



An
Bord
Pleanála

Inspector's Report PL06S.247283

Development

The development will consist of a mixed leisure, entertainment, commercial and retail extension to the existing Liffey Valley Centre. The proposal incorporates the provision of an ice rink designed for international standard ice related activities and the provision of a new east west street.

Location

Liffey Valley Shopping Centre

Planning Authority

South Dublin County Council

Planning Authority Reg. Ref.

SD16A/0027

Applicant(s)

Hines Real Estate Ireland Ltd.

Type of Application

Permission

Planning Authority Decision

Spilt Decision

Type of Appeal

First and Third Party

Appellant(s)

Hines Real Estate Ireland Ltd

The Moriarty Group

An Taisce

Observer(s)

None.

Date of Site Inspection

5th January 2017

Inspector

Joanna Kelly

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	6
3.0 Planning Authority Decision.....	7
3.1. Decision	7
3.2. Planning Authority Reports	8
3.3. Prescribed Bodies.....	12
4.0 Planning History.....	14
5.0 Policy Context.....	16
5.1. Regional Planning Guidelines for the Greater Dublin Area 2010-2022	16
5.2. Retail Strategy for the Greater Dublin Area 2008-2016.....	16
5.3. Smarter Travel, A New Transport Policy for Ireland 2009-2020.....	17
5.4. Transport Strategy for the Greater Dublin Area 2016-2035	17
5.5. South Dublin County Development Plan 2016-2022	18
5.6. Liffey Valley Town Centre Local Area Plan 2008-2014	18
6.0 The Appeal	19
6.1. Grounds of Appeal	19
6.4. Applicant Response to third party appeals.....	32
6.5. Planning Authority Response	34
7.0 Assessment	35
7.1. Compliance with Statutory Plans.....	36
7.2. Retail Impact Assessment.....	37
7.3. Urban Design	38
7.4. Components of the proposed development	40

7.5. Traffic and Transportation 42

7.6. Environmental Impact Assessment 52

7.7. Appropriate Assessment 56

7.8. Special Financial Contribution..... 59

7.9. Award of Costs..... 62

8.0 Recommendation..... 62

9.0 Reasons and Considerations..... 62

1.0 Site Location and Description

- 1.1. The existing Liffey Valley Shopping Centre (LVSC) is approximately eight kilometres north of Tallaght (the county town) and eight kilometres west of the City Centre. The LVSC site is immediately to the west of the M50 motorway at junction 7 and to the south of the N4 National Primary Route. The appeal site has a stated site area of approx. 9.35 hectares and is located to the southern extremity of the existing retail site bounding Ascail an Life road. The appeal lands comprise of brownfield lands which would appear to have soil deposited on them over time, resulting in varying levels across the lands and has now become grassland.
- 1.2. The existing shopping centre is a low rise suburban inward focused mall dominated by surface car parking. The LVSC is encircled by a distributor road network, with a series of roundabouts located at key intersections with local and regional roads. The nearest residential development is Greenfort Lawns/Quarryvale Park located immediately south-west of the centre on the opposite side of the Ascail an Life road. Developments to date south of the appeal lands are in the main retail warehousing type developments such as B & Q. The Barkhill Retail Park, which also contains a McDonalds restaurant, is located south of the appeal site, along Ascail and Bothar. There is an extant permission (PL.240473) for a Tesco foodstore with a number of retail units immediately south of the appeal site which has not yet been implemented. Access to this site was permitted off the roundabout serving B & Q retail store.
- 1.3. Primary access to the LVSC is currently via the Fonthill Roundabout in close proximity to the M50/N4 interchange. There is an existing Clarion hotel along with other commercial uses such as restaurants and a motor mall to the north-west of the shopping centre. These lands are outside the retail area identified in the LAP.
- 1.4. The appeal site is irregular triangular shape located behind the existing shopping complex. Demolition of some existing structures to the rear of the existing LVSC is proposed so as to integrate the proposal with the existing structure. The proposal provides for the creation of a new east-west link street that will be located immediately north of the recently permitted foodstore. A new civic plaza is also

proposed at this location with increased pedestrian and cycle facilities linking the residential areas to the south and west of the LVSC back to the main urban centre.

