



An  
Bord  
Pleanála

## Inspector's Report

**ABP-322152-25**

### Development

The construction of a 2-storey discount foodstore. Provision of a vehicular entrance from Lahinch Road. Provision of ESB substation and switchroom (24.5sq.m), landscaping, boundary treatments, and all other site works. A Natura Impact Statement will be submitted to the planning authority with this planning application.

### Location

Lahinch Road, Deerpark West Townland, Ennistymon, Co.Clare.

### Planning Authority

Clare County Council

### Planning Authority Reg. Ref.

2560002

### Applicant(s)

Lidl Ireland GmbH

### Type of Application

Permission

### Planning Authority Decision

Refuse

### Type of Appeal

First Party

### Appellant(s)

Lidl Ireland GmbH

**Observer(s)**

None

**Date of Site Inspection**

26<sup>th</sup> May 2025

**Inspector**

Catherine Dillon

## **1.0 Site Location and Description**

- 1.1. The subject site comprises a greenfield site in agricultural use and is located on the southern side of the Lahinch Road (N67) in Ennistymon, north County Clare. The site is undulating and rises steeply from the Lahinch Road towards the rear southern boundary of the site. It is bounded along the road frontage by a low boundary wall and an agricultural gate and hedging. The southern and western boundaries are bound by hedging and the eastern boundary by a wire fence with a landscaped area beyond the fence.
- 1.2. Immediately to the west of the site is an Auto repairs business and a church and to the east is a newly constructed primary and secondary school. Opposite the site are a number of detached dwellings. The Lahinch Road rises steeply from the east to the west along the site's frontage.
- 1.3. Ennistymon town centre and Main Street is c.0.5km to the east of the subject site and the subject site is physically separated from the Main Street by the bridge and the River Inagh. There is a pedestrian footpath on both sides of the Lahinch Road along the site's frontage which reduces to one footpath on the southern side of the road as it continues over the bridge/Blake's Corner and River Inagh onto the approach to the town centre.
- 1.4. The N67 connects Ennistymon to the settlements of Kilrush, Kilkee, Doonbeg, Quilty, Miltown Malbay, Lahinch, Lisdoonvarna, Ballyvaughan, Kinvarra, Oranmore and Galway City. The N85 links Ennistymon directly to Ennis.
- 1.5. The site has a stated area of 0.65 hectares.

## **2.0 Proposed Development**

- 2.1. The initial application lodged with the planning authority comprised the following:
  - Construction of a two storey foodstore incorporating an off-licence along the north eastern side of the site;
  - The store would have a gross floor area of 2,261m<sup>2</sup>, with a net retail area of 1,493m<sup>2</sup> ; and incorporate an internal plant room, storage area, chiller store, ancillary office area and staff rooms;

- Provision of a vehicular entrance from Lahinch Road with sightlines of 2.4m x 49m;
- 87 no. car parking spaces including 4 no. accessible bays, 4 no. family bays, 2 no. electric vehicle bays and 8 no. cycle spaces;
- Erection of 2 no. internally mounted illuminated signs (6.25m<sup>2</sup> each), 1 no. totem pole mounted external sign (4.41m<sup>2</sup>) and 1 no. poster board display (1.51m<sup>2</sup>);
- Roof mounted solar panels (907m<sup>2</sup>) and a roof top plant; The PV panels would be orientated towards the south direction.
- Provision of ESB substation and switchroom (24.5m<sup>2</sup>);
- Ancillary works including landscaping, boundary treatments, trolley bay (69.7m<sup>2</sup>), bin storage, external plant enclosures, loading bay, connection to existing services and all other ancillary works necessary to facilitate the proposed development.

2.2. The application was accompanied by a Planning Report and the following documentation:

- Retail Impact Assessment;
- Traffic and Transportation Assessment;
- Preliminary Operations Waste Management Plan;
- Preliminary Construction & Demolition Waste Management Plan;
- Preliminary Construction Management Plan;
- Glint & Glare Assessment Report;
- Flood Risk Assessment;
- A Design Statement;
- Landscape Design Report & Landscape Plan;
- Archaeological Impact Assessment;
- Energy Efficiency & Climate Change adaption Design Statement;
- Lighting Impact Assessment Report;

- Ecological Impact Assessment; and
- Natura Impact Statement.

2.3. Additional information submitted as part of the appeal includes an onsite Waste Water Treatment Plant to treat the foul effluent before it connects to the public network and an engineering drawing indicating a right-hand turn lane into the site from the N67 and revised sightlines of 70m in each direction. These amendments will be considered in the assessment of the appeal.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. On 27<sup>th</sup> February 2025, the planning authority refused planning permission for the proposed development on the following grounds:

1. Under the Clare Co. Development Plan (2023-2029) it is an objective to support Ennistymon town as an important centre for the provision of convenience goods and retail services and to protect and enhance the vitality and viability of the town centre. Notwithstanding the commercial zoning on site, the Planning Authority considers the proposed development by virtue of its location remote from the core area of the town centre would seriously impact on the vitality and vibrancy of Ennistymon town centre and would contravene the strategic aim of the Clare Co. Development Plan which seeks to consolidate town centres. Furthermore, based on the Retail Impact Assessment and Sequential Test received with the application to date, the Planning Authority is not satisfied that a location closer to the town centre is not available, suitable and viable for the scale of the development proposed. The proposed development would therefore be contrary to the provisions of the 'Retail Planning Guidelines' (2012), which seeks to protect town centres as the primary focus for retail activity, and be contrary to the overall provision of the Clare Co. Development Plan 2023-2029 and to the proper planning and sustainable development of the area.
2. The Planning Authority considers that that the development of the kind proposed would be premature by reference to the existing deficiency in the road network serving the area of the proposed development (including consideration of

restricted capacity and inadequate width and alignment and the structural condition of the road and footpaths in the vicinity of Blake's Corner). In addition, it is considered that the proposed development would render the network unsuitable to carry the increased road traffic likely to be generated, as the details as submitted with the application to date show that capacity will be exceeded and there will be queueing and delays at nearby junctions. The proposed development would therefore be at variance with official TII policy in relation to control of development on national roads (DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities 2012) and as such would adversely affect the operation and safety of the national road network.

3. The proposed development by virtue of a lack of adequate physical and functional linkages to the primary core retail area and lack of proposals to address the issue of connectivity, especially pedestrian connectivity at Blake's Corner, contravenes the requirement for successfully integrating edge of centre retail facilities as set out by the Section 4.7 Retail Planning Guidelines 2012 which requires an edge of centre site to be within safe easy walking distance of the of the primary retail area. The proposal would therefore be contrary to the proper planning and development of the area.

4. Ennistymon is identified as a linked Service Town and a Tier 3 town in the retail hierarchy (including the retail strategy (volume 7)) of the Development Plan. Having regard to Retail Impact Assessment and the sequential test as received, the Planning Authority is not satisfied that sufficient information regarding the suitability, availability and viability of alternative sites has been considered. In addition it is noted that while the Retail Impact Assessment considers the impact of the proposed foodstore and the potential diversion of trade from large-scale existing convenience stores in Ennistymon, the assessment does not consider the potential impact of the proposed development on the vitality and viability of other settlements in the catchment area, including but not limited to Miltown Malbay. As such, it is considered therefore that the proposed development does not comply with Retail Planning Guidelines 2012 (Section 4) and with Vol 3 Clare County Development Plan 2023-29 Objective for Ennistymon which is to support the town as an important centre for the provision of convenience goods and retail services.

5. The Planning Authority notes that the proposed development is to be served by the Ennistymon wastewater treatment plant which outfalls to the Inagh River Estuary SAC (Site Code 000036). The NIS accompanying the application does not include analysis, information, or scientific assessment to indicate how the exceedances of the Emission Limit Values at the plant have been assessed and addressed. The EPA Site Visit Report with regard to the wastewater treatment plant in Ennistymon, (10.09.24), highlights significant concerns with respect to overflows which are occurring at the pump station due to the pumps inability to pump the incoming flow to the WWTP. Having regard to the foregoing and notwithstanding the Confirmation of Feasibility as received from Uisce Éireann the Planning Authority is not satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Inagh River Estuary SAC or any other European site, in view of the conservation objectives of the sites, and in such circumstances, the Planning Authority is precluded from granting planning permission. Therefore the proposed development would contravene development objectives CDP 15.3 European sites , of the Clare County Development Plan 2023-2029, and would therefore be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

Planner's report dated 25/2/2025 notes the following:

- Land is zoned for commercial purposes and retail is normally open for consideration on the zoned lands, subject to sequential test.
- Principle overriding CDP objective is to consolidate Ennistymon town centre.
- Considers site remote from town centre and not satisfied that a location closer to the town centre is not available.
- Lack of pedestrian connectivity with Blakes Corner and the primary retail core would contravene the requirement to integrating the development for pedestrians.

- Proposal considered premature while existing deficiencies exist in the road network and would adversely affect the operation and safety of the road network.
- Car parking spaces significantly deficit for an edge of centre site (being less than half recommended), notwithstanding the submission of a Mobility Plan and bus options in the area.
- There are gaps and omissions in the retail impact assessment which undermines the conclusion that after the proposed development is provided there will remain a deficiency in the quantity of convenience floor area in the catchment.
- Notwithstanding the report received from Uisce Eireann (consent for feasibility of connection), the planner in their report were not satisfied that the Council can conclude that there will be no significant effects on water quality in the Inagh River estuary SAC.

### 3.2.2. Other Technical Reports

#### RDO Report 14th Feb 25

- Notes the inclusion of a road safety audit & Traffic and Transport Assessment and the analysis of both Blakes corner and the current proposal of the new bridge.
- TII should be consulted relating to any pavement damage caused by the construction of this development as it is on a national secondary road and reinstatement works to be agreed with the MDO.
- Sightlines and sight stopping distances of 49m from a setback of 2.4m an eye height of 1.05m to an object height of 0.6m are required to comply with the above mentioned standards. This was achieved on site visit on 07/02/2025.
- Applicant should have carried out a vehicle tracking output drawings on Blakes corner and outline the number of deliveries per week.
- DMUR's, traffic calming measures should be implemented on long straights within the car park. Additional painted walkways should be included in the other rows of parking spaces for consistency and guide pedestrians safely to the



entrance of this retail unit. Tactile paving should be included in the south section of the carpark.

- Recommends a full road closure is avoided on N67 during construction works and lane closures are implemented only.
- Works to footpath to the front of the site to be carried out in accordance with Clare Co.Co specifications.

Fire and Rescue: Report dated 28/01/25

- Development to be designed & constructed in accordance with Section B4 of Technical Guidance Document B 'Fire Safety' to building Regulations 2006 and 'National Guidance document on the provisions of water for firefighting' by Water Uk and Local Government Association 2002.

