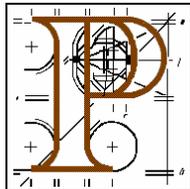


An Bord Pleanála



Inspector's Report

Planning application

Planning authority: Longford Town Council

Planning authority reg. no. 09/40

Applicants: Soden Ward Limited

Type of application: Permission

Planning authority decision: Grant

Planning appeal

Appellants: Luke Baxter
Jimmy Savage
Longford Chamber of Commerce
Sean Savage and Patricia Devine

Type of appeal: Third appeal V Grant

Observers: Mark Cunningham
Longford 2020
Master Consultancy Bureau
Teagasc

Date of site inspection: 18th September 2010

Inspector: **Joanna Kelly**

1.0 SITE DESCRIPTION

- 1.1 The appeal site with a stated area of ca. 2.71 hectares is located on zoned lands within the designated town centre of Longford town. The appeal site is an irregular shape and is bounded to the north by Great Water Street, the south by an access road to the rear of dwellings along Chapel Lane. The eastern section of the site is bounded by a lane to the rear of dwellings that front onto St. Mel's Road. There is current vehicular access to the site for deliveries from St. Mel's Road into the site. 'Tesco' is currently a tenant of the existing shopping centre with frontage onto Rue Noyal Chatillion road, a key elevation along the main thoroughfare. There is a Council library to the eastern portion of the site which is proposed to be demolished. There is an existing car-park to the front of the main shopping centre elevation which is to be retained. The existing parking area to the east of the site will be removed so as to accommodate new retail units. There are two storey residential units along Great Water Street which are to be demolished to accommodate the proposed development. These properties were subject to a CPO confirmed by the Board.
- 1.2 Access to the existing shopping centre from the Main street is via an archway and lane. Access can also be sought via Chapel lane from St. Mel's Road or via the laneway opposite the school from St. Mel's Road. It is also possible to access the centre from Rue Noyal Chatillion. At time of inspection, the shopping centre was busy and it was noted that the vast majority of shoppers had used the convenience store, the main anchor of the centre. No queuing into or out of the centre was noted at any of the main access points.
- 1.3 The existing shopping centre is located in the town core with the Main Street located to the west of the site. It is noted that there were several vacant units along the Main St. including larger units where 'Dunnes' used to be located. The 'Annally Hotel' would also appear to be closed up. There is a recent shopping centre development at the junction of Main Street with Bridge Street which is currently vacant.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 The proposed development would entail the demolition of 7 no. houses and the Longford Branch Library so as to accommodate a retail development of ca. 22,919 sq.m. The proposed development comprises of the following:-
- 8 no. new retail units with a total floor area of ca. 11,65sq.m. including an anchor store of 2,943sq.m. and a convenience store of 400sq.m.
 - restaurant/café
 - crèche
 - dedicated civic space and improvements to car-parking
 - indoor parking for 216 car spaces
 - 1 main service and delivery yard
 - recycling and waste management facilities.
- 2.2 It is intended that the existing shopping centre will continue to operate during the construction period associated with the proposed development.
- 2.3 The proposed civic space is located to the south-western corner of the appeal site where there is pedestrian access linking the shopping centre to the main street. There are four raised junction speed tables proposed, three along the western boundary of the site and one to the south. The proposal includes a north/south internal 'shopping street' which provides access into the existing shopping centre. The library is to be relocated from its current location to Great Water Street.

3.0 TECHNICAL REPORTS

3.1 Planning report:

3.1.1 The Assistant Planners report, co-signed by the Senior Planner, indicates that the appeal site is located within the designated 'town core'. The report sets out planning history of the site, along with the internal reports and submission/observations received in respect of the proposed development. Reference is made to national, regional and local guidelines/plans and how the proposed development is considered to comply with such guidelines/plans. The Planner notes that *'an element of convenience shopping will be retained within the site which will enable shoppers to carry out that aspect of their shopping when visiting the site for other purposes'*. The report sets out that the proposed development is fully compliant with the national, regional and local level planning and policy frameworks. It is further set out that *'through the relocation of the existing vehicle intensive convenience anchor store significant reductions in traffic levels in the town centre will result'*.

3.1.2 The Planner notes that the proposed development is facilitated by the relocation of the existing anchor store from the current site to an alternative location which is the subject of a concurrent application with Longford County Council (PL.09/379 refers). This concurrent application would result in the construction of a large convenience outlet along the Ballinalee Road, where improved access, car parking and servicing areas would be provided for what will generally be used for bulky weekly shopping. The planner notes that in order to ensure that the redevelopment of the town centre occurs once the convenience retail store has been relocated, it is considered imperative that a condition is applied to the planning permission linking the two developments and requiring the applicants to carry out this development within a certain timeframe of the relocation of the convenience outlet.

3.1.3 The report concludes that the proposal would not negatively impact on the residential amenity of nearby residences in excess of what is expected for a town centre location and would improve the town centre through the improvement of the pedestrian environment at this area of the town. It was recommended that permission be granted subject to 21 conditions.

3.2 Roads Design Department

The report sets out 19 items which require further details.

3.3 Water Services Report

It was recommended that conditions be attached to a grant of permission. The report notes that the proposal by the applicant to pump surface water from the basement car-park is not acceptable and that an alternative option should be forwarded to water services department for agreement.

External Reports

3.4 HSE

No objections subject to conditions. It is noted that the sanitary accommodation for the crèche is inadequate and adequate storage for waste has not been provided.

4.0 PLANNING AUTHORITYS DECISION

Longford Town Council granted permission for the proposal subject to 21 conditions.

