear the applicants are basing their proposal as a small supermarket within a Neighbourhood Centre. In section 1.5 of the sequential assessment it is stated the proposed store will "serve the needs of the immediate catchment area only" but they have not considered a driving range catchment. I also note the other uses on this site toy store, furniture store and recently permitted medical services do not serve a small, localised catchment area.

8.4.23. I have also reviewed the Retail Impact Assessment submitted for the previous application on this site in which I note a much larger catchment and target population was identified including a likely 5 minute drive distance. The ABP Inspector noted-

“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.”

I also note the inspector stated-

“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.”

8.4.24. Appellants and observers raise appropriate concerns relating to the proposed target markets. In this regard Aldi advertising campaigns are highlighted in which weekly shopping and range of both convenience and comparison goods are targeted. I note such advertising campaigns are also delivered at a national scale.

8.4.25. Having considered the above it is, in my opinion, disingenuous to suggest an Aldi store will “serve the needs of the immediate catchment area only” when it is evident that the proposed Aldi is a ‘Large convenience stores’ albeit a ‘small supermarkets’ as described by the Applicants with an extensive open areas of net floorspace, with adjacent car parking serving a likely majority (but not all) of customers who engage in bulk convenience shopping by car. I would agree with the observer on file that this is clearly reflected in their advertising campaigns which target wider audiences than just the local area.

8.4.26. Section 4.11.1 of the guidelines is clear to me that such stores should be located in city or town centres or in district centres or on the edge of these centres. The guidelines do not provide for these to be located in designated neighbourhood centres regardless of floor area requirements in the Development Plan.

8.4.27. Accordingly, I concur with the decision of the Board under ABP-300046-17 which includes-

“the proposed development would be of an excessive scale which is 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”

8.4.28. In my opinion, the proposed development would be more suitable to a ‘District Centre’ as described in the RPG’s. These are described as-

Provides a range of retail and non-retail service functions (e.g. banks, post office, local offices, restaurants, public houses, community and cultural facilities) for the community at a level consistent with the function of that centre in the core strategy. They can be purpose built as in new or expanding suburbs or traditional district centres in large cities or town

8.4.29. Volume 8 of the County Development Plan includes the Retail Strategy for the Mid-West Region, 2010 – 2016. I acknowledge this is dated, however it remains part of the operative CDP. Section 6.38 sets out the retail strategy for Ennis and clearly details additional convenience floorspace could be accommodated in a suitably located district centres if it cannot be achieved within the town centre. However, the CDP 2017-2023 does not provide for such district centres and the subject application does not propose one. In this context, consideration of the proposal as within a district centre would not be appropriate nor do I consider the absence of district centre from the CDP to be an exceptional circumstance.

8.4.30. Having considered all of the above and in particular the sequential approach submitted with application, the applicants have not demonstrated an exceptional circumstance to permit a retail development of this scale within an ‘Out of Centre’ location as per the requirements of the RPG’s. I am also concerned that adequate consideration has not been given to the driving range catchment area of the proposed Aldi store in the RIS, where such stores generally target markets where car dependency is required and would be significantly further than that of a walking local catchment. Accordingly, I consider the proposed Aldi would become a retail destination for a significant catchment area, would encourage car dependency, would create a counter-attraction to existing town centre services and would thereby seriously impact on the vitality and vibrancy of Ennis town centre. In my opinion the proposed development should be **refused**.

8.5. Traffic and Road Safety Matters

8.5.1. The Appellants have raised a number of concerns in this regard which can be summarised as including-

- Traffic Impact, Congestion and Capacity
- Car Parking Provision
- Pedestrian connectivity
- Site Servicing

Traffic Impact, Congestion and Capacity

8.5.2. Section 2.3 of the RPG's states-

“there is a presumption against out-of-town retail centres which could impact on the viability and vitality of city and town centres and also generate significant additional traffic with potential to impact on the national road network and the performance of junctions and interchanges.”

Section 4.10 deals with Transport Impact Assessment and states-

Impacts on the transport networks serving a proposed retail development proposal are very important to determine in the course of considering planning applications. A Traffic and Transport Assessment (TTA) may be required for retail developments over a particular threshold (1,000 M2 gross floorspace for retail/leisure).....