Senior Executive Technician: West Clare Municipal District North report dated 5/2/2025

Requires additional details to assess the proposal on the following summarised matters:

- Right turning lane should be provided to facilitate traffic approaching from the west. The N67 is a busy route and the absence of a right turning lane would exacerbate traffic into Ennistymon.
- Revised plans to indicate the location and extent of proposed changes to the N67.
- Surface water issues regarding the proposed development being connected to a hydrocarbon interceptor prior to discharge and revised drainage layout with adequate provision to prevent surface water flowing onto the N-67.
- The applicant should be requested to carry out a CCTV survey of the proposed SW pipe for the stormwater connection and determine the outfall location to show that it is capable of accommodating the proposed new connection.

Environment Section: Report via email dated 18/2/2025

- Proposed development shall generate 4.58m<sup>3</sup>/day of waste water which equates to 31 P.E..

- Ennistymon WWTP (D0081) currently discharges to the Inagh Estuary, which is a transitional waterbody with a 'moderate' quality status that is considered 'at risk' of not achieving WFD quality standards by 2027.
- Based on AER for Ennistymon WWTP the remaining organic capacity of the plant (PE) is 200. There does not appear to be capacity to accept wastewater from the development.
- No feasibility report provided by the applicant to demonstrate engagement with Uisce Eireann.
- EPA site inspection at the WWTP (15/8/2024) identified a series of infrastructural & operational issues with the plant, and the expectation date to upgrade the WWTP was stated as 2030 but it is unlikely to be achieved.
- Cannot be concluded that the WWTP is the primary or sole cause of water quality failing to achieve WFD standards.
- Recommended applicant engage with Uisce Eireann to connect to foul network and that sufficient capacity exists to treat the effluent from the development, and investigate the potential to install an onsite WWTS, prior to discharge to public network.

Environment Section (Waste enforcement): Report dated 24/2/2025

- Requested additional information /clarity regarding discrepancies in the preliminary CEMP and Construction & Demolition Plan regarding material to be excavated/recycled etc. and the requirement for a permit for the disposal of waste.

### 3.3. Prescribed Bodies

TII report dated 20/2/2025:

- Insufficient data has been submitted to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site.
- Standards are not in accordance with those set out in TII Publications for development impacting national roads. Visibility sightlines of 70m should be

provided from the application site access junction to the national road for a 50kph speed limit which applies to the N67 at the location of the subject site.

- The swept path detail indicated on the submitted site layout plan appears to indicate the swept path of left turning HCV's over running the opposite approach lane on the N67, national road.
- TTA identifies that the N67 Main Street / N67 Lahinch Road Priority Junction will operate over practical capacity in future year assessment scenarios. No mitigation measures are proposed. The roads authority should also ensure that a traffic monitoring framework plan for the N67 (N67 Main Street / N67 Lahinch Road Priority Junction) be established to monitor the junction and to address future network issues.
- Any changes or works proposed to National Roads as part of the development will need to go through the approval process according to TII Publications Standard DN-GEO-03030 (Design Phase Procedure for Road Safety Improvement Schemes, Urban Renewal Schemes and Local Improvement Schemes).

Uisce Eireann: 24/2/2025

- No objections to the development subject to a condition requiring the applicant enter into a Connection Agreement regarding water supply & waste water connection.
- No storm water will be accepted to the Uisce Eireann foul sewer network from the proposed development. The storm water proposal for the development can be reviewed at connection application stage to ensure it does not discharge to the Uisce Éireann network.

Department of Housing, Local Government & Heritage: 10/2/2025:

Archaeology:

- Recommends conditions requiring the engagement of a suitably qualified archaeologist to monitor works, given the size of the scale and location of the site.

## Nature Conservation

- Notes the site is located approximately 20m south of the Inagh River Estuary Special Area of Conservation (SAC site code 000036) and is separated from the SAC by the N67 Ennistymon to Lahinch road.
- The Council should consider whether an Ecological Clerk of Works is required to oversee mitigation measures in NIS.
- Council must assess the potential impact of the proposed development on the Inagh River Estuary SAC alone and in combination with other plans/projects. The potential impact on groundwater and waterbodies in the area must also be assessed.

### 3.4. Third Party Observations

3.4.1. One third party submission from Michael Duffy on the following summarised grounds:

- Ambiguity in the Construction & Demolition Management Plan, regarding tonnage to be used on site/removed off site.
- Site investigation should have been carried out before prior to submitting planning application regarding bedrock.
- NIS does not address the significant issues within the Ennistymon waste water treatment plant, including the uncontrolled release into the SAC due to inadequate infrastructure.
- In combination effects did not consider the works in the water treatment plant at Calluragh East or the effects of the toxic discharges from this plant and the associated fish kill in the River Inagh.
- No additional capacity within the WwTP.
- No WFD Assessment submitted with the proposal.

## 4.0 Planning History

4.1. None connected with the subject site.

To the west

- 4.2. **P.A Ref: 14/168:** Planning permission granted on 13/6/2014 to retain part of the existing building as a North Clare Community Church, associated signage and car parking spaces.
- 4.3. **P.A Ref: 17/ 887:** Planning permission granted on 20/8/2018 to construct a commercial unit with a total floor area of 342m<sup>2</sup> for mixed use purposes and use of the existing entrance to M&M Autos.

To the east:

- 4.4. **P.A Ref: 17/ 603:** Planning permission granted on 11/8/2018 for the demolition of an existing primary school and erection of a new three storey post primary school and two storey primary school with bus set down area and 96 car parking spaces.

Further to the east (at Blakes Corner) Inner Relief Road

- 4.5. **P.A Ref: 18/ 8000:** Part 8 Approved on 29/3/2018 for the development of the Inner Relief Road in Ennistymon including a new vehicular bridge crossing at the Inagh/Cullenagh River, 80m upstream of the existing Bridge crossing.
- 4.6. **ABP Ref: 307413:** CPO order granted by ABP on 20/9/2022, for the N67/N85 Inner Relief Road, Ennsitymon (Blake's Corner) CPO Order 2020. The CPO process to enact this development was subject to a judicial review at the time of the P.A decision.

**Also of relevance:**

- 4.7. **ABP Ref: 245262:** ABP granted planning permission on 22/2/2016 for the demolition of existing buildings on site and construction of a single storey foodstore (Aldi) with a net retail floor area of 1140m<sup>2</sup> including off-licence and associated site works. This site was located in the former town mart to the south east of the town centre.
- 4.8. **P.A Ref: 05/1920:** PP granted by Clare County Council on 12/6/2006 for demolition of former ESB premises and the construction of a 2/3 storey commercial building( Supervalu) comprising a) basement/semi-basement carparking (62) spaces; b) Supermarket and ancillary offices and stores (1,929 sq.m); c) Warehousing (959 sq.m.) and all associated external works including 1) relocation of main site entrance on Church Street; 2) New pedestrian entrance to north east corner of site (from road

linking Church Street and Larry's Lane); 3) Adjustment of road junction and public amenity area including new planting to north of site (at road linking Church Street and Larry's Lane); 4) New private rear entrance from Larry's Lane and 5) surface carparking (37 spaces).

## **5.0 Policy Context**

### **5.1. Clare County Development Plan (CDP) 2023-2029**

- 5.1.1. Ennistymon/Lahinch are identified as a linked settlement and are one of 3 Service Towns within the settlement hierarchy of County Clare, below the Key Town of Ennis and the Shannon Metropolitan Area. Service towns are designated due to their role as important service centres in their respective Municipal Districts.

The objective for Service Towns is contained within CDP 4.5 of the CDP as follows:

- a) To ensure that the Service Towns are individual drivers of growth and prosperity for their respective catchments, by consolidating their administrative, retail and service bases, protecting and enhancing their distinctive town centre characteristics and natural landscape settings, and maximising their role for sub-regional growth;
- b) To work with the relevant bodies and to seek investment for the timely and sustainable delivery of holistic infrastructures, to enhance the levels of amenity and design quality, and to regenerate and rejuvenate the Service Towns throughout the County; and
- c) To monitor the cumulative effect of grants of planning permission on available wastewater capacity, where connection to a public wastewater treatment plant is included as part of a development proposal.

The Objective for linked settlements such as Ennistymon/Lahinch is contained within Objective CDP 4.11 as follows:

To support the concept of settlement networks, to assist collaborative projects and the sharing of assets and strengths, to enhance the viability of County Clare's towns, villages and rural communities, in order to facilitate the maintenance and expansion of existing population levels, services and roles.

- 5.1.2. The Core Strategy (Table 3.4 of CDP) projects a population target increase for Ennistymon/Lahinch of 186 persons for the period 2023-2029. Managing the growth of settlements as outlined in the settlement strategy is required to take place. Objective CDP 4.12 seeks to achieve the delivery of strategic, plan-led, coordinated and balanced development of the settlements throughout the county.
- 5.1.3. Ennistymon/Lahinch is a Tier 3 Level 2 town within the Retail Hierarchy of the County. Chapter 7 Table 7.2 of the CDP states there is the potential for 3,688m<sup>2</sup> convenience floorspace in 2026 and 4,184m<sup>2</sup> in 2029 (cumulative) within the Ennistymon catchment area. Relevant objectives within this chapter include CDP 7.1, 7.2, 7.6 (service towns) and 7.17 (edge of centre retail).
- 5.1.4. The Retail Strategy focuses further on Ennistymon, which was subject to a retail health check that recorded high levels of vacancy within the town centre along Church Street. The catchment population for the Ennistymon area in the Retail Strategy is much larger than of the Core Strategy and is projected to be 10,064 in 2029.
- 5.1.5. Objective CDP 11.11 includes for the provision of a new bridge crossing at the N67/N85 Blakes Corner, Ennistymon and is included within Table 11.3 as a project identified for future development.

## **5.2. Volume 3d – West Clare Municipal District Settlement Plan (WCMDSP)**

- 5.2.1. This volume of the CDP includes a settlement plan and objectives with associated maps for Ennistymon town. The town serves as the main service centre for both Lahinch and the wider north Clare area and provides a wide range of produce and services, while Lahinch largely caters for the tourist trade. General objectives for Ennistymon are identified within the settlement plan which include inter alia:
- To support the development and maintenance of physical infrastructure in Ennistymon/Lahinch that will effectively accommodate the resident population, meet the increase in demand during the summer months and allow for future growth.
  - To encourage the provision (where not already provided) of good quality convenience outlets capable of supporting a main food shopping trip in or on the edge of town centre.

- To support the provision of non-bulky and bulky comparison goods outlets in the town centre where these are aimed at meeting the needs of the local catchment population.
- Proposed River Crossing - N67/N85 Inner Relief Road (Blake's Corner) involving the construction of a new bridge approximately 80m upstream of the existing Michael Conway Bridge, linking with the N67 on the west side of the Inagh River via Bogbere Street.
- Two opportunity sites are identified within the town centre, OP1 for accommodation use and OP2 is not specified for any particular use. Other sites are identified for residential purposes or expansion to the relief road and for community use.