The conditions are summarised as follows:-

Condition 1	Compliance with plans and particulars
Condition 2	Section 47 agreement
Condition 3	Omission of retail unit 6.01 and 6.02 on the site of the existing library until such a time that the new library is constructed.
Condition 4	Compliance with roads requirements
Condition 5	Compliance with water services requirements
Condition 6	Surface water attenuation
Condition 7	Signage
Condition 8	Compliance with HSE requirements

Condition 9	Compliance with CFO requirements
Condition 10	Project Construction and Demolition Waste Management Plan
Condition 11	Management of waste on site
Condition 12	Landscaping as per EIS
Condition 13	Compliance with Department of Environment publication 'Recommendations for site development works for Housing Areas, 1998'
Condition 14	Service cables to be laid underground
Condition 15	Control on emissions so as not to cause annoyance
Condition 16	Construction phase - noise and operation details
Condition 17	Noise during operation phase
Condition 18	Compliance with National Building Codes of Practice
Condition 19	Damage to roads
Condition 20	Construction Management Plan
Condition 21	Financial contributions

5.0 APPEAL GROUNDS

5.1 Third Party Appeal – Vitruvius Hibernicus Ltd. on behalf of Luke Baxter

The Third party appeal is summarised as follows:

- The appellant is appealing all three concurrent applications which have been granted by Longford Town and County Council.
- This development is contrary to the objectives and policies of the approved development plan and the local area plan.
- The appellants raises concern regarding three specific procedural issues.
- Concerns are raised regarding the EIS specifically in relation to flooding and the level of the car-park proposed.
- There is no justification for the proposed development as a vacant shopping centre lies vacant close by.

5.2 Vitruvius Hibernicus Ltd. on behalf of Jimmy Savage

This third party appeal is summarised as follows:

- The proposal is contrary to the objectives and policies of the development plan and the local area plan.
- The proposal will result in the extinguishment of the appellants right of way which have been in place since 1960s. The Planning Authority ignored the objections relating to the right of way.
- It is set out that the proposed development will severely diminish the daylight enjoyed by appellant at present.
- The decision is silent in the duration of permission.

5.3 Sean Lucy & Associates on behalf of Longford Chamber of Commerce

This third party appeal is summarised as follows:-

- Condition 2 of the permission granted is *ultra vires* in that it relates to the development of lands at a substantial remove from the site. It is contended that the proposed development will only be carried out if permission is forthcoming for the development of a hypermarket on a remote site.
- Section 47 is intended to be used for the purpose of restricting or regulating the use of lands associated with a particular development rather than to ensure development on a remote site.
- The grant of permission is contrary to Section 7.11 of the Development Management Guidelines. The prominence of and importance given to the proposed Section 47 agreement throughout the application process and in the consideration of the Planning Authority serves to highlight this inter-dependence, as does its location as Condition 2 of the decision of Longford Town Council PA. Ref. No. 09/40 and Longford County Council Reg. Ref. no. 09/379.
- The decision of the Council in the case of File ref. No. 09/379 is contrary to the Supreme Court Ruling in the case of Ashbourne Holdings V. An Bord Pleanála and the County Council of the County of Cork. It is contended that another applicant, of lesser means, who applied for permission as per Longford County Council File Ref. No. 09/379 but without the means to

provide for the redevelopment of the town centre as per this application, Longford Town Council PA Ref. No. 09/40, would have been refused permission for the development due to the location of that proposed development on an out-of-town site. It is considered based on the Supreme Court judgement that there is no basis in planning law for the policy contained in the Longford County and Town Development Plans which provides for a considered grant of permission on lands outside the town centre in conjunction with regeneration works within the town core.

- The proposed development will have an adverse impact on the vitality and viability of the Town Centre. It is considered that the proposed redevelopment of the town centre site, in the absence of a major convenience anchor store, which is proposed to be moved out of the town centre, does not represent an 'appropriate redevelopment of the core area.' It will lead to a reduced retail presence and associated footfall in the town core area. It is acknowledged that there is a problem with traffic congestion in the town centre which is directly linked to the convergence of a number of national primary, national secondary and regional routes within the town centre. It is set out that it is not in the interests of the protection of the town centre to remove dedicated shopping traffic from the town core but rather remove the 'onward' traffic.
- It is set out that there is no objection to the redevelopment of the town centre site in a sustainable manner however, given the currently unoccupied Longford Town Centre Shopping Centre any redevelopment of Longford Shopping Centre which seeks to relocate the main convenience anchor to a Greenfield site is considered to be premature.

5.4 Sean Savage and Patricia Devine.

This third party objection is summarised as follows:-

- It is considered that the redevelopment of the existing shopping centre will detract from the amenity of their residence on Mel's Road. In principle the regeneration of derelict land and properties on the northern end of the site is to be welcomed. However it is contended that the development of the eastern part of the land is excessive and unwarranted.
- It is contended that the proposed retail/restaurant buildings which would occupy the site of the County Library and current eastern car parking area are excessive in size and height and would seriously harm the amenity of their residence and would result in overshadowing.
- There is a long established right of way which exists to the rear of the property on Mel's Road onto the existing shopping centre car park. This has not been considered in the application. Reference is made to a previous condition under PL.68.093429.
- The applicant is proposing to replace the existing vehicular access off St. Mel's Road with a services/deliveries entrance and 24 hour pedestrian access along the eastern boundary of the site. The location of the proposed services entrance for deliveries is questionable given the proximity of a national school. Condition 7 of the grant of permission suggests the proximity of the national school is an issue but the requirement to arrange deliveries in consultation with the school management as conditioned would appear difficult to enforce. The proposed walkway won't be overlooked from any direction.
- Supporting photographs have been noted on file of sun path and right of way.

6.0 RESPONSES

6.1 Response from Planning Authority

There is no response noted on file.

6.2 J. Savage response to other third party appeals

This response is summarised as follows:

- Sean Savage is a son of Jimmy Savage both of whom occupy the 2 no. houses on St. Mel's Road which is materially affected by the proposal.
- The volume and mass of the section of development backing onto St. Mel's Road are of concern.