2.0 Proposed Development

- 2.1. The development will consist of a mixed leisure, entertainment, commercial and retail extension to the existing Liffey Valley Centre in the form of three integrated structures organised around a public plaza and pedestrian friendly east-west street with parapet levels varying between c.15m and c. 18m above street level.
- 2.2. The scheme provides for a leisure arena (c. 10,567sq.m. gross) consisting of an ice rink, designed for international standard ice related activities but also allowing the flexibility for other similar type events with the capacity to seat up to 2,500 persons, associated service, storage and changing facilities. A dance studio, gym and local community office are also provided at ground level with direct access from the east-west street.
- 2.3. A multi-functional open area is also being provided immediately east of the arena to accommodate occasional events, activities, and coach parking:
- 2.4. A 2-3 storey extension is proposed to the existing Centre (c. 51,545sq.m. gross) providing for mixed leisure and entertainment units (c. 4,217sq.m gross), food/beverage units (c. 4,535sq.m. gross), retail units (c. 29,732sq.m.) and all ancillary space, circulation areas (c. 12,023sq.m. gross) and a basement service area (c.1,038sq.m. gross).The main retail area will be anchored by 2 stores over three floors (comprising a total of c. 13,993sq.m. gross) located on either side of the public plaza. A local Garda Office and affordable retail units are also provided in the main retail area.
- 2.5. The proposal also provides for a central public plaza fronting onto the east west street covered with a large glass canopy in the form of a curved gridshell structure. This structure will be the tallest part of the proposal at a height of 20m above street level.
- 2.6. A multi-storey car park is also proposed over 4 levels providing c. 1,820 spaces. located to the east of the extension area and north of the leisure arena. It is this element of the proposal that the planning authority refused.

2.7. There is approximately 1,679sq.m. of existing gross floorspace to be removed/demolished over ground and first floor to facilitate extension. The proposal provides for ancillary site works, plant provision, utility connections, landscaping etc. New toucan crossing points are proposed at the western end of the east-west street to provide connection to the existing footpath and cycle network on Ascaill an Life. A new roundabout is also proposed at the entrance to the multi-storey car park on the eastern boundary.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted permission subject to 21 conditions for the proposed development save for the multi-storey car park which was refused for four reasons as follows:

1. The applicants have **failed to demonstrate** how the existing and proposed car parking provision would **comply with section 11.4.2 car parking standards of the County Development Plan 2016-2022**. The Planning Authority considers that the existing level of car parking is consistent with the requirements of the South Dublin County Development Plan 2016-2022 for both the current and proposed development. It is therefore considered that the proposed multi-storey car park **would result in excessive levels of car parking which would encourage unsustainable travel modes** and would be inconsistent with national and regional planning policy and as such would **materially contravene the provisions of the current County Development Plan** and be inconsistent with the proper planning and sustainable development of the area.
2. The proposed multi-storey car park, being in excess of development plan policy requirements, would **set an undesirable precedent** for other similar developments, which would in themselves and cumulatively be **harmful to**

the residential amenities of the area and be contrary to the proper planning and sustainable development of the area.

3. The planning authority is **not satisfied that the applicants have adequately or correctly demonstrated the impact of the proposed 4 level car park on trip generation or distribution** and therefore considers that the proposed level of parking in excess of current development plan standards could have an **unacceptable impact on the surrounding road network**.
4. The planning authority is not satisfied that the applicants have adequately or correctly demonstrated the **impact of the proposed level of parking on queue lengths** and therefore cannot support the proposed level of parking.

3.2. Planning Authority Reports

3.2.1. Planning Reports

23rd March 2016

- Uses permitted in principle given zoning.
- A number of submissions in favour of the application were noted. Objections to the development were also noted.
- The proposal would contribute to facilitating the continued development of the centre and would add to the vitality and viability of the centre.
- It is generally accepted that the level of diversion identified in the RIS would be acceptable and would not cause significant adverse impacts on Dublin City Centre or other existing level 2 centres.
- The planner recommended that further information be sought in respect of traffic; parking; public realm and mobility; hours of operation; landscaping; biodiversity; energy and water supply and drainage be sought.