### Zoning

- 5.2.2. The subject site is zoned for commercial purposes (COM 2) within the settlement plan. A variety of uses are permitted on lands zoned for commercial purposes within the land use zoning matrix of the CDP including shops (excluding retail warehousing) which are 'normally acceptable in principle', subject to compliance with policies and objectives set out in the plan and in accordance with the proper planning and sustainable development of the area.

## 5.3. Section 28 Guidelines

### 5.3.1. Retail Planning Guidelines (RPGs) for Planning Authorities (DOECLG, 2012)

These guidelines seek to ensure that retail development is plan-led and promotes town centre vitality through a sequential approach to retail development. It seeks to facilitate a shift towards increased access to retailing by public transport, cycling and walking in accordance with the Smarter Travel Strategy. The guidelines are also supported by a companion document, the Retail Design Manual (DoAHG, 2012).

## 5.4. Natural Heritage Designations

The following Natural Heritage Designations are in proximity to the site:

Status	Site code	Distance from site
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Inagh River Estuary SAC & pNHA	000036	15m
Caherkinallia Wood pNHA		6.6km
Lough Goller pNHA		7.5km
Cliffs of Moher SPA & pNHA	004005	8.9 km
Cliffs of Moher pNHA		9.2km
Ballyteige (Clare) SAC & pNHA	000994	9.7km
Slivecallan Mountain Bog pNHA		10.5km
Moneen Mountain SAC & pNHA	000054	10.7 km
Black Head-Poulsallagh Complex SAC & pNHA	000020	11 km
Carrowmore Point to Spanish Point Islands SAC & pNHA	001021	13 km
Mid-Clare Coast SPA	004182	13.1 km
East Burren Complex SAC & pNHA	001926	13.5 km
Corofin Wetlands SPA	004220	13.8 km

## 6.0 EIA Screening

- 6.1.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices 1 & 2 of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

- 7.1.1. The first party sets out the National and Local Policy context and references the Retail Planning Guidelines 2012 and associated manual document.
- 7.1.2. The grounds of appeal are selected based on each reason for refusal and are summarised as follows:

#### Refusal Reason No. 1

##### Vitality & Viability

- Ennistymon is the largest town within West Clare with a population of 1,137 in the 2022 census and is an important service centre for Lahinch and the wider North Clare catchment.
- It is an objective of the WCMDSP to support the growth of the town and encourage the provision of good quality convenience outlets capable of supporting a main shopping trip in or around the edge of the town.
- Retail survey carried out by the appellants in March 2025 identified 65 existing town centre units within the designated 'town centre area'.
- Clare County's Retail Strategy identifies the retail catchment of Ennistymon as comprising a significant land area comprising the rural hinterlands that surrounds the town and extends as far north as Ballyvaughan.
- Request the Board to note that 100% of main grocery shopping trips are undertaken by cars.
- References a number of ABP granted decisions regarding similar type developments.
- Contends that given the large rural catchment of Ennistymon there will be a strong reliance on the use of a car for (bulk) convenience shopping in small provincial towns that service large rural hinterland areas.
- Site is located 280m from the edge of the identified Town Centre Area which equates to a 20 second drive time.

- Development is in accordance with the RPGs and would provide for additional choice and competition and would not compete with the town centre.
- Development would create commercial synergy with the town centre, as those customers that travel by car from the large retail catchment to the development are likely to engage with other services or retail as part of their trip.

#### Connectivity

Adequate connectivity from the site to town centre via footpath along N67.

#### Sequential Test

- Site B favoured by the P.A was addressed in the appellants RIA and considered unviable due to constraints in relation to access, topography, cost, separation of land, split into 2 separate folios, serves an existing residential access, public road traverses the site and, proximity to protected monuments.

#### Refusal reason No. 2

- Submitted a revised plan to include a right hand turning lane into the site from the N67, and revised sightlines which would require the set back of the adjoining boundary wall not within applicant's ownership. Suggest the Board could grant planning permission for the development which includes the right hand lane and if the applicant failed to get consent, the development would not go ahead.
- Infrastructure capacity at Blakes Corner and potential for traffic congestion is a long-standing issue in Ennistymon.
- This is not caused by the town's role as a service centre but due to a specific pinch point in the road network which is to be resolved by the construction of the N67/N85 Inner relief Road project.
- This refusal reason would have the effect of sterilising the development of the town in the context that it would generate additional traffic movements which would utilise Blake's Corner

- Refer to a previous case with the Board for a Lidl development where it was considered the provision of a car borne development can be accommodated in a location that suffers from a degree of congestion.

#### Refusal reason No.3

- Nature of the proposed use will attract car based travel and therefore the connectivity to the town centre is not a balanced and rational assessment in a provincial town.
- Section 4.7 of the RPGs makes allowance for the local context and character of an area/town.
- There are footpaths on both side of the N67 from the site to the town centre as far as the bridge.
- Refer to the planning permission for the adjoining school site which was considered had adequate pedestrian links to the town centre.

#### Refusal reason No.4

- Ennistymon is a Service town in the CDP and a Tier 3 town in the Retail hierarchy and it is a policy within the CDP to support retail development of a scale to support a main food shop.

#### Refusal reason No.5

- Proposing an on-site wastewater treatment plant (WWTP) to overcome this reason for refusal by the P.A .
- WWTP would treat foul effluent before it connects to the Uisce Eireann foul sewer network, and will not result in untreated foul effluent discharge into the Ennistymon WWTP and would not therefore exacerbate the existing problems at the plant.
- A Confirmation of Feasibility was issued by Uisce Eireann for the development from Uisce Eireann and that waste water connection is feasible without an upgrade.

## **7.2. Planning Authority Response**

- 7.2.1. The planning authority notes the observations set out by the appellant and have commented as follows:

### **Refusal reason No.1**

- P.A would normally accept that a food retail development does not compete with a town centre but note that the subject development usually incorporates a 'middle isle' area of non food items which would be comparable to the lower order comparison goods trail offer on the Main Street of Ennistymon, which are advertised as special offers to attract custom.
- Considers the Retail Planning Guidelines does not make the exclusion of food retail from the requirement for sequential test explicit.
- The subject site is remote and inconvenient in terms of ease of access for pedestrians and cars.
- Appellant considers Site B challenging but did not consult RDO regarding the access.

### **Refusal reason No.2**

- Appellant has not acknowledged the prematurity in respect of deficiency in the road network, and this is a valid reason for refusal.
- The deficiencies in the road network, particularly at Blake's corner are well documented.
- Does not consider the 2 Galway examples refused by the Board in Galway set a precedence as the subject site has a restricted access and not comparable.
- Appellants have ignored the TII's policy with regard to access onto the National Secondary route. Recommends the Board seek the views of TII.
- Appellant's proposals to provide a right hand turn are noted.

### **Refusal reason No.3**

- Appellant ignores linked shopping trips and lack of pedestrian connectivity from the subject site to the Main Street which are important for the vitality of the town centre, which is supported in the Retail Planning Guidelines.

- Current layout at Blake's corner is prohibitive for pedestrians.
- In the absence of a dedicated pedestrian route to the town centre the provision of parking at the Lidl store will not facilitate 'one trip for several purposes'.

Regarding the school granted under P.A Ref: 17/603 for a 700 pupil school request the Board to note that it is school policy that only buses are permitted to access the school and that parents cannot drop and collect their children by private car at the school site.

#### Refusal reason No.4

- Do not agree with the appellant's assertion that because Milton Malbay (Small town) sits below Ennistymon (Service Town) in the Retail Hierarchy that diversion of trade and customer spending from Miltown Malbay to Ennistymon is acceptable and inevitable.
- The identification of the catchment area and population is vague, and no map of the catchment area was submitted and there is no list of the towns, villages and rural areas it includes and therefore cannot be relied upon.
- The turnover within the catchment is restricted to shops in Ennisytmon and no reference to other towns.
- P.A consider the development would impact on the vitality of Miltown Malbay given the ease of access from the western side of Ennisytmon.
- No reference in the RIA on the impact on independent and specialist shops within Ennisytmon.
- Ground floor plan of the proposed building does not delineate between convenience and comparison goods sold on the premises.

#### Refusal reason No.5

- Notes the appellant is proposing an on-site waste water treatment plant within the boundary.
- Notes the CoF from Uisce Eireann addresses the technical feasibility of the waste water connection but does not take into consideration impacts on water

quality or the overall assessment in terms of significant or adverse effects on the associated European sites located within the zone of influence.

A map is attached indicating public roads next to site known as Site B within the town centre next to the graveyard. The access into this site is not a public road.

### **7.3. Observations**

None

## **8.0 Assessment**

### **8.1. Introduction**

8.1.1. I have examined the appeal details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority and inspected the site, and having regard to relevant local/national policies and guidance. I therefore consider the main issues in this appeal to be as follows:

- Principle of the development
- Impact on vitality and viability of the town centre
- Capacity of road network
- Pedestrian connectivity
- Service Infrastructure
- Other issues
- Appropriate Assessment

### **8.2. Principle of the development**

8.2.1. The subject site is zoned for 'commercial use' within the Ennistymon Settlement Plan of the Clare County Development Plan (CDP). Land zoned for 'commercial' purposes within the CDP permits in principle the use of the lands for commercial and business uses including shops (excluding retail warehousing), offices and liquor licence premises, subject to compliance with policies and objectives set out in the plan and in accordance with the proper planning and sustainable development of the area.

- 8.2.2. The RPG's define a supermarket as a 'single level, self-service store selling mainly food, with a net retail floorspace of less than 2,500 m<sup>2</sup>'. The proposed development is for a foodstore with a net retail floorspace of 1,493m<sup>2</sup> with an off licence facility and ancillary uses on the first floor. I therefore consider the proposed development would fall within the definition of a supermarket. The use of the site for a foodstore would therefore be 'normally be acceptable in principle' on such a zoning, subject to a sequential test being carried out, and the lands being the optimum location for the nature and quantum of retail development proposed.
- 8.2.3. I note the P.A in their response to the grounds of appeal did not consider the proposed use was contrary to the zoning but rather considered the proposed development incorporates 'a middle isle' area of non food items which are often advertised as special offers to attract custom, and are comparable to the lower order comparison goods retail offer on the Main Street of Ennistymon, and that there were more appropriate sites closer to the town centre for the development.
- 8.2.4. The RPGs makes no distinction between types of convenience retailing. I therefore do not agree with the P.A's contention that the proposed development falls outside the definition of a supermarket.