8.5.3. Appendix 1 of the Clare County Development Plan section A1.9.4 details requirements for Traffic Impact Assessments (TIA), Road Safety Audits and Road Safety Impact Assessments. Transport Infrastructure Ireland's Traffic and Transport Assessment Guidelines 2014 details criteria where a TIA is mandatory or recommended if subthreshold.

8.5.4. Section 4.10 of the RPG's states-

“A Traffic and Transport Assessment (TTA) may be required for retail developments over a particular threshold (1,000 M2 gross floorspace for retail...)

The proposed gross retail area is 2,270 sq.m.

- 8.5.5. Table 2.1 of the Traffic and Transport Assessment Guidelines 2014, details that a retail development in excess of 1,000sq.m requires a TIA. Table 2.3 sets out Sub-threshold Criteria for Traffic and Transport Assessment. Having considered these thresholds, the sites proximity to the national road network, the likely traffic movements to and from an Aldi development in association with other uses on site and potential peak hour traffic movements I consider a Traffic Impact Assessment is required.
- 8.5.6. The applicants have submitted a Traffic Impact Assessment (TIA) with the application. This has been completed by TPS M Moran & Associates (Traffic and Transportation Planning Consultants).
- 8.5.7. The TIA considers-
- Existing traffic conditions on the road network in the vicinity of the site
 - trip rates for the proposed development
 - trip distribution patterns
 - existing access arrangements
 - capacity and operational assessments
 - car parking
 - service access
- 8.5.8. A traffic survey was carried out in May 2021 which identified morning peak at 0800hrs to 0900hrs and evening peaks at 1700hrs and 1800hrs. Peak flows are presented on Figure 1.0 & 2.0 of the TIA.
- 8.5.9. Section 4.0 discusses the proposed development. It identifies a gross floor area of 1,656 sq.m which is contrary to 2,270 proposed elsewhere in the application. They detail the correct 1,000 net floor space and discuss provision of 100 dedicated customer parking spaces.
- 8.5.10. In section 4.5 it is detailed the TRICS 2021 (a) database is employed to model trip generation rates for the proposal. Transport Infrastructure Ireland's (TII) Traffic and Transport Assessment Guidelines 2014 describes TRICS as a database containing empirically obtained trip generation data for a wide range of different types of

developments and the Guidelines recommend it as suitable database to use for trip generation.

- 8.5.11. The 'Trip Rate Parameter is identified as 700-2635 sq.m with the estimated TRIP rate value per 1,656 sq.m. It projects limited traffic flows during critical AM or PM peak periods with peak trips associated between 1200hs and 1300 hours identified as 184 in and out combined. Having considered the trip parameter I do not consider the incorrect rate value to have a material bearing on the assessment.
- 8.5.12. Section 4.9 - 4.13 discusses how traffic volumes to the proposed Aldi should not be considered as wholly new traffic movement as elements of this traffic will already be on the road network. In order to allow for a worst case scenario the assessment considers recorded traffic and projected traffic as new trips to the PM Peak. Traffic growth projections are also included at rates from 2016-30, 2030-40 and 2040-50. A figure of 4% from the base year of 2021 to the protected opening year is included. This is a worst case scenario. Projected traffic turning movements at the peak PM peak are shown in Figures 3.0 and 4.0.
- 8.5.13. Section 5 provides traffic modelling to determine if the capacity of the existing road network at the Westpoint Retail Park access points can cater for projected generated traffic. It found the junctions can accommodate traffic growth at 2023 and 100% projected new trips with ample capacity.
- 8.5.14. The TTA concludes that junction arrangements in the vicinity of the site can operate successfully in accommodating the levels and type of traffic likely to be attracted to the site.
- 8.5.15. Having considered the TIA as submitted, I am satisfied that the scope, assumptions, allowances and traffic count used to inform the submitted TIA are reasonable in order to review the potential transport impacts of the proposed development on the existing transport network. The information submitted in the TIA appears detailed, robust and generally adheres with Transport Infrastructure Ireland's 'Traffic and Transport Assessment Guidelines May 2014'. The Council have raised no concerns in this regard and as a result I am satisfied the development as proposed will not lead to significant traffic congestion on the local or nearby national road network and as a result will not endanger public safety.