6.3 First Party response to each of the third party appeals

6.3.1 Response to Mr. Luke Baxter's concerns are summarised as follows:-

- The statutory and planning context of the proposed town centre retail development has been set out in the application documentation.
- The inclusion of the lands which were subject to a CPO is now under the control of Longford Town Council. A letter of consent was provided to the applicants to include these lands in the application. The CPO process is a wholly separate legal process to planning assessment and is not relevant to the determination of the current proposal.
- Section 41 of the Planning and Development Acts enable Planning Authorities to grant permission for planning for periods in excess of five years. The statutory notices and planning application forms clearly set out that the application made was for a 7 year permission. Condition 1 of the permission requires development to be carried out in accordance with the plans and particulars which clearly stated it was a seven year permission.
- The issue pertaining to the right of way is not strictly a planning issue. The purported impact is on another third party and is dealt with in the response to that particular appeal.
- A flood risk assessment was included in the EIS. Due to the design of the scheme the proposed development would therefore not have flooded under the recent flood event, which is recognised as the worst flood event recorded.
- The planning retail context of the proposal is set out in detail in the documentation accompanying the application. The proposed development is designed to address the acknowledged lack of comparison floor-space identified in Longford Town by the County's Retail Strategy and the significant vacancy levels in the town centre. The redevelopment proposal will facilitate the regeneration of the town centre site and the wider town centre area.

6.3.2 Response to appeal on behalf of Longford Chamber of Commerce and Industry Ltd.

This response is summarised as follows:-

- Reference is made to a procedural issue regarding the name of the appellant and the address of same. This has been referred to the administration section for clarity and will not be subject to further consideration in this report which deals with the assessment of the proposal.
- It is contended that Condition 2 is not ultra vires. Reference is made to the Northern Environs Local Area Plan 2008-2014 which provides the basis for the connection between the planning applications. The appellant expresses concerns regarding the enforceability of this condition however it is argued that the County Manager serves both relevant planning authorities and as such the relevant planning authorities are particularly well placed to monitor and enforce the implementation of all conditions. It is submitted that the condition does not contravene Development Management Guidelines 2007.
- With regard to the contention that a Section 47 agreement is not intended to be utilised in the manner proposed by the applicant it is set out that the condition is both relevant and appropriate in legal and planning terms.
- With regard to the 'alleged' planning gain it is contended that Section 7.11 refers to the 'ceding of lands' and that this section has been quoted out of context. The purported planning gain outlined is the re-development of the town centre site and the provision of the parallel distributor road. The town centre redevelopment application is proposed on its own merits as an urgently needed plan led regeneration of an urban site requiring renewal to restrict major leakage of retail expenditure and counteract increasing vacancy rates. It is contended that this is reasonable and relatively standard planning policy to facilitate the improvement of the town centre for the good of the public and is not planning gain *per se*. The Planning Authority is seeking the phased development of lands located in the town centre and in the business park in the interests of the proposed planning and sustainable development of the area. The provision of the parallel distributor road is a stated objective of the Northern Environs Local Area Plan.

- It is set out that the concurrent proposed development of lands at Ballinalee Road is not contrary to the principles laid down in Ashbourne Holdings Ltd. case as the planning and development objectives of the Planning Authority are clear and transparent. It is argued that the test which this case seeks to apply is the transparency of what is necessary to obtain a planning permission. The development plans for Longford Town and County both include the policy seeking to link any edge-of-centre convenience retail to the regeneration of a town centre site.
- The third party appeal suggests that any proposal for the town centre which does not have a major convenience anchor does not represent an appropriate redevelopment of the town core as this will result in a reduced retail presence and associated footfall, reduced town centre per capita spend and a further decline of Longford Town centre as the premier shopping location in County Longford. The policies contained in the development plan have been subject to extensive public consultation and the Department did not submit to either Council in respect of these development plans that the policy was problematic. In addition to the traffic generation issues stemming from the use of the subject site as a large convenience outlet, it would not be consistent with the adopted Longford Town Development Plan 2009-2015 Urban regeneration zoning objective covering the area. The absence of a major convenience anchor does not result in reduced retail presence in the designated town core. It is set out that the strength, attraction and mix of the retail floor space proposed in the subject application will increase and not decrease footfall. With regard to the traffic issue, the First Party note that there is an NRA approved proposal to provide a new N5 by-pass of Longford.
- Reference is made to the operation of two anchor stores out of units that are limited in their scope to provide a wide range of goods, meet customer requirements and do not meet current company standards. The First Party set out that the decline of their attraction is reflected in its trading patterns and footfall which have resulted in increased vacancies in and around the Longford Shopping Centre. The First Party set out that *'underpinning the achievement of the dual pronged plan-led approach of the subject application which will be facilitated by the relocation of the Longford Shopping Centre convenience anchor to the Longford Business Park. The proposals are inextricably linked. If the latter cannot be achieved, then the parallel proposal for the redevelopment/regeneration of the Longford Shopping centre /Watermill Lane Development Area will not be able to be delivered. Without this redevelopment/regeneration that founded the objective of Longford Town Council's making of the Order 'Longford Town Council Compulsory Purchase Order (No.1) 2008 (Economic Regeneration at Townparks, Longford) which was confirmed by An Bord Pleanála in January 2009 then there will continue to be an increase in vacancies and decline of Longford Town centre. This is not recognised by the appellant.'*
- With regard to the vacant Longford Town Centre it is noted that the third party suggested that if the scheme was occupied by a strong anchor tenant then it would lead to a significant reduction in vacancy rates in that part of the town. The First Party agree with this and note that no reference is made to whether the tenant should be a convenience or comparison. It is set out that issues relevant to the aforementioned scheme relate to profile, access, car parking and the fact that the development footprint/configuration of the anchor store does not meet the operational requirements of national and international retail operators.
- The response concludes that the proposal will have a positive impact on the vitality and viability of the town centre through improving the comparison retail offer.