### Conclusion

- 8.2.5. I consider based on the zoning of the subject site, the principle of a supermarket is acceptable. Nevertheless, given the site's edge of centre location I consider the development should be subject to the sequential test to assess whether the development would impact on the vitality and viability of the town centre of Ennistymon.

## **8.3. Impact on vitality & viability of the Town Centre**

- 8.3.1. Refusal reasons Nos.1 and 4 of the P.A decision overlap to a degree and relate primarily to the submitted retail impact assessment and sequential test and suitability of the development on the site. Notwithstanding the commercial zoning of the subject site, refusal reason no.1 of the P.A's decision relates to the remote location of the site from the core area of the town and the impact of the development on the vitality and viability of the town centre, and is not satisfied that a closer location to the town centre is not available, suitable and viable for the scale proposed.



- 8.3.2. The RPGs advises that the optimum locations for new retail development should be accessible to all and of a scale and nature that still facilitates the continued prosperity of traditional towns. The guidelines further state out-of-centre sites should only be considered where it is shown that there are no available town centre or edge-of-centre sites which are more suitable, viable and available. I note the applicant considers the subject site is c.280m to the core retail area and that its location is a 20 second drive from the town centre. I consider the development is more akin to c.500m<sup>1</sup> from the town centre and the bridge at Blake's corner separates the site from the town centre to a large extent, and access from the town centre would be subject to a longer drive allowing for the traffic delays etc.. However, the applicant does not dispute that the subject site is deemed as being located on the edge of the town centre.
- 8.3.3. According to the RPGs where retail development on an out-of-centre site is being proposed or is not consistent with the policies and objectives of the development plan or relevant retail strategy, it must be subject to the Sequential Test. It is only in exceptional circumstances where the applicant can demonstrate and, the P.A is satisfied that there are no sites or potential sites either within the centre of a town or on the edge of the town centre that are (a) *suitable* (b) *available* and (c) *viable*, can that out-of-centre site be considered. I will now address the three tests to the proposed development.

#### Sequential Test

##### **Suitability**

- 8.3.4. The applicant states that the minimum site area required to accommodate the development and associated car parking is approximately 0.65 ha. The test as to whether an out of centre site is suitable within the RPGs includes the zoning objectives for the site, current land use activity in the vicinity of the site, size of the site and capacity to accommodate the development, and transportation issues. I have discussed the suitability of the subject site in terms of the zoning of the land in Section 8.2 above and will discuss in more detail the transportation issues in 8.4 below.

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<sup>11</sup> The TTA submitted with the application identifies the site is located approx.. 0.5km to the west of the town centre

- 8.3.5. With regards to the current land use activity in the vicinity of the site, I noted there is a recently constructed large school to the east of the site and an auto repairs facility and community church to the west. Opposite the site are a number of detached residential properties. The site therefore is not located close to any residential housing estates and therefore would not impact on residential amenity in terms of noise or disturbance, however given its location I do not consider customers would travel to the retail store by foot for a 'top up' shop to the proposed store.
- 8.3.6. The site is located on the south side of the N67 which is the main road to Lahinch and to south Clare to towns such as Miltown Malbay and Quilty and the N67 also serves towns in north west Clare such as Lisdoonvarna and Ballyvaughan. Future customers/users of the proposed development would have to use the N67 but may not stop off in Ennistymon town centre. From a suitability aspect the size and capacity of the site is large enough to accommodate the store and associated car parking spaces.

### **Availability**

- 8.3.7. This criterion relates to site ownership, the availability of the site for development at the time, and that site acquisition/ assembly can begin within a reasonable time-frame. The planning application form states the landowner has provided consent to a planning application being made on the lands with the intent to purchase contingent on planning approval. The site is therefore available to develop. I note however the applicant in their appeal submission have amended the layout to accommodate increased visibility sightlines and a right turning lane on the N67 which would require additional lands from the neighbouring landowner.
- 8.3.8. The Ennistymon Settlement Plan identifies 2 opportunity sites within the town centre for future development known as Opportunity Sites No. 1 (a former convent site) and Opportunity Site No. 2 (along Parliament Street.)

### **Opportunity Sites 1 & 2 in the Ennistymon Settlement Plan**

- 8.3.9. Opportunity Site No.1 (OP1) lies to the east of the school site and is a former convent building. It is zoned as 'existing residential' within the current settlement plan. This is a substantial site (0.5 ha) and would be closer to the town centre but I note planning permission was granted (P.A Ref:19333) in December 2019 for a refurbishment and retirement village on the site. I also note commencement notices

have been issued regarding this development and the existing residential zoning would not permit a supermarket on the site.

8.3.10. OP2 is located along Parliament Street to the east of the town centre Main Street. This is a narrow plot and includes a protected structure (RPS No.361) and is zoned 'Mixed use'. Although the site would be appropriately zoned for the proposed development, I consider the constraints on the site being a narrow plot and occupied by a protected structure would not accommodate the proposed development.

8.3.11. Other sites are identified for residential purposes or expansion for the relief road and for community use within the Settlement Plan. The applicant has identified 3 other sites within the settlement plan which are currently zoned for commercial purposes, which I will consider as follows:

Site A: Kerry Agri Farm Store site

8.3.12. This site is located to the north of the Main Street and is 0.4ha in size and zoned 'commercial'. I consider this is not a viable option as it is currently occupied and is too small to accommodate the proposed development.

Site B: To the south of Aldi next to graveyard

8.3.13. This site is located to the east of the Main Street and west of Circular Road. The P.A refers to this as Site 'B' in their report which comprises a parcel of undeveloped land with an area of 0.67 ha., and is to the south of the existing Aldi store and north of the existing graveyard. The applicant in their grounds of appeal note whilst the land could accommodate the proposed development in terms of its overall size, this area of land is unsuitable for a number of reasons; namely due to its topography and landform it would be costly to construct on the site, the road that splits the site is a public road and any future development of the land would require the extinguishment of a public right of way, the need to provide an alternative access to the graveyard which would reduce the overall size of the site and provide technical engineering challenges, and the potential heritage impacts of developing the site. The applicant further contends that this site is an edge of centre site and is therefore similar to the appeal site in this regard.

8.3.14. The P.A in their grounds of appeal response state the applicant was advised at the pre planning stage to consult with the Road's Design Office regarding the access to this site and no consultation took place. The P.A attached a road schedule map with

their appeal response which indicates the access road to the graveyard is not indicated as being a public road.

- 8.3.15. I note this site is zoned commercial in the Settlement Plan for the town but would not agree with the applicant that it is an edge of centre site but rather is a backland site to the Main Street of the town. I visited this site on my site inspection, and I would agree compared to the appeal site, 'Site B' would be a much more challenging site to develop given its topography and the steep approach into the site. This site is however zoned for commercial purposes and has a closer connection to the Main Street and would promote dual trips to the town centre and ultimately add to the vitality and viability of the town centre.
- 8.3.16. I accessed the National Monument site and note there are 2 recorded structures within the graveyard site CL015-103001- church and CL015-103002- graveyard, to the south of Site B. The zone of influence for these structures extends to the north west of Site B. I consider there would be archaeological implications in the development of this site, as the zone of influence of the recorded church and graveyard extend into the western section of this site.

#### Site C Daktronics site

- 8.3.17. This site is located to the south of the town and has an area of 1.6 ha and is zoned for industrial purposes. Although the site is large enough to accommodate the proposed development, the zoning of the lands would not permit a commercial use on the site and it is currently occupied. It is also located on the edge of the town centre similar to the appeal site.

#### **Viability**

- 8.3.18. The RPGs also consider the financial viability of a development as being a key consideration. The applicant in their RIA have considered the viability of the acquisition of the alternative sites outlined above and conclude on the whole that they are either too small, already occupied and in the case of Site B costly to acquire and develop.
- 8.3.19. Whilst I agree with the P.A that Site B is much closer to the town centre than the subject site, and would therefore enhance the vitality and viability of the town centre via dual trips etc., I consider the site would be challenging to develop, may not be viable on archaeology grounds, by reason of its prominent position above the Main

Street, and on traffic grounds due to the steep and narrow approach into the site. I further note the P.A have indicated the road through this site is not a public road, but the RDO have not indicated that the road into the site would be acceptable from a traffic safety aspect.

### Conclusion

- 8.3.20. The advice in the RPGs is that only in exceptional circumstances should out-of-town sites be considered and only after the sequential approach has been applied to available sites within the town centre. I consider with the exception of Site B the subject site is the only available site with regards to size and zoning to accommodate the proposed development. Nevertheless, I consider Site B would be a challenging site to develop for a store of this size for the reasons outlined above.

### Retail Impact Assessment

- 8.3.21. Refusal reason no.4 of the P.A refers to the Retail Impact Assessment submitted not considering the potential impact on other settlements in the catchment area and conflicts with the RPGs and Vol 3 of the CDP objective for Ennistymon to support the town as an important centre for the provision of convenience goods and retail services.
- 8.3.22. Ennistymon/Lahinch is a Service town and is identified within the Retail Strategy Volume 7 of the CDP as a Tier 3 town in the retail hierarchy of the county, below Ennis and Shannon. The Retail Strategy of the CDP for Ennistymon identifies a population catchment for the town in 2016 as 8,974 persons.
- 8.3.23. This is significantly above the recorded population of Ennistymon town which is stated as 1,045 in the 2016<sup>2</sup> census and 1,137 in the 2022 census data. As such the town itself has shown a relatively small increase in its population growth over the 2 census periods of 9% or 1.4% per annum. The Core Strategy provides a combined population target increase of 186 persons for Ennistymon/Lahinch over a 6 year period between 2023-2029. I consider the rate of growth for the linked settlement for Ennistymon/Lahinch within the Core Strategy reflects a modest rate of growth in line with the NPF policy for such towns.

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<sup>2</sup> Page 6 of Volume 3d of the CDP records a population of 1,045 for the 2016 census for Ennistymon. Page 101 of Volume 7 of the Retail Strategy in the CDP states Ennistymon has a population of 1,045.