The subsequent planner's report dated 22nd August 2016

- Summarises internal reports regarding further information.
- Responds to the additional information
- Concludes that the applicant responded satisfactorily to the additional information request and that outstanding issues can be dealt with by way of condition.
- Recommends refusal of the multi-storey car -park for four reasons and a grant of permission for remainder of the development.

3.2.2. Other Technical Reports

Water Services Report

No objection subject to conditions

Environmental Health Officer

EPA and Local Authority data in Ireland has indicated that SO₂, smoke and CO are unlikely to be exceeded at locations such as the Liffey Valley site and thus this office is not unduly concerned about these pollutants causing a problem. The applicant has proposed suitable mitigation measures to be employed to ensure fugitive noise is not a problem to surrounding residential properties. The proposal is acceptable subject to conditions.

Environment, Water & Climate Change

Proposal is acceptable subject to conditions relating to waste management

Urban Design comment

The report sets out a response to each of the criteria identified in the Retail Design Manual. In summary it is set out that the proposed development directly addresses a new east-west street providing an enclosed, overlooked and active urban street. This

approach is strongly encouraged by the LAP which seeks to urbanise the Liffey Valley precinct and externalise activity from the shopping centre. It is noted that there are a number of pedestrian/cyclists mobility issues that need to be addressed. External finishes are to be agreed.

Parks and Landscape Services

Further information recommended so as to agree a landscaping plan.

Roads Report

Response to further information

- The requested trip rate similar to west end was not used.
- The opening year plus 5 and 15 years were not analysed.
- No assessment of Coldcut Road/Spine Road C junction or N4/Fonthill Road junction were carried out for the new survey or requested trip rates.
- An assessment for the worst case weekend period was carried out between 3pm and 4pm which is inconsistent with the Systra Trip rates which show the weekend peak is between 1-2pm.
- The maximum ratio of flow to capacity was 0.96 which is very high and is beyond acceptable levels.
- There is ambiguity regarding trip generation and trip distribution.
- Concerns raised about some of the methodology and assumptions used in systra report.
- The Council disagree with the assumptions on new trip rates set out in the unsolicited information submitted in August 2016.
- Trip rates associated with the ice rink are inconsistent.
- The Arcady analysis for St Loman's roundabout and the Fonthill Retail roundabout show for the opening year extremely high queuing rates and significant delays occurring on the network. No proposed mitigation was included in the submission.

- The unsolicited additional information did not correctly demonstrate the effects of the development and an event in the ice skating rink on the road network.
- The St. Loman's and Retail Park roundabout were modelled as signalised junctions where it was used to show that signalisation had little benefits. However, the results are unacceptable as the signals were modelled as individually staged arms. There is no junction in SDCC with this signal layout due to its major inefficiencies.
- The applicant employed town centre parking to assess the parking. No timeline for implementation of paid parking is given. The Council consider the charging regime should be in line with Dundrum and after 7pm the barriers should be raised.
- The total required spaces for the existing development is 2,141 having regard to current standards. The requirement for the proposed development is 1,335 giving a total of 3,476 spaces. The existing car park has 3,579 spaces. The applicant is proposing to construct a 1,820 multi-storey car park which is considered excessive and should be refused.
- The NTA asked for a review of parking provision, including an assessment of future demand based on a future mode share agreed with the NTA and TII which was not done.
- No details of proposed bus service are provided.
- The Roads Section consider that the traffic can be actively managed by the provision of signalised junctions at St. Loman's roundabout and the Fonthill Retail Roundabout.
- Reference is made to the O'Connor Sutton Cronin reviews undertaken to consider various scenarios for the roundabout upgrades and also the costs of upgrading the two roundabouts which was estimated at €7,707,920. €5 million was estimated as a reasonable cost of contribution towards a section 48 special contribution.
- The report recommends a refusal of the car-park and conditions to be attached to any grant of permission for remaining development.

3.3. Prescribed Bodies

Inland Fisheries Board

No objection to the proposal subject to conditions.

Department of Defence

No objection

Department of Arts, Heritage and the Gaeltacht

Based on the EIS conclusions, there are no archaeological objections to the development subject to the implementation of the proposed mitigation for archaeological monitoring in section 15.6 of the EIS.

National Transport Authority

Response to initial application

- NTA broadly supportive of on-going development of Liffey Valley as a Major retail centre. The Authority is concerned about the