6.3.3 Response to the appeal by Sean Savage and Patricia Devine

This response is summarised as follows:-

- The EIS submitted include a daylight and sun light assessment. No. 11 St. Mel's Road was included in 'Zone B' which examined the potential impacts of the proposed scheme on no's 3-12 St. Mel's Road. There is a separation

distance of ca. 40 metres at this location. It is concluded that the proposal will not overshadow the appellant's property. It is set out that the photomontages submitted clearly demonstrate the scale of impact from the proposed development.

- With regard to vacancy rates, the proposed development will act as a catalyst for the regeneration of part of the town core. The proposal is designed to address the acknowledged lack of comparison floorspace identified in the County Retail Strategy. With regard to the CPO which was permitted for lands which form part of this application it is set out that this process was confirmed in the knowledge that there were built out vacant retail developments and other extant retail permissions not yet constructed.
- With regard to the right of way, it is contended that this is not strictly a planning matter. Condition 3 of the notification of the grant of permission has omitted the demolition of the library from the development. The First Party indicate that they are unsure of the relevance of a reference to a previous history file by the appellant and a right of way and as to how the current proposal interferes with a supposed right of way. There is no reference in the Board's file stating that this gap between the two boundaries was required to be retained in recognition of any right of way. It is requested that the Board disregard this issue as it is irrelevant in terms of the proper planning and sustainable development of the area.
- With regard to the service entrance and how the condition requiring the applicant to consult with the school management regarding the timing of deliveries could be enforced, it is set out that the main strategy is to resolve the potential conflict between school and service road traffic. It is set out that the proposed conversion of the St. Mel's access from general car park to a controlled delivery access will significantly reduce traffic from the side road from 2000 vehicles per day to 30 vehicles per day thereby significantly reducing the chances of pedestrian-vehicle conflict. It is contended that the condition does not require the applicant to consult with a third party as suggested by the appellant. The school opening hours are clear and the Planning Authority can require the applicant to arrange deliveries outside of these times.
- With regard to pedestrian access from the proposed development to St. Mel's Road it is considered that the proposal to provide a dedicated footpath along with security cameras and lighting will represent an improvement on the situation.
- The response concludes by stating that the proposed development is designed to accord with all relevant policies and is specifically designed to address the unsustainable leakage of retail expenditure from Longford town.

6.3.4 Response to appeal by Vitruvius Hibernicus Ltd. on behalf of Jimmy Savage

This response is summarised as follows:-

- It is set out that the proposed development fully complies with the aims, policies and objectives of the relevant statutory documents.
- The issue pertaining to the right of way is not strictly a planning matter. A planning permission does not serve to extinguish a right of way. Reference is made to the Ashbourne Holdings vs. Cork County Council which is irrelevant.
- The EIS submitted deals with the issue of daylight and sunlight. The impact of the proposed development was measured against the criteria set out in *Site Layout planning for Daylight and Sunlight: A Guide to Good Practice*, by PJ Littlefair. All the relevant criteria were comfortably exceeded at Zone b where the appellant's properties are located.
- With regard to the duration of the permission, the statutory notices clearly states that the application was made for a 7 year permission. A condition could be attached to a grant of permission to clarify this issue.

7.0 OBSERVATIONS

7.1 Mark Cunningham

This observation is summarised as follows:-

- The observation expresses disappointment with the negative appeal made on behalf of the business community of Longford against the development. It is set out that the appeal is not representative of the vast majority of the Longford Business community.
- There is currently unsustainable leakage of expenditure from Longford and its catchment and much vacant retail space in the town centre.
- The County Retail Strategy 2007 and Longford Northern Environs Local Area Plan 2008 together with the County and Town Plans put in place policies to facilitate a resolution to this issue.
- The presence of the 'Tesco' store has failed to stop the ongoing decline in footfall to the centre and the general town centre over the years. It too operates from an undersized store and is typically a car driven experience.
- The Northern Environs of the town are the designated town expansion area, which will act as the attractor to the town and reverse the current vacancy trends. The proposal in this application will introduce a critical mass of high end comparison shopping, as required by the Retail Strategy and Development Plan.
- It is contended that it must be a priority for Longford to first modernise existing, active and centrally located shopping centre such that it acts as a magnet and reverses its ongoing decline.
- Longford needs investment in modern shopping facilities and it is requested that permission is granted for the proposed scheme.

7.2 Conroy Crowe Kelly Architects on behalf of Longford 2020

This observation is summarised as follows:-

- Longford 2020 would like to voice their support for the proposed development and the associated development on the Ballinalee Road. It is considered that the proposed investment is necessary if the town is to function as a regional centre and that it will afford beneficial opportunities for the businesses in Longford Town.
- Longford town is a town which has regional importance and should have a shopping offer as good as any of the surrounding counties. It is contended that the approach advocated by the Longford Chamber of Commerce and Industry Ltd. appears to understate the role of Longford in the Midland Region.
- It is requested that the decision to grant permission is upheld.

7.3 Master Consultancy Bureau

This observation is summarised as follows:-

- The appeals of Longford Chamber of Commerce and Industry Ltd. seek to diminish and constrain the role of Longford within its county, catchment and region and they do not take into account the role, opportunities and obligations of Longford Town as set out in the NSS and MRPG.
- The proposal will provide a new framework for attracting the major retailers to invest in Longford by identifying and seeking to provide for retailers needs.
- The observation supports the proposed development.

7.4 Colin Buchanan on behalf of An Teagasc, Carlow

This observation is summarised as follows:-

- Teagasc which owns and operates an office directly adjacent to the proposed development welcomes in principle any proposal seeking to improve the existing built fabric of this part of the town.
- However any proposal should be considered in terms of its potential impact on the vitality and viability of the established retail uses in the town core. This is of particular relevance due to the recent large scale investments in retail space in Longford Town Centre which have significantly increased the volume of available floorspace in the town.