- 8.3.24. The aforementioned core strategy and census figures contrast significantly from what is identified within Volume 7 of the CDP (Retail Strategy) which provides a catchment population for Ennistymon of 8,974 based on the 2016 census, which is envisaged to increase by 6.8% in 2023 to 9,588 persons and by 9,851 in 2026 and 10,064 by 2029. The catchment area for Ennistymon is identified in Volume 7 of the Retail Strategy in Figures 6-1 & 6-2. This catchment area includes the rural hinterland to the west of the N67 of the county and extends to the north of Ennistymon to include the towns of Ballyvaughan, Lisdoonvarna, and to the south to include Lahinch and Milltown Malbay. However, as there is a conflict with the Core Strategy figures for Ennistymon/Lahinch and with the Ennistymon catchment figures in Volume 7 of the Retail Strategy, I consider the Core strategy figures for the growth of Ennistymon town take precedence.
- 8.3.25. The P.A. in their grounds of appeal provide population figures for Ennistymon in 2021 as 1,045 and the population projection for the overall catchment as 10,064 by 2029. The latter figure tallies with the Retail Strategy population figure for the Ennistymon catchment but not for the Ennistymon/Lahinch settlement in the Core Strategy which is much smaller.
- 8.3.26. Service towns such as Ennistymon/Lahinch sit below the hierarchy of the Key town of Ennis and the Metropolitan town of Shannon for the county and are recognised as individual drivers of growth within their catchments, with an emphasis on consolidating and protecting their distinctive town centre characteristics. I note within the Retail Strategy of the CDP the future convenience retail capacity for the Ennistymon catchment area is similar to that of Ennis town. I therefore consider the future capacity for Ennistymon has been based on the overall catchment area described above and not solely Ennistymon town.
- 8.3.27. The applicant has relied on the Retail Strategy in the CDP to estimate the expenditure available for new retail floorspace capacity for convenience goods in the Ennistymon catchment. Based on the Retail Strategy of the CDP (Table 6.12) there is capacity for additional convenience floorspace in the Ennistymon catchment area of 4,413m<sup>2</sup> up to 2029. Allowing for the existing convenience floorspace in the town centre of Ennistymon as provided by the applicant in their Retail Impact Assessment, there is capacity for additional convenience floorspace including the proposed development up to 2029 within the Ennistymon catchment area. However, the

applicant has not calculated the convenience retail floorspace within the smaller settlements within the Ennistymon catchment area, and therefore the impact of this development on other towns within the Ennistymon catchment area has not been assessed in the RIA. I consider it is necessary to assess the impact of a third large foodstore within this catchment and the impact it would have on the overall towns within the catchment area.

### Conclusion

- 8.3.28. I consider there is a disconnect between the Retail Strategy of the CDP, which indicates there is additional convenience floorspace capacity in the Ennistymon catchment area (4,413m<sup>2</sup> up to 2029), compared to the core strategy population projections for the linked settlement of Ennistymon & Lahinch.
- 8.3.29. I note the applicant considers that food retailing does not compete with the primary role of the town and village centres and that the proposed development would have no impact on the vitality and viability of the town centre. I consider this is an edge of town location on a busy national road that will clearly cater for the rural hinterland of the area. I would agree with the P.A that the retail assessment should have assessed the other towns identified within the Ennistymon catchment area.
- 8.3.30. This proposed store would result in the 3<sup>rd</sup> large supermarket for Ennistymon town which when combined with Lahinch is estimated to have a population target within the Core Strategy of 1,878 up to 2029. Given the subject site's location along the N67 this store would cater for the rural hinterlands of the Ennistymon catchment. I therefore consider the applicant should have considered the impact of the proposed development on the rural towns within the hinterland of the Ennistymon catchment area in the submitted Retail Impact Assessment.

## **8.4. Capacity of road network**

- 8.4.1. Refusal reason no. 2 of the P.A relates to the development being premature due to existing deficiencies in the road network including restricted capacity at Blake's corner and the inadequate width and alignment of the N67. It is also considered the development would result in queuing and delays at nearby junctions and the development would be at variance with the TII policy in relation to an access onto a national secondary route.

- 8.4.2. A Traffic & Transport Assessment (TTA) was submitted with the planning application and included a traffic survey that was carried out on 17<sup>th</sup> September 2024 of 4 junctions close to the Town Centre, and included a further 3 junctions following the proposed works for the Inner relief Road. The TTA indicates total daily AM and PM peaks arrivals at the store to be 131 and departures 137.
- 8.4.3. The traffic surveys of the four junctions at Ennistymon indicate that the peak traffic levels through the junctions occurred between the hours of 10:45-11:45 in the AM period and between 17:00-18:00 in the PM period. I consider the AM peak period unusual in that it occurs after normal start times for work and schools.
- 8.4.4. With the exception of Junction 2 at the N67 Main Street/N67 Lahinch Road Priority junction, the PICADY analysis indicates all junctions are to operate well within capacity during the peak times at the opening of the store in 2026 and in the design year in 2041. However, the principal road serving the development would be the N67 from the north along the Main Street to the west and from the east. The proposed development would therefore increase the delays on the main street through the town centre. I note from the trip distribution counts at the junctions the majority of north and south bound traffic through the Main Street travel westwards along the N67 passing the subject site.
- 8.4.5. I acknowledge the traffic congestion at Blakes Corner in Ennistymon is an existing issue in the town and it is an objective with the Settlement Plan for the town to upgrade the N67/N85 Inner Relief Road at Blakes Corner. It is intended that this new relief road will divert traffic from the N67 away from the bottom of the Main Street and facilitate the pedestrianisation of the existing bridge. A Part 8 was approved (P.A Ref: 18/8000) in 2018 to carry out these works and a subsequent COP granted by An Bord Pleanála in 2022. I note this CPO was subject to a judicial review at the time the P.A made their decision on this appeal.
- 8.4.6. The TTA submitted with the application assessed the impact of committed and the proposed development's impact on the new Junctions proposed in the aforementioned Part 8 proposal. The new junction at the N67 Main Street/N67 Lahinch Road would operate within capacity at the AM and PM peak periods in 2024 but there will still be an increase in delays in the town of 7.8% in the 2040 scenario.



- 8.4.7. The applicant refers to a development for a Lidl store granted by ABP (ABP Ref: 315980)<sup>3</sup>, on 12<sup>th</sup> March 2024 in Claregalway despite the development increasing the traffic congestion within the town. Whilst each application is considered on its own merits there are differences between this site and the subject site, in that it was located within the centre of the town, was an infill and larger site, smaller store located within walking distance to a larger residential catchment area, and located within the Galway metropolitan area and as such formed part of the Galway Metropolitan Area Strategic Plan (MASP).

#### Conclusion

- 8.4.8. The network constraints currently experienced in Ennistymon town centre occurs where the Main Street N67 intersects with the bridge and for traffic coming from the west or heading to the west past the subject site. Although a new Inner Relief Road has been granted, it is currently the subject of a Judicial Review and is therefore not imminent.
- 8.4.9. I note the first party considers the P.A refusal in effect would preclude the further development for the town, however the Core Strategy for the town does not project a significant increase in development for the town. The proposed development would rely heavily on car borne traffic on an existing congested network and the applicant has not addressed this aspect of the development by way of mitigation measures such as a signalised junction for example to reduce queuing times at the bridge to an acceptable level, or alternative modes of transport to the proposed development.

### **8.5. Pedestrian connectivity**

- 8.5.1. Refusal reason No. 3 of the P.A related to the lack of adequate linkages of the proposed development to the town centre and in particular the pedestrian connectivity at Blake's Corner, and that it contravened Section 4.7 of the Retail Planning Guidelines which requires an edge of centre site to be within safe easy walking distance of the of the primary retail area.
- 8.5.2. Section 4.7 of the RPG states that the P.A must ensure that edge of centre sites are within easy walking distance of the identified primary retail area of a town, and while

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<sup>3</sup> First Party references this appeal as ABP Ref: 2260522 but this is the P.A reference.

this distance cannot be precisely defined as different centres vary in their size and scale, they should not generally be further than 300-400 metres. As stated previously in this report and within the TTA the subject site is c.500m from the town centre.

- 8.5.3. Ennistymon town centre is a compact town and extends from Bridge Street/Blakes Corner along Main Street (N67) and into Church Street and along Parliament Street to the east of Main Street. I have calculated that Blakes corner from the eastern most edge of the subject site to be c.500m. I also noted on my site inspection an Aldi store located along the Circular Road to the east of the Main Street c.239m from Blakes Corner, and a large Supervalu to the east of Church Road located c. 351m from Blakes Corner. I consider both Supervalu & Aldi are on the edge of the centre of the town but there is an ease of movement between these sites and the central main shopping street.
- 8.5.4. There is a wide shared pedestrian/cyclist footpath on the south side of the N67 leading from the subject site into the town centre to the east and towards Lahinch to the west and a pedestrian footpath on the opposite side of the road. The footpaths do however reduce to one narrow footpath on the southern side of the N67 beyond the Catholic Church on the approach towards Blakes corner and over the bridge into the Main Street of the town. Although I consider it is possible to walk and cycle from the western side of the bridge to the subject site, the current layout of the bridge does not make it an attractive environment for cyclists or pedestrians, and the N67 is a busy national road.
- 8.5.5. The first party has stated that the proposed development is one which will attract entirely car-based travel and therefore pedestrian connectivity to the town centre is not warranted. The first party also refers to the planning permission granted for the adjacent school for 800 students and staff where the level of pedestrian connectivity was deemed to be acceptable whereas the same logic has not been applied to the current proposal. I note from the planning history of the school site (P.A Ref: 17/603), that there was an existing primary school at this site and the proposed development was for a consolidated school campus on the site which would promote dual trips, and condition 3 of this permission required a pedestrian access from Deerpark Road to encourage a greater connectivity with the town centre for pedestrians.

- 8.5.6. I agree with the first party in that I do not envisage people will walk to the proposed development and therefore it will not facilitate a modal shift although there is an existing cycle path to the site beyond the western end of the bridge at Blakes Corner. A total of 8 cycle spaces for the development is proposed which is a shortfall of 48 cycle spaces as required in the CDP standards. I note in the TTA that it is considered 56 no. cycle spaces are excessive for the development, which I consider fails to promote alternative modes of transport to the site other than the car.
- 8.5.7. I note the Mobility Management section of the TTA however, I consider the measures are aspirational and do not aim to directly reduce the reliance on private vehicles by offering car-pooling facilities, showers for future employees and cargo bike parking spaces for example, that would reduce the need for car journeys and promote alternative measures to discourage car dependent transport. I acknowledge there are 3 bus stops within 10-11mins of the subject site but these are unlikely to be used by future users of the store based on the frequency of the services and the bus stop distances from the site. I do not consider therefore the use of public transport would be an option for future users of the development.

### Conclusion

- 8.5.8. The subject site is physically separated from Ennistymon town centre by the river and bridge but it could be accessed from the town centre by the footpath along the N67. Although there is a church and school along this section of the N67, I do not consider the road provides a strong focus that would encourage future customers to walk or cycle to the site for shopping purposes. The proposed development does not promote compact urban development, and the number of cycle spaces does not promote sustainable modes of transport to the development. Given the site is c.500m from the town centre I do not consider the development promotes alternative modes of transport for future users and employees of the development other than the car.

## **8.6. Service Infrastructure**

- 8.6.1. Refusal reason No.5 of the P.A relates to the impact of the proposed development on the Inagh River estuary SAC and refers to a 2024 EPA Site Visit report which

highlights concerns with respect to the Emissions Limit Values (ELVs) and inefficiencies in the Ennistymon Waste Water Treatment Plant (WWTP).