Car Parking

- 8.5.16. The Development Plan standard is 8 spaces per 100sq.m Convenience Retail with the same requirement for Shopping Centre or Large Retail Store (>1000m² gross floorspace). Footnote 1 of the parking standards details that reference to floor area, refers to gross floor area unless otherwise stated.
- 8.5.17. The application proposes 100 car parking spaces. Section 7.3 of the TIA suggests 133 car parking spaces are required. This appears to be based on the incorrect GFA area where instead 2,027 would require c. 162 spaces. Section 7.4 considers the Development Plan standard as excessive for an Aldi and instead an assessment should be based on net floor area as that is what customers have access to. In my opinion this is reasonable and applying such a standard 80 spaces would be required. The proposal for 100 spaces could be considered on over provision but in this context is acceptable.
- 8.5.18. However, it is considered the concerns of the Appellants relating to the cumulative provision of parking on the site is valid. Question 14 of the application form states 216 spaces exist on site with 7 spaces proposed to be removed leaving 209.
- 8.5.19. Based on my considerations, in which I accept net floor area as more appropriate for this Aldi, I estimate parking demand as follows-

<u>Floor areas</u>		<u>Car spaces</u>	
Existing building-	5921	Overall parking proposed	209
Aldi GFA	2161	proposed Aldi (1,000 net fa)	80
Medical Services	1521	parking medical	55
Remaining retail warehouse	2239	requires	112
Proposed Aldi extension	109	incl. in required 80	
		Overall required- 80+55+112=	247
		Estimated shortfall=	38

- 8.5.20. In considering car parking the Planning Authority noted a shortfall, but acknowledged there will be a duality of uses and dual trips with the medical services not operating beyond normal hours. They state the Development Plan allows for a relaxation of standards in particular where a change of use is proposed. I note section A1.0 dealing with Development Management Guideline states-

“It is envisaged that these guidelines will be applied in a flexible manner”.

I am satisfied provision of 100 car parking spaces is a flexible over provision for the proposed Aldi and is acceptable. Having regard to the other uses on site and given the duality of such uses the overall shortfall estimated at 38 is not significant.

8.5.21. I also acknowledge concerns raised by appellants over inappropriate use of the existing car parking spaces. I would consider this to be a matter for the management company of the overall site to provide for the tenants and not one for the Board to be concerned with.

Site Servicing

8.5.22. In terms of servicing the site section 7.13-7.15 of the TTA details one to two articulated delivery vehicles per day accessing from the Clonroadbeg junction. The timing of these deliveries is typically between 0600hrs and 0800hrs.

8.5.23. I note concerns raised by the Appellant relating to the swept path analysis submitted by the applicants in response to the Appeal and to condition 2a of the Planning Authority’s Decision. Drawing no. 17231/P/014 submitted on the 03/11/21 shows how a HGV vehicle can exit the site. I acknowledge the concern raised in relation to the ability to turn right, however I don’t consider this a fundamental issue from an existing site especially as the applicants have demonstrated such a vehicle can successfully access the public road network from the site.

8.5.24. The Appellants also note the presence of a cycle lane and traffic calming measures on this road which have not been demonstrated in the drawing. In this regard the road is reduced to 6m. I do not consider this a fundamental issue or to be misleading. The Clonroadbeg entrance is existing and the road is a public road. The council facilitate such cycle lanes and traffic calming measures and will also facilitate safe access and egress from existing entrances such as to the subject site. I also note that section 4.3.3 and 4.4.3 of DMURS provides for situations where larger vehicles and slow moving vehicles can cross the centre of roads to complete traffic turning movements.

8.5.25. Concerns are also raised in relation to parking provision to the rear of the building. It is considered the drawings are misleading as these spaces do not exist on the ground. Notwithstanding this, the application proposes these spaces and if

permitted they will be required. Having inspected the site, I don't consider the drawings deliberately misleading. This concern also relates to existing loading bays and proposals for one way services access. I have observed the area proposed for parking and existing loading bays. The applicants have provided swept path analysis drawings for vehicles serving the proposed Aldi loading bay. I see no reason why loading to existing business at the rear of the site, car parking as proposed and current traffic flows cannot be facilitated. I would consider many of these concerns to be a site management issue.

Pedestrian Connectivity

8.5.26. I note concerns raised in relation to pedestrian connectivity. Having inspected the site I observed the boundaries of the site and the general area served with existing footpaths. The application is for a change of use of an existing retail development. In this context I consider existing pedestrian connectivity to be acceptable.