- The Planning Authority should be satisfied that the original regeneration objective remains relevant and pertinent to the health of the town centre given the effects of the economic down turn.
- It is vital that the proposed development does not interfere with the vehicular and pedestrian access to the Teagasc offices and a condition of this requirement should be included.
- There are concerns that the sunlight and daylight analysis submitted as part of the EIS fails to consider overshadowing effects of the proposals on the adjacent Teagasc offices.
- Construction phase and associated noise could have a considerable impact on the ability of advisors to deliver effective training and meeting workshops. It is requested that the Inspector examines the robustness of the condition in relation to noise attached to the grant of permission.
- There are concerns about the working of Condition no. 3 which maybe subject to several interpretations.

8.0 PLANNING HISTORY

The Planners report notes that the only planning history associated with the appeal site pertains to individual sites located within the overall appeal site. The most relevant application noted by the planner refers to an application for a proposed development along Great Water Street as follows:

File Ref. No. 04/146 Permission granted to T.Madden for a development consisting of a three storey office building consisting of 405 square metres on ground floor, 475 square metres on first floor and 445square metres on second floor, together with associated lobbies, access and escape stairs, lift, toilets and kitchenettes, 23 car parking spaces to rear with under-croft access from the street, a 15 square metre utility/storage room to the rear of the site. This permission was granted in May 2005.

File Ref. No. 04/148 Permission granted to Tom Madden for a development consisting of a three storey office building consisting of 405 square metres on ground floor, 475 square metres on first floor and 445square metres on second floor, together with associated lobbies, access and escape stairs, lift, toilets and kitchenettes, 23 car parking spaces to rear with undercroft access from the street, a 15 square metre utility/storage room to the rear of the site

File Ref. No. 04/158 Permission granted to Pat and Seamus Reilly for Development consisting of a three storey office building consisting of 405 square metres on ground floor, 475 square metres on first floor and 445square metres on second floor, together with associated lobbies, access and escape stairs, lift, toilets and kitchenettes, 23 car parking spaces to rear with undercroft access from the street, a 15 square metre utility/storage room to the rear of the site.

A CPO was confirmed by the Board in respect of File Ref. No. CH3076 on 12th January 2009. The CPO confirmed authorised compulsory acquisition of lands and entitled "Longford Town Council Compulsory Purchase Order (No. 1) 2008 – Economic Regeneration at Townparks, Longford".

9.0 EIS

9.1 Schedule 5 of the Planning and Development Act, 2000 as amended sets out the classes and thresholds of development for which a planning application must be accompanied by an EIS. As such, an EIS is required for the proposed development as the site 'would involve an area greater than 2 hectares in the case of a business district'. An environmental impact statement was submitted with the application and is considered to generally accord with Article 94 and Schedule 6 of the Planning and Development Regulations.

9.2 The EIS contains a non-technical summary, and 21 sections under various headings. Sections 1-3 deal with an introduction, background and details of the proposed

scheme. The need for the proposal is based on achieving the aims of the town development plan by facilitating the regeneration of the town and securing Longford town as a centre of regional importance in terms of services. Section 2.5 sets out the alternatives considered which primarily relates to alternative design schemes for the appeal site.

- 9.3 Section 4 deals with the planning and policy context. Section 5 deals with construction activities and the issue of noise which is of relevance to this appeal is set out in more detail in section 8. Section 6 deals with Traffic and transportation assessment and it is noted that unsolicited information was submitted to the planning authority which dealt with a number of errors that arose and issue pertaining to the Road Safety Audit. Section 7 deal with landscape and visual impacts and sets out that *'the scheme has also been designed with consideration given to the interface of the site with adjoining residential developments to the east and north'*. This issue is dealt with in the assessment hereunder as there are concerns regarding the interface of the proposal and connectivity of the site with the residential developments on St. Mel's Road.
- 9.4 Section 8 deals with noise and mitigation measures during the construction phase are set out in Section 8.5.1. Section 9 deals with air quality. Section 10 deals with climate, daylight and sun-light. Section 11 and 12 deal with flora, fauna, soils, geology and hydrogeology respectively. Section 13 deals with surface water and drainage and Section 13.3.4 sets out that the footprint of the development is located outside the 100 year flood plain but may lie partially within the 1000 year floodplain. Section 14 deals with site utilities and services. Sections 15-17 deal with archaeology, waste management, and human beings. Retail impact is set out in Section 18 and sets out *'its role (Longford) and importance will not be achieved without the tandem relocation of the Longford Shopping centre convenience anchor to the West-Northwest Gateway.'* Section 19 deals with sustainability while other impacts and interactions are set out in Section 20. A summary of all the mitigation measures and residual impacts are set out in Section 21.

10.0 RELEVANT PLANNING POLICIES

10.1.0 National

10.1.1 National Spatial Strategy

Longford Town is identified in the NSS as a county town with 'urban strengthening opportunities'.

10.1.2 Retail Planning, Guidelines for Planning Authorities, 2005

The Guidelines set out a number of policy objectives which include the incorporation of clear policies and proposals for retail development in all development plans, to facilitate a competitive and healthy environment for the retail industry of the future, to ensure accessibility to customers by promoting forms of developments which are easily accessible and to support the continuing role of town and district centres. The guidelines also set out a final objective which is a presumption against large retail centre located adjacent or close to existing, new or planned national roads/motorways.

10.2 Regional

10.2.1 Midlands Regional Planning Guidelines

The Regional Planning Guidelines set out that they are about building on and enhancing the competitiveness and attractiveness of the region that comprises the four Counties of Laois, Longford, Offaly and Westmeath. This will be achieved by focussing on:

- Building up the "Critical Mass" of the region in terms of economic strength, employment, education and population,
- Developing and strengthening the identity of the region,

- Providing better transport and communications connections within the region and between the region and other regions,
- Ensuring both rural and urban areas play their full roles in driving the development of the region in a balanced and sustainable way.