- 8.6.2. The applicants are proposing a treatment plant within the development site to treat the effluent prior to connecting to the public network to overcome this reason for refusal. In addition, the applicant is proposing a stainless steel grease trap would be installed within the proposed bakery to mitigate against grease entering the sewage treatment plant. The daily demand for the proposed development has been calculated based on the EPA 's Treatment Systems for Small communities and businesses, at 9.1m<sup>3</sup> a day, and an average peak flow of 0.63l/s. This is higher than stated in the NIS but the overall loading is equivalent to 31 P.E..
- 8.6.3. In the P.A's response to the proposed-on site treatment plant as part of this appeal, they acknowledge Uisce Eireann have no objection but consider the proposed treatment plant does not take into consideration impacts on water quality on the associated European sites.
- 8.6.4. I note from Uisce Eireann's WWTP capacity register (accessed 1/7/2025) the Ennistymon WWTP (D0081) has an amber rating, and that additional analysis of applications may be required on an individual basis, considering their specific load requirements and that potential availability of capacity would be dependent on any additional load not resulting in a significant breach of the combined approach as set out in Regulation 43 of the Waste Water Discharge (Authorisation) Regulations 2007, which is a matter for the relevant Planning Authorities to determine.
- 8.6.5. The 2023 Annual Environmental Report (dated 2/4/2024) on the Ennistymon WWTP documents the plant is not complaint with the ELVs set out in the wastewater discharge licence for BOD, Ammonia and Total Phosphorous.<sup>4</sup> This report summarises that a capital upgrade will be required however there is no specified time line for such works. I also note there is a project planned to construct a new Wastewater treatment plant at Ennistymon as the current system is considered by Uisce Eireann as outdated and overloaded and overflows at the River Inagh.<sup>5</sup> The pumps and pipelines within the plant have insufficient capacity to deal with the overflow particularly during heavy rainfall events. A period of non-statutory

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<sup>4</sup> leap.epa.ie/D0081-01

<sup>5</sup> [Lahinch and Ennistymon Wastewater Treatment Plant | Uisce Eireann](#)

consultation commenced for a new WWTP at Ennistymon by Uisce Eireann and the submission date expired on 25<sup>th</sup> June 2025.

### Conclusion

- 8.6.6. Although the applicant is proposing to treat the effluent from the proposed development prior to it connecting to the existing public WWTP, I consider this would not overcome the issues of the existing under performing public WWTP.

### **8.7. Other issues**

- 8.7.1. The first party in their grounds of appeal have included an engineering report to address a number of issues raised in the planner's report regarding the traffic aspects of the development. This includes a right hand turning lane into the development (similar to the adjoining school site) and revised sightlines of 70m at the entrance. These amendments would require the set back of the boundary wall on the adjoining lands outside the ownership of the applicant. Both of these amendments to the original application are presented as options to be considered by the Board.

### Sightlines

- 8.7.2. In the planning application 49m sightlines were proposed at the entrance to the development site in accordance with DMURs guidance. The speed limit for the N67 is 50kph and the sight distance standards in the CDP for this road would require 70m sightlines. The N67 is the main route from Ennistymon to west Clare and has a high volume of traffic. I therefore consider 70m sightlines at the site would enable vehicles exiting the site heading eastwards to have greater visibility from cars approaching from the west. I note the first party in their grounds of appeal are proposing this as an amendment in their grounds of appeal and it is subject to them requiring consent from the neighbouring owner. However, 70m sightlines are achievable and would be in accordance with TII guidance.

### Right turn lane into development

- 8.7.3. The first party is proposing as an option to the Board for a right turn lane into the development following comments made in the planner's report. I consider it reasonable to provide a right turn lane into the proposed site as it would assist in the

free flow of traffic along the N67 into Ennistymon. I note to achieve both the right hand lane turn and the increased sightline distance would require the set back of the boundary wall on the adjoining lands, outside the applicant's ownership.

- 8.7.4. The first party has stated they are in negotiations with the adjoining landowner. Any further consents that may have to be obtained are essentially a subsequent matter, and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

## **9.0 Appropriate Assessment (AA)**

- 9.1. In screening the need for Appropriate Assessment, it was determined that the proposed development could result in significant effects on the Inagh River Estuary SAC (site code: 000036) in view of the conservation objectives of this site and the Appropriate Assessment under the provisions of Section 177U was required.

- 9.2. Following an examination, analysis and evaluation of the Natura Impact Statement (NIS) and all associated material submitted, I consider that adverse effects on the site integrity of the Inagh River Estuary SAC can be excluded in view of the conservation objectives of this site and that no reasonable scientific doubt remains as to the absence of such effects.

- 9.3. My conclusion is based on the following:

- The site specific Conservation Objectives and Qualifying interests of the European Site.
- The likely direct and indirect impacts arising from the proposed development, both individually and in combination with other plans and projects, and
- Mitigation measures which are included as part of the current proposal.

## **10.0 Water Framework Directive (WFD)**

- 10.1. The subject site is located on the southern side of the N67 and the nearest watercourse is the Inagh River c.45m to the north of the site on the far side of the N67. This river flows in a westerly direction towards Liscannor bay. The Inagh River Estuary SAC is 45m to the north of the subject site.

- 10.2. The proposed development comprises a two storey foodstore with an overall gross floorspace of 2,261m<sup>2</sup>. The development by way of an amendment to this appeal would include an on-site waste water treatment plant that proposes to treat the effluent from the store prior to connecting to the Ennistymon WWTP, which overflows into the River Inagh.
- 10.3. The Planning Authority raised concerns about the impact of the development on the water quality from the development on European sites.
- 10.4. I have assessed the proposed development and associated works (and as amended in the appeal) and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status and to prevent deterioration. Having considered the nature, scale, location of the project, and the performance of the Ennistymon WWTP, I am not satisfied that the proposed development can be eliminated from further assessment because there is a conceivable risk to surface water bodies.

The reason for this conclusion is as follows:

- The Ennistymon WWTP is not in compliance with the Emissions Level Values as set out in the Waste Water Discharge Licence and the EPA office of environmental enforcement reports.
- Ennistymon WWTP outflows into the Inagh Estuary Transitional Waterbody (EPA code: IE\_SH\_100\_0100), which has a moderate status and is under review.
- Ennistymon WWTP outflows into the Inagh estuary.

#### Conclusion

- 10.5. I conclude that on the basis of best scientific and objective information, that the proposed development could result in a risk of deterioration on the water quality of the Inagh Estuary (EPA code: IE\_SH\_100\_0100) transitional waterbody in reaching its Water Framework Directive objectives.

## **11.0 Recommendation**

I recommend planning permission is refused.

## 12.0 Reasons and Considerations

1. The existing public Waste Water Treatment Plant serving Ennistymon town (D000081) does not meet its Emission Limit Values as required in its licence and therefore poses a threat to the water quality of the transitional waterbody of the Inagh Estuary. Notwithstanding the applicant's proposal to install a waste water treatment plant on site to treat the effluent before it reaches the public sewer network, and a Confirmation of Feasibility received from Uisce Eireann, the public network as indicated in the latest Annual Environmental Report 2023 is failing to work efficiently and is not compliant with the ELVs as set out in the wastewater discharge licence. Having regard to the foregoing, and based on the most up to date scientific evidence, the Board is not satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the water quality of the Inagh River and Estuary. It is further considered that it is not possible to achieve such controls or limits by way of condition and consequently the Board must refuse permission having regard to Article 4 of the Water Framework Directive.
2. Having regard to the location and scale of the development proposed, and the linked Service Town designation of Ennistymon/Lahinch's in the Clare County Development Plan and to the Retail Planning Guidelines for Planning Authorities 2012, it is considered that the Retail Impact Assessment has not assessed the impact of the proposed development on the towns within the Ennistymon catchment area identified within the Retail Strategy for the county and therefore has not justified the need for an additional convenience store for Ennistymon town in this location and has not assessed its impact on the vitality and viability of the Ennistymon catchment and would be contrary to the Retail Planning Guidelines and to the proper planning and sustainable development of the area.
3. Having regard to the out of centre location, it is considered that the proposed development, which would be principally dependent on private car transport, would lead to the creation of an unsustainable car dependent development and would contribute to the existing queuing times at the N67 Main Street/N67 Lahinch junction, due to its restricted width and capacity. Furthermore, it is considered that the additional traffic movements which would be generated would



interfere with the free flow of traffic and would compromise the level of service and carrying capacity of the road at this location and would fail to protect public investment in the national road network. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Catherine Dillon  
Planning Inspector

7<sup>th</sup> July 2025

## 12.2. Appendix 1 Form 1 Pre Screening

<b>An Bord Pleanála Case Reference</b>	ABP Ref: 322152-25
<b>Proposed Development Summary</b>	Construction of two storey foodstore (GFA 2,261m <sup>2</sup> , with a net retail area of 1,493m <sup>2</sup> ) and 87 car parking spaces and associated works.
<b>Development Address</b>	Lahinch Road, Ennistymon, Co.Clare
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.  <input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.  <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.	Class 10 (B) – Infrastructure Projects: (iii) Construction of a shopping centre with a gross floor space exceeding 10,000 sqm threshold.

<p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	<p>(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.</p>
<p><b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b></p>	
<p><b>Yes</b> <input type="checkbox"/></p>	<p><b>Screening Determination required (Complete Form 3)</b></p>
<p><b>No</b> <input checked="" type="checkbox"/></p>	<p><b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b></p>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

### 12.3. Appendix 2- Form 2- EIA Preliminary Examination

<b>Case Reference</b>	<b>ABP Ref: 322152-25</b>
<b>Proposed Development Summary</b>	Construction of two storey foodstore (GFA 2,261m <sup>2</sup> , with a net retail area of 1,493m <sup>2</sup> ) and 87 car parking spaces and associated works.
<b>Development Address</b>	Lahinch Road, Ennistymon, Co.Clare
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b> (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>The proposed development would comprise the construction of a two storey food store (gfa 2,261m<sup>2</sup>), and all ancillary works.</p> <p>In the grounds of appeal it is proposed to amend the development and install an onsite wastewater treatment plant within the boundary of the site. The overall daily wastewater loading is 4,580 litres/day or 4.58m<sup>3</sup> day. Foul effluent is proposed to connect to a public foul network along the N67 which outflows into the Inagh river.</p> <p>The vehicular access into the site would be off the N67 and would serve 87 car parking spaces. Roof mounted solar panels are proposed (907m<sup>2</sup>) and ESB switchroom (24.5m<sup>2</sup>). Full description outlined in Section 2 of this report. SuDs measures include an attenuation tank (218m<sup>3</sup>) with a storage volume of 90m<sup>3</sup> to attenuate run off from the car park area which would be directed to a surface water pipe. Surface water from the site would be restricted by a Hydrobrake &amp; petrol interceptor, limiting the discharge to 6.7l/s and connect to public pipe along N67. The proposed development would connect to an existing stormwater connection to east of site</p> <p>The land falls steeply from the south to the north. The volume of extracted material from the construction is stated in the CEMP to be 4,200m<sup>3</sup>. Imported materials is stated as c.300m<sup>3</sup> for the proposed development (CEMP).</p> <p>During the construction phase, the proposed development would generate waste during excavation and construction. However, given the moderate size of the proposed site and building I do not consider that the level of waste generated would be significant in the local, regional or national context.</p>