8.6. Other Matters

- An Appellant has raised concerns relating to procedural matters i.e. the notification of decision to grant permission being addressed to a person not named as an applicant in the application or public notices. The Council's decision to grant permission on file, is addressed to a person who appears to be identified in question 6 of the application form as a director of one of two companies named in the public notices and c/o the agent who prepared the planning application. The company's registered address is provided in the application form and the Planning Authority have validated the application. I am satisfied procedural matters such as this have no material bearing on this assessment or the decision of the Board.
- An appellant has raised concerns relating to discrepancies and omissions in the drawings. I note the Applicants response to the appeal addresses some of these concerns. This application and appeal has been assessed on its merits, based on the contents of the planning file and includes further submissions as made with and in response to the appeal and observations of my site inspection. In this regard, any decision to grant permission will be based on the contents of the details and drawings submitted and as amended by any

conditions. Matters of non-compliance would be for the Planning Authority to consider. However, should permission be granted I recommend a condition be attached to seek drawings and details relating to the off licence which should serve an ancillary function only to the main store. This should be agreed with the Planning Authority in order to manage any uncontrolled extension to the size of such a use.

- Appellants raise concerns in relation to a 'Walking Bus' on site. This forms part of condition 4 (c) of permitted development 18/632. The applicants have submitted compliance correspondence with the Council in which agreement has been made. Concerns in this regard are considered to be enforcement matters and not ones for the Board.
- During my inspection I noted both access/egresses to the site were open and accessible. Concerns over temporary closing of the Clonroadbeg access/egress would appear to be a site management issue and not ones for the Board.

8.7. Appropriate Assessment

- 8.7.1. Having regard to the nature of the existing development on site, the proposed change of use with minor extension and internal works, the minimal changes to existing drainage services and the sites separation distance to European sites, it is considered that no Appropriate Assessment issues arise and the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any designated European site.

9.0 Recommendation

- 9.1. I recommend that permission is refused for the following reason

10.0 Reasons and Considerations

1. Having regard to –

- a. The scale of the proposed development and its context with regard to the mix of existing uses and retail development within the site, served by 209 car parking spaces
- b. The pattern of development in the area, the distance from the town centre of Ennis and the location of the subject site on a major link road between the town centre and N85 ring road and M18 motorway, and
- c. The existing quantum of retail and commercial development within Ennis and the level of vacancy currently prevailing therein,

it is considered that, notwithstanding the 'Commercial' zoning and the 'COM6' zoning objective of the site for use as a 'neighbourhood centre', the proposed development would contribute to an excessive scale which is 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 in Ennis, which would seriously impact on the vitality and vibrancy of the town centre. It would also constitute an unsustainable form of development that would be principally dependent on private car based transport, serving a wider catchment than the Cahircallamore neighbourhood area, as envisaged by objective COM6 in the Development Plan and the catchment area identified in the submitted Retail Impact Statement.

Therefore, the proposed development–

- would contravene the strategic aims to promote retail activity in the core areas as set out in section 7.1 of Volume 1 of the Clare County Development Plan 2017-2023
- would contravene the policy guidance as set out in section 6.38 of the Mid-West Retail Strategy for Ennis and Volume 8 of the Development Plan,
- would conflict with objective V3(a)(8)(c) of the Development Plan, which seeks to encourage the provision of new neighbourhood centres...to provide a mix of uses and services suited to the scale of the local neighbourhood.

and would therefore compromise the delivery of Goal VI of the County Development Plan i.e. a County Clare with viable and vibrant town and village centres, that have shopping areas and markets at appropriate scales and locations and which function to serve their communities.

Furthermore, having regard to the Retail Planning Guidelines for Planning Authorities, issued by the Department of the Environment, Community and Local Government in April 2012, which seeks to protect the vitality and viability of town centres as the primary focus for retailing development, the Board is not satisfied that following the Sequential Development Approach that an exceptional circumstance has been demonstrated to allow for a development of the scale proposed, at this site, in the context of a neighbourhood centre serving a small, localised catchment population. The proposed development would, therefore, be contrary to these Ministerial Guidelines, to the overall provisions of the Development Plan and to the proper planning and sustainable development of the area.

Adrian Ormsby
Planning Inspector

21st of July 2022