10.3 Local

10.3.1 Longford County Development Plan 2009-2015

Chapter 4 of the County Development Plan refers to economic development. This section sets out that *'it is vital that Longford Town, as the county's principal urban centre continues to develop its retail function to meet expanding shopping needs and to ensure a healthy and competitive retail environment.'*

Section 4.3.6 sets out that *'in order for Longford Town to compete effectively with other urban centres of a similar scale, it is imperative that sufficient high-end comparison shopping is in place in the town core area. The retail strategy review has identified the need for a significant growth of comparison retail provision up to 2015 to address this deficiency and enhance the retail profile of the town core...'*

10.3.2 Longford Town Development Plan 2009-2015

This town plan was adopted in August 2009. The appeal site has a land use zoning objective 'urban regeneration'. The plan sets out the objective *'To primarily provide for mixed use development appropriate to high profile town centre location with an emphasis on the provision of public spaces, civic offices, retail, commercial and amenity uses that maximise pedestrian interaction at street level'*.

Section 4.3 of the plan relates specifically to retail development. Relevant policies pertaining to this file have been enclosed as an Appendix for ease of reference.

Section 4.3.5 of the development plan in relation to the sequential approach has also been included.

Section 4.3.9.1 set out that *'it is the policy of the Council to promote and encourage major enhancement of town centre activities within Longford to enable it to maintain its strategic role as defined in the Midlands RPGs. In order to achieve this it will be necessary to build upon the strong services function of the town and encourage an increase in high-end high street comparison retailing in the core shopping area.'*

10.3.3 Longford Northern Environs Local Area Plan 2008-2014

This plan relates to lands on the northern environs of Longford Town overlapping the town council and the county council areas. It is set out that the LAP is required to support the economic development of Longford, building on the strength of the existing industries which have recently located and expanded in this section of the town.

Whilst this plan is not directly relevant to the appeal in hand, the contents of the plan have been considered having regard to the First Party's assertions that all three concurrent appeals are inextricably linked.

10.3.4 Longford County Retail Strategy 2007-2015

In summary, this strategy identifies that there is scope for the county to improve and enhance the quantum and quality of its retail offer. It concludes that the development of retail offer particularly high end high street comparison shopping is vital if Longford is to remain competitive and to prevent expenditure leakage to centres outside the County.

The strategy includes a series of criteria against which all applications for significant new retail development should be assessed. It sets out that in Longford town all developments of or over 1,000sq.m. gross convenience and of or over 2,000sq.m. gross comparison should be tested by the criteria.

Of note in the strategy is the significant increase in retail warehousing from 2003 to 2007. Section 4.3.1.2 sets out what the main purpose of trips to the town were and

interestingly indicate that 59% of the respondents set out that the first store visited by them was 'Tesco'.

11.0 ASSESSMENT

Having assessed the national, regional and local planning policies, the appeal and all the documentation submitted including the other two concurrent appeals, it is considered that the main planning issues pertinent to this appeal are as follows:-

- 11.1 Context of planning application
- 11.2 Compliance with national and local policies
- 11.3 Design and Layout
- 11.4 Impact on adjoining residential amenity
- 11.5 Duration of permission

The Board should note that traffic and flooding were raised as concerns however these issues have been duly considered and the First Party have adequately addressed them in the EIS and documentation submitted with the application and appeal.

11.1 Context of planning application

11.1.1 There are three concurrent planning appeals submitted all of which would appear to be interlinked. It is noted that the appeal pertaining to this appeal site is in a different name to the other appeals pertaining to a site located to the north of Longford Town. The EIS and planning application details submitted on file for all three applications clearly set out that *"the watermill lane (i.e the appeal in this instance) and the associated reciprocal development of lands for retail purposes in the Northern Environs area jointly comprise a holistic and plan-led linked proposal, which will give full effect to key policies and objectives of both the Longford Town Development Plan and the Longford Northern Environs Local Area Plan 2008-2014.*

11.1.2 The proposal in this appeal is to renovate an existing shopping centre located within the town centre of Longford. It is proposed to provide additional retail floor space, crèche and restaurant including additional car parking spaces. Whilst the documentation submitted for each of the three appeals sets out that the three files are interlinked, it is considered that each must be assessed on their own merits having regard to the policies and objectives of national, regional and local plans and regard must be given to the proper planning and sustainable development of the area. Therefore the contention by the First Party that the works proposed in this application will not proceed unless the application for the retail store on the Northern Environs lands is granted is not considered to be of relevance in assessing the merits of the proposal in this application. Such statements are considered to form part of the overall business strategy of the First Party and are not considered relevant planning considerations in this instance.

11.1.3 Appellants have raised concerns about the issue of perceived "planning gain" in respect of all three applications. The Development Management Guidelines in the last paragraph of Section 7.11 set out that *"Elements of "planning gain" – not strictly required as part of the development but of benefit to the public (e.g. transfer of specified land or buildings for public use) – maybe accepted as part of permitted development. (In such cases, it may be appropriate to refer in the decision to specific application documents that set out the offer). However, it is important to ensure that the decision whether to grant or refuse planning permission is not contingent on an offer of planning gain".* Section 1.3 of the EIS submitted states *'both the subject town centre application and parallel applications for convenience format at Ballinalee Road will be joined by a legally binding agreement between the applicants of both schemes and both local authorities. This agreement provides for a timetable for the phasing and delivery of programme in the town centre, and for the new convenience format at Ballinalee Road.'* Having regard to the fact that this appeal and the appeal pertaining to the hypermarket site (PL.235969) are in different applicant names, albeit sister companies as stated by the First Party, it is considered that there maybe concerns regarding the validity of the condition. Incidentally it is also noted that the landholding

maps submitted with each of the applications do not make any reference to lands elsewhere within the applicant's ownership.

- 11.1.4 It is considered that the proposal in this application, which is essentially for the renovation and construction of additional retail floor space associated with the existing Longford Shopping Centre, should be assessed on its own merits. The proposal in the other two concurrent appeals should not prejudice the adjudication of this appeal.