	No significant waste, emissions or pollutants would arise during the construction or operational phases due to the limited size of the site and the nature of the proposed use.
<b>Location of development</b> (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	<p>The subject site is located c.500m west of Ennistymon town centre and has a stated site area of 0.68ha.. The nearest European Site to the proposed development is the Inagh River Estuary SAC, located 15m to the north across the N67 road. The River Inagh is 45m to the north of the site which flows in a westerly direction into Liscannor Bay.</p> <p>The site is a greenfield site in agricultural use and is not subject to flooding according to CFRAM maps.</p> <p>GSI mapping indicates the ground water is classified as being of 'moderate' vulnerability to groundwater contamination. Infiltration rates are poor due to combination of clay &amp; gravel soil with a high water table.</p> <p>There are no protected structures on or near the site and the subject site is not located in the archaeological complex associated with the town centre. I note the Dept have recommended archaeological monitoring of works and an Ecological Clerk of works due to the size of the site in the event of planning permission.</p>
<b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	<p>Foul water from the site would discharge to Ennistymon WWTP (D0081) which discharges into the Inagh River Estuary SAC. The 2023 AER for the Ennistymon WWTP<sup>6</sup>, comments this plant is nearing capacity with an Organic Capacity (Person Equivalents (PE)) of 200 remaining. The proposed development would equate to 31 P.E loading on the WWTP.</p> <p>The EPA site visit report on the WWTP (10/9/24), notes the WWTP has no screening at the outlet works and there was a significant overflow occurring at the time of the site visit at the pump station due to the pumps inability to pump the incoming flow to the WWTP. The infrastructure at the treatment plant and on the network was considered not adequate resulting in non-compliance with the licensed ELV's and significant overflows occurring discharging into the Inagh river. The expectation date to upgrade the WWTP was previously stated</p>

<sup>6</sup> /www.water.ie/sites/default/files/docs/aers/2023/D0081-01\_2023\_AER.pdf

	<p>to be 2030, however it was noted during the site visit that it is unlikely that this date will be achieved.</p> <p>In the absence of mitigation, there is the potential for dust, silt, and contaminated surface water runoff to enter the Inagh River with the potential for significant effects on the Inagh River Estuary SAC.</p> <p>An NIS has been submitted with the application and is considered in Appendix 3 of this report.</p>
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)

## 12.4. Appendix 3 Screening for Appropriate Assessment

<b>Screening for Appropriate Assessment</b> <b>Test for likely significant effects</b>	
<b>Step 1: Description of the project and local site characteristics</b>	
<b>Brief description of project</b>	<p>The proposed development would comprise the construction of a two storey food store (gfa 2,261m<sup>2</sup>), and all ancillary works.</p> <p>In the grounds of appeal it is proposed to amend the development and install an onsite wastewater treatment plant (WWTP) within the boundary of the site. Foul water from the onsite WWTP site would connect to the public foul network and discharge to Ennistymon WWTP (D0081) which discharges into the Inagh River Estuary SAC. It is proposed to connect to the existing public infrastructure for surface water. A detailed description of the project is contained within Section 2 of this report.</p>
<b>Brief description of development site characteristics and potential impact mechanisms</b>	<p>The subject site is a greenfield site in agricultural use within the settlement of Ennistymon with a site area of 0.65 hectares.</p> <p>The site is not subject to flooding. A ground investigation carried out as part of the planning application identified the infiltration rates of the soil were poor- GSI mapping shows that the site is classified as 'moderate' vulnerability to groundwater contamination.</p> <p>The nearest watercourse is the Inagh river located 45m to the north of the site on the far side of the N67. This river flows in a westerly direction into Liscannor bay. The Inagh River Estuary SAC (site code: 000036) c.15m to the north of the site.</p> <p>There is an existing surface water concrete pipe to the east of the site which flows towards the school site to the east and outfalls to the River Inagh.</p> <p>There are no drainage ditches on the site.</p>
<b>Screening report</b>	<p>Yes the screening report concluded on the basis of the best scientific knowledge available, the possibility of significant effects on the Inagh River Estuary SAC could not be excluded and an NIS was required.</p>
<b>Natura Impact Statement</b>	<p>An NIS has been included within the application by Altermar Marine &amp; Environmental Consultancy</p>
<b>Relevant Submissions</b>	<p>The P.A responded to the applicant's grounds of appeal and have raised concerns that the proposed on-site treatment plant does not take into consideration impacts on water quality.</p>
<b>Additional Information</b> Potential impacts that could arise during construction include surface water impacts. At operational stage, potential impacts relate to surface water and wastewater impact.	

The EPA 2023 AER for Ennistymon WWTP, states the plant is nearing capacity with an Organic Capacity of 200 P.E remaining. The proposed development would equate to 31 P.E loading on the WWTP.

The EPA site visit report on the WWTP (10/9/24) notes the WWTP has no screening at the outlet works and there was a significant overflow occurring at the time of the site visit at the pump station due to the pumps inability to pump the incoming flow to the WWTP. The infrastructure at the treatment plant and on the network was considered inadequate resulting in non compliance with the licensed Emission Level Values (ELVs) and significant overflows occurring discharging into the River Inagh. The expectation upgrade for the WWTP was previously stated to be 2030, however it was noted during the site visit that it is unlikely that this date will be achieved.<sup>7</sup>

### Step 2: Identification of relevant European sites using the Source-Pathway- Receptor Model

A total of 9 European sites were identified as being located within a potential zone of influence of the subject site as detailed in Table 1 of the AA screening report. However, with the exception of one of these sites, all other sites were screened out due to the distance from the subject site and lack of hydrological connection. The Inagh River Estuary SAC was screened in due to its proximity to the site and the potential hydrological pathway via the proposed outflow from the WWTP and surface water management of the site. I agree with this conclusion.

European Site (code)	Qualifying Interests (QI's)	Distance from proposed development	Ecological Connections	Consider further in screening (Y/N)
Inagh River Estuary SAC (000036)	5 QI's <sup>8</sup>	15m	Hydrological connection due to proximity and surface water run off	Yes

### Step 3: Describe the likely significant effects of the project (if any, alone or in combination on European Sites

Site Name Qualifying Interest's	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Inagh River Estuary SAC (000036)	<ul style="list-style-type: none"> <li>Surface water run off containing contaminants during</li> </ul>	<ul style="list-style-type: none"> <li>Possibility of deterioration in water quality impacting habitats</li> </ul>

<sup>7</sup><https://leap.epa.ie/licence-profile/D0081/complaine/action-or-instrction/ea09313a-9ff1-ee11-a364-0050568a2d1a> (accessed 3/7/2025)

<sup>8</sup>[https://www.npws.ie/sites/default/files/protected\\_sites/conservationobjetcives/CO000036.pdf](https://www.npws.ie/sites/default/files/protected_sites/conservationobjetcives/CO000036.pdf) (accessed 3/7/2025)



<ul style="list-style-type: none"><li>• Salicornia and other annuals colonising mud and sand [1310]</li><li>• Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330]</li><li>• Mediterranean salt meadows (Juncetalia maritimi) [1410]</li><li>• Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</li><li>• Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</li></ul>	<p>construction &amp; operation phase</p> <ul style="list-style-type: none"><li>• Airborne dust</li><li>• Foul water to WWTP which discharges to the Inagh River and estuary.</li></ul>	<ul style="list-style-type: none"><li>• Changes to habitat quality &amp; function</li><li>• in Emissions Limit Levels at the outflow Increase point of WWTP</li></ul>
Yes	Likelihood of significant effects from proposed development (alone) Y/N	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects?	

**Step 4: Conclude if the proposed development could result in likely significant effects on a European site**

Based on the information provided in the screening report, site visit, review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result in significant effects on the Inagh River Estuary SAC (000036).

**Proceed to AA Stage II**

**Screening Determination**

**Significant effects cannot be excluded**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that it is not possible to exclude that the proposed development alone or in combination will give rise to significant effects on the Inagh River Estuary SAC in view of the sites conservation objectives. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development is required.

## Appropriate Assessment Determination

Appropriate Assessment
<p>The requirements of Article 6(3) as related to appropriate assessment of a project under Part XAB, Section 177V of the Planning and Development Act 2000, as amended, are considered fully in this section.</p>
<p>Taking account of the preceding screening determination, the following is an appropriate assessment of the implications of the proposed development of a two storey foodstore at Lahinch Road, Ennistymon, Co.Clare in view of the relevant conservation objectives of Inagh River Estuary SAC (000036) based on scientific information provided by the applicant.</p> <p>The information relied upon includes the following:</p> <ul style="list-style-type: none"><li>• Natura Impact Statement prepared by Altemar Marine &amp; Environmental Consultancy (19<sup>th</sup> December 2024)</li><li>• Services Design Report by SDS design engineers (dated March 2025)</li><li>• Site investigation report by OCB Geotechnical (dated 23<sup>rd</sup> August 2024)</li><li>• Construction Environmental Management Plan by SDS design engineers (dated December 2024)</li><li>• Accessible information on the NPWS website.</li><li>• Accessible information on the EPA website.</li></ul> <p>I am satisfied that the information provided is adequate to allow for Appropriate Assessment. I am satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and submitted documentation and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.</p>
<p><b>Submissions/Observations</b></p> <p><u>Dept. of Housing, Local Government &amp; Heritage</u>, in response to the planning application noted the site is 20m from south of Inagh River Estuary SAC and content of NIS which rules out any significant impact on the SAC once mitigation measures are applied. Recommends Council to consider whether an Ecological Clerk of Works is required to oversee works. Potential impact of the development alone and in combination on the SAC should be assessed and potential impacts on groundwater &amp; waterbodies in the area.</p> <p><u>Uisce Eireann</u>: No objection subject to CoF.</p> <p><u>Planning Authority</u>: Response to grounds of appeal consider the installation of a WWTP on the subject site would not address water quality of SAC.</p> <p><u>Submission made to the planning application</u> raised issues about the capacity of the WWTP and that the NIS does not address the uncontrolled release into the SAC due to inadequate infrastructure, or in combination effects at Calluragh East or the effects of the toxic discharges from this plant and the associated fish kill in the River Inagh.</p>

**Inagh River Estuary SAC (site code: 000036)****Summary of Key issues that could give rise to adverse effects (from screening stage)**

- (i) **Habitat Degradation**  
(ii) **Water Quality (construction) & (operation)**

Refer to Table 6 of NIS – this table does not assess the impact of water flow from the WWTP into the estuary.