11.2 Compliance with national and local policies

- 11.2.1 Section 4.3.5 of the Longford Town Development Plan sets out that the locations of retail developments will be assessed against the principles of the Sequential Approach as outlined in the Retail Planning Guidelines. The RPGs clearly set out a hierarchy in relation to the preferred location for new retail developments, which is as follows:-

- a) where practicable and viable, within town centres:
- b) where it is not possible to provide the form and scale of development that is required on a site within the town centre, then consideration can be given to a site on the edge of town centre...
- c) having assessed the size, availability, accessibility, and feasibility of developing both sites and premises, firstly within a town centre and secondly on the edge of town centre, alternative out of centre sites should be considered only where it can be demonstrated that there are no town centre or edge of centre sites which are suitable, viable and available.

- 11.2.2 The proposal in this instance is to provide additional retail floor space in the form of 8 no. additional retail units, crèche, restaurants, it is considered that the principle of the development is acceptable, having particular regard to the town centre location. There is an existing shopping centre on the site and the proposal is effectively to extend the centre and update the existing facades to create a more modern and pleasant streetspace. The Longford Town Development Plan clearly identifies the area in which the appeal site is located as an area for 'urban regeneration'. As such the principle of re-developing the lands in question is acceptable in principle and in line with the policies and objectives of the Longford Town Development Plan.

- 11.2.3 There is an existing convenience anchor store within the shopping centre and it is proposed to relocate this anchor store to an edge of centre site (concurrent appeal PL.235969). As previously stated, the First Party have indicated that the redevelopment of the town site will not occur unless the hypermarket application is successful. Whilst this application is being assessed on its own merits, it is considered that the fact that this redevelopment maybe contingent on another development should not preclude the possibility of securing permission on the site for the development as proposed (the subject of this application). The RIA sets out that *'the objective of the proposed development is to significantly enhance and consolidate the attraction, vitality and viability of Longford Town Centre and not to displace current retail and other commercial activity'*.

- 11.2.4 Chapter 18 of the EIS set out summary of findings and conclusions in respect of retail impact. A full retail and economic statement in support of the application was submitted. Table 1.1 sets out a schedule of floorspace to be retained and proposed as part of this application. Section 1.1.3 of this report sets out that *'of the new net retail floorspace, 1264sq.m. will be convenience and 6,557sq.m. will be comparison. The net retail floorspace is derived from a combination of the Project Architect's floorspace schedule and the application of net to gross ratios appropriate to the type of floorspace. It is the total net retail floorspace that is appraised in the Statement's capacity assessment.'* From a calculation of the floor areas presented in Table 1.1, the new net floor space proposed is 7821sq.m. (which collates with the figures presented by the applicant), however there is a discrepancy between the extent of comparison and convenience floorspace. The total comparison floorspace proposed is 7557sq.m. however the applicant indicates a figures of 6557sq.m. The discrepancy would appear to be in relation to anchor 2 where at this stage it is unclear whether the floor space would be convenience or comparison as there does not appear to be an

agreed tenant at this point in time. Should the anchor tenant for this unit be comparison then the extent of convenience floor space would be 264sq.m. Despite this discrepancy, the figures presented by the applicant have been used to assess the development having regard to the figures contained in the Retail Strategy. As set out in Table 5.14 of the Retail Strategy, the recommended minimum and maximum range of additional floor space for comparison is in the range of 7,000 to 16,000 and the proposal would therefore deliver the minimum range.

11.3 Design and Layout

11.3.1 The town plan sets out that 'this zoning objective provides for the comprehensive redevelopment of this sector of the town, allowing for a broad range of compatible and complimentary uses which will be encouraged to locate in this area and contribute to a dynamic, vibrant and pedestrian focused town centre. A strong urban design approach will be required in all aspects of development in this area.' The design of the overall proposed development is generally considered acceptable. The northern elevation along Great Water Street is considered to be more modern than the existing traditional style of housing along this street. The use of good quality materials will be critical in achieving a design that contributes positively to the streetscape. The front elevation to the existing car-park is to remain largely the same with the addition of minor features to the main entrances. The western elevation (Tesco) is being updated with the introduction of more modern materials. In general, the overall design of the proposed scheme is such that would create a more lively streetscape encouraging pedestrian movements from Great Water Street through to southern section of the site.

11.3.2 The main concerns that arise with regard to the proposed layout is the proposed pedestrian link from St. Mel's Road into the development. At present vehicles can access the car parking area from St. Mel's Road. The proposal in this application would mean that only pedestrian access would be available for the general public as vehicular access would be restricted to service vehicles only. The pedestrian area is quite narrow and would be located between an existing laneway (referred to as a 'right of way' in appeal submissions) and the proposed boundary treatment to the service area. There are schools in the locality and it was noted at time of inspection, that numerous students use this route to and from the town centre. Therefore, the creation of a vibrant streetscape with adequate surveillance is critical to ensure that this pedestrian route is retained and anti-social behaviour does not become an issue. It is noted that the first party set out that this area would have security cameras and lighting however from an urban design perspective it is considered that a redesign of this area would be the best solution creating a more functional and vibrant streetscape.

11.3.3 In essence it is considered that the proposed scheme should be revised such that the public access i.e. footpath is designed whereby there is optimal passive and active supervision. There should be a clear line of vision from the St. Mel's Road access into the appeal site. Alternatively the retail units proposed at this location should be designed with dual frontage and the footpath should be re-designed such that would encourage people to use the route with appropriate lighting, et al. It is considered that should permission be considered favourable in this instance, then the proposed retail units and restaurant along the eastern boundary should be omitted. The proposed adjoining service area to the retail unit should also be omitted. The switch-room, generator and double substation will also have to be either re-located or omitted.