<b>Qualifying Interest features likely to be affected</b>	<b>Conservation Objectives, targets &amp; attributes (summary)</b>	<b>Potential adverse effects</b>	<b>Mitigation measures (summary) Table 7 of NIS</b>
Salicornia and other annuals colonising mud and sand [1310]	Overall objective is to restore the favourable conservation condition.  Permanent habitat is stable or increasing, subject to natural processes including erosion and succession.	Table 6 of NIS outlines potential adverse effects  Habitat degradation  Dust deposition, pollution & silt from site runoff during construction  Surface water outfall into Inagh River when operational  Downstream impacts from outflow of WWTP	<u>Construction phase</u> CEMP prepared to ensure best practice measures are adhered to including inter alia: Materials are stored in a safe & appropriate manner and that run off from materials, earthworks, stockpiles, fuel oil etc., are contained to prevent silt from entering the watercourse.  Wastewater will be disposed by removal from site to an appropriately licensed treatment facility for temporary welfare facilities.  <u>Operation phase:</u> A project ecologist will be appointed to oversee completion of all landscape and drainage works.
Atlantic salt meadows [1330]			
Atlantic salt meadows [1330]			
Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]			
Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]			

			<p>WWTP proposed on site to treat effluent from development prior to release to Ennistymon WWTP.</p> <p>SuDs measures for surface water including attenuation on site.</p>
<b>Assessment of issues that could give rise to adverse effects in view of conservation objectives:</b>			
<p><b>(a) Water quality degradation &amp; habitat loss</b></p> <p>The site is not within a designated conservation site. The distribution of the habitats associated with the Inagh River Estuary SAC are located downstream of the subject site in the western area of the SAC closer to Liscannor Bay (as illustrated in Maps 2 &amp; 3 of NPWS Conservation Objectives Nov. 2016 document). The attributes and targets for the habitats which include mud and sand, salt meadows, and sand dunes live in a dynamic environment and are resilient in nature.</p> <p>The current outflow and breaching of ELVs from the WWTP into the River Inagh is noted, however allowing for the significant hydrological distance between the subject site and the distribution of the QI's associated with the SAC, dilution factor, and proposed construction and operation mitigation measures the proposed development would be unlikely to have an adverse on the habitats of this SAC. The ELVs relating to the WWTP are considered within the Water Framework Direction Assessment further in this report.</p>			
<b>In-combination effects:</b>			
<p>In Table 3 of the NIS a list of planning applications in close proximity to the subject site have been identified in the last 8 years. There have been three substantial planning permissions granted in the immediate vicinity of the site, namely the school development to the east (10,224m<sup>2</sup>) on 11/7/2018, the refurbishment of the convent building to the south east to a retirement village (30 units) on 20/12/2019, and a change of use of a building opposite the subject site to a medical centre on 21/5/2025. The issue of the impact on the capacity of the WWTP and outflow into the SAC were not raised in these cases. I acknowledge 2 of these planning permissions were granted prior to the 2023 AER report by the EPA of the WWTP.</p> <p>I am therefore satisfied that in-combination effects has been assessed adequately in the NIS, and the applicant has demonstrated satisfactorily that in combination effects with other existing and proposed developments in proximity to the application area would be unlikely, neutral, not significant and localised.</p>			

### **Findings & Conclusions**

The applicant determined that following the implementation of mitigation measures, the construction and operation of the proposed development alone, or in-combination with other plans and projects, will not adversely affect the integrity of the Inagh River Estuary SAC.

Based on the information provided, I am satisfied that adverse effects arising from aspects of the proposed development can be excluded for the European sites considered in the Appropriate Assessment. I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects. The proposed development will not affect the attainment of the conservation objectives of the Inagh River Estuary SAC. Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.

## 13.0 Appendix 4 WFD Screening

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	322152-25	Townland, address	Lahinch Road Deerpark West townland, Ennistymon, Co.Clare
Description of project		Two storey food store, provision of vehicular access, substation, landscaping and all associated works.	
Brief site description, relevant to WFD Screening,		<p>Site is undulating rising steeply from north to south. The nearest watercourse is the Inagh river located 45m to the north of the site on the far side of the N67. This river flows in a westerly direction into Liscannor bay. The Inagh River Estuary SAC (site code: 000036) is c.15m to the north of the site.</p> <p>Development proposes as part of appeal grounds to have an onsite WWTP to treat effluent prior to connecting to the Ennistymon WWTP which discharges to the Inagh River Estuary SAC. Latest 2023 AER report on this WWTP (D0081-01), is plant is not in compliance with the ELVs as set out in the WW discharge licence and this is a reoccurring problem, due to inadequate infrastructure.<sup>9</sup> The infrastructure at the treatment plant and on the network is not adequate resulting in non-compliance with the licensed ELV's and significant overflows occurring discharging into the Inagh river. The expectation date to upgrade the WWTP was previously stated to be 2030, however it is unlikely that this date will be achieved.</p> <p>Usice Eireann's waste water treatment capacity register states Ennistymon WWTP has potential spare capacity and a new WWTP project is planned/underway.<sup>10</sup></p>	
Proposed surface water details		Surface water infrastructure designed to equal the natural greenfield runoff .	

<sup>9</sup> <https://leap.epa.ie/licence-profile/D0081>

<sup>10</sup> [Clare | Wastewater Treatment Capacity Register | Uisce Éireann \(formerly Irish Water\)](#) accessed 3/7/2025

	Car park to contain an attenuation system (218m³) to provide a volume of 90m³. Surface water pipe to east of site to connect to public pipe along the N67. Outflow to be restricted by a hydroBrake with a discharge rate of 6.7l/s.					
Proposed water supply source & available capacity	Public connection. Uisce Eireann no objections. Uisce Eireann's water supply capacity register (accessed 3/7/2025) sates 'potential capacity available' at Ennistymon to meet 2033 population targets, Level of Service (LoS) improvement required.					
Proposed wastewater treatment system & available capacity, other issues	Development to connect to Ennistymon WWTP (D0081), via on-site WWTP, which is currently discharged into the Inagh Estuary. EPA AER (2023) indicates remaining organic capacity of 200 P.E. Proposed development to generate 4.58m³/day of wastewater which would equate to 31 P.E. Uisce Eireann states the Ennistymon WWTP overflows at the River Inagh and upgrades are required. Usice Eireann are planning to develop a new WWTP at Ennistymon as there is currently inadequate dilution for treated discharge. The pumping station overflows adjacent to the N67 into Inagh River during heavy rainfall events. Pumps & pipeline have insufficient capacity to deal with these events. Uisce Eireann have raised no objections to the development.					
Others?	Site not liable to flooding					
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Waterbody	15m	Inagh (Ennistymon) _050	Good	Not At Risk	No pressures	Hydrologically connected to

							surface watercourse.
Transitional Waterbody	45m	Inagh Estuary IE_SH_100_0100	Moderate	Review	Not identified		WWTP outflows into Estuary
Groundwater waterbody	Underlying site	Milltown Malbay IE_SE_G_167	Good	Not at risk	Not identified		Poorly productive bedrock
<b>Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.</b>							
<b>CONSTRUCTION PHASE</b>							
No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Surface	Inagh (Ennistymon)_050	Yes	Hydrocarbon spillages/ Siltation	Best practice construction practices	No	Screened out
2.	Transitional Waterbody	Inagh Estuary IE_SH_100_0100	Yes	As above	As above	No	Screened out
3.	Ground	Milltown Malbay IE_SE_G_167	Drainage	As above	As above	No	Screened out
<b>OPERATIONAL PHASE</b>							
4	Surface	Inagh (Ennistymon)_050	None	None	None	No	Screened out
5.	Transitional Waterbody	Inagh Estuary IE_SH_100_0100	WWTP outflows into estuary	Yes	None WWTP not meeting	Yes	Screened in



					WWTP discharge licence requirements		
6.	Ground	IE_SE_G_167	None	None	None	No	Screened out
DECOMMISSIONING PHASE							
7.	NA						

Stage 2: Assessment					
Details of mitigation to Comply with WFD Objectives					
Surface Water					
Development /Activity e.g Culvert, bridge, other crossing, diversion, outfall etc.	<u>Objective 1:</u> <u>Surface</u> <u>Water</u> Prevent deterioration of the status of all bodies of surface water	<u>Objective 2:</u> <u>Surface</u> <u>Water</u> Protect, enhance and restore all bodies of surface water with aim of achieving good status	<u>Objective 3:</u> <u>Surface</u> <u>water</u> Protect, enhance all artificial and heavily modified bodies of water with aim of achieving good ecological potential & good surface water	<u>Objective 4:</u> <u>Surface</u> <u>Water</u> Progressively reduce pollution from priority substances and cease or phase out emission, discharges and losses of priority substances	Does this component comply with WFD Objectives 1,2,3 &4? (If answer is no, a development cannot proceed without a derogation under art.4.7)

			chemical status		
	Describe mitigation required to meet objective 1:	Describe mitigation required to meet objective 2:	Describe mitigation required to meet objective 3	Describe mitigation required to meet objective 4:	
Construction works	Best Practice Construction methods	Site specific best practice construction methods	Site specific best practice construction methods	Site specific best practice construction methods	Yes
Operational Stormwater drainage	Suds measures & connection to stormwater network	SuDs features & connection to network	SuDs features & connection to network	SuDs features & connection to network	Yes
<b>Details of mitigation to Comply with WFD Objectives Transitional Waterbody</b>					
Construction works	Best Practice Construction methods	Site specific best practice construction methods	Site specific best practice construction methods	Site specific best practice construction methods	Yes
Operational WWTP	None proposed	None proposed	None proposed	None proposed	No
<b>Details of mitigation to Comply with WFD Objectives Groundwater</b>					
Development/Activity e.g abstraction, outfall, etc.	<b>Objective 1:</b> <u>Groundwater</u>  Prevent or limit the input of pollutants into groundwater and to prevent the deterioration of the status	<b>Objective 2:</b> <u>Groundwater</u>  Protect, enhance and restore all bodies of groundwater, ensure a balance between abstraction and recharge,	<b>Objective 3: Groundwater</b>  Reverse any significant and sustained upward trend in the concentration of any pollutant resulting from the impact of human activity	Does this component comply with WFD Objectives 1,2,3 &4? (If answer is no, a development cannot proceed without a	

	of all bodies of groundwater	with the aim of achieving good status		derogation under art.4.7)
<b>Construction works</b>	Best Practice construction methods	Best Practice construction methods	Best Practice construction methods	Yes
<b>Operational</b>	N/A			