11.4 Impact on residential amenity

11.4.1 The third party appellants have raised concerns in respect of residential amenity and overshadowing. The greatest potential impact on residential amenity would appear to be on the existing residential apartment block located along Rue Noyal Chatillion. It was not possible to gain rear access to this site at time of inspection. It was noted that there was car-parking located at surface level to the rear. The proposed layout provides for a central courtyard at this location. Having regard to the layout and that the main building line of the structure has been stepped back at this location it is considered that the proposal would not have an undue negative impact on the

residential amenity of these properties particularly given the town centre location of the residential units.

- 11.4.2 Concerns have been raised regarding the impact of the overall structure on properties along St. Mel's Road. However there is over 40 metres separation distances between the building line of the retail units and the rear building lines of dwellings along this road. Appendix 10.1 of the EIS refers to a daylight and sunlight assessment carried out by a specialist in this field. However whilst it is considered that the loss of light would be negligible to neighbouring properties the main concern is over-shadowing arising from the proposed development which has not been addressed in the EIS.
- 11.4.3 It is noted that Section 3.3. of the Urban Design and Architecture report submitted with the application specifically refers to the issue of overshadowing and overlooking. Whilst shadow impacts diagrams have not been submitted, it is considered that there is adequate distance from the proposed development to nearby properties to ensure that undue overshadowing does not occur. This issue can also be ameliorated through the omission of the retail units and restaurant as suggested in paragraph 11.2.5.

11.5 Duration of permission

A planning report was submitted with the original application and sets out that a '7 year permission is sought in order to allow the phased development of the scheme over a reasonable and realistic timeframe having regard to scale and complexity of the proposal'. However this time frame would appear to have been suggested to allow time for the concurrent proposal for the hypermarket to be constructed and for the town centre site then to be re-developed. However as this application pertains to the town centre site only, and there is would be no time-delay with relocation of the anchor tenant, then a 5 year permission is considered appropriate.

12.0 Conclusion

The appeal site is a town centre site with a land use zoning objective 'urban regeneration'. There is an existing shopping centre on the appeal site with several access points to and from the main street. It is considered reasonable that the proposal to renovate and provide additional retail floor space on a town centre site is acceptable in principle. The main concern in respect of the proposal is the impact the proposed retail units would have along the eastern boundary and as such it is considered that this issue could be dealt with by way of condition.

13.0 Recommendation

It is recommended that permission be **granted** for the subject development subject to the conditions set out hereunder.

Reasons and Considerations

Having regard to the zoning objective of the appeal site, the provisions of the Longford Town Development Plan 2009-2015 and Longford County Retail Strategy 2005-2015, the existing development on the appeal site and the nature of developments in the immediate vicinity of the site it is considered that the proposal is acceptable and subject to the conditions set out hereunder the proposed development would not be contrary to the proper planning and sustainable development of the area.

Conditions

1. The period during which the development permitted by this Order may be carried out shall be 5 years from the date of this Order.
Reason: In the interests of clarity.

2. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 17th November 2009 except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

3. Prior to commencement of development, the developer shall submit revised plans to the Planning Authority which provide for
 - a. The omission of the 2 no. retail units and the restaurant along the eastern boundary of the appeal site as indicated on drawing no. 2012. The double sub-station, switch-room and standby generator shall also be omitted. These areas shall be dedicated to additional car parking spaces.
 - b. The service area shall be revised such that the service gates are relocated at least 4 metres west of the indicated position on drawing no. 2012.
 - c. A 2.5 metre high boundary wall/railing shall be constructed from the service gate in a westerly direction to the gable of the shopping centre.

No development shall commence on site until the revised plans have been agreed with the Planning Authority and written approval confirming these details has received.

Reason: In the interests of protecting existing residential amenity and ensuring adequate surveillance of a public footpath.

4. The existing library structure shall only be demolished upon completion and operation of the new library area within the proposed development.

Reason: In the interests of continued civic amenity

5. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to the planning authority for agreement and such agreement obtained prior to commencement of development.

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

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

Reason: In the interest of the amenities of the area/visual amenity.

7. No external security shutters shall be erected on any of the retail unit premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any enactment amending or replacing them, no development or placement of signage, or any advertising material including banners, canopies, flags, or other projecting elements shall take place within the curtilage of the proposed commercial development including any of the retail units, without a prior grant of planning permission other than indicated on the submitted drawings.

Reason: In the interests of visual amenity.

9. The site shall be landscaped in accordance with a scheme of hard and soft landscaping, details of which shall be submitted to the planning authority for written agreement, and such agreement obtained, before development commences. The scheme shall include a timescale for its implementation.

Reason: In the interest of visual amenity.

10. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Fully detailed layouts and calculations in respect of both foul and surface water drainage shall be submitted to the planning authority for agreement prior to commencement of development.

Reason: In the interest of public health and to ensure a proper standard of development.

11. Details relating to provision, modification or reconstruction of the public footpaths to facilitate the proposed development shall be carried out at the applicants expense in accordance with the detailed requirements of the planning authority for such works

Reason: In the interest of amenities and public safety.

12. Public lighting, turning bays and parking areas shall be in accordance with the detailed requirements of the planning authority for such works.

Reason: In the interest of amenities and public safety.

13. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

14. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed:-
- (i) An L_{AeqT} value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. [The T value shall be one hour.]
 - (ii) An L_{AeqT} value of 45 dB(A) at any other time. [The T value shall be 15 minutes]. The noise at such time shall not contain a tonal component.
- (b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with respect of Community Response" as amended by ISO Recommendations R 1996 1, 2 or 3 "Description and Measurement of Environmental Noise" as applicable.

Reason: To protect the residential amenities of property in the vicinity of the site.

15. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interests of sustainable waste management.

16. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management and safe disposal of all waste and demolished material (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

17. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the [residential] amenities of property in the vicinity.

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

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

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

Joanna Kelly
Inspectorate
5th October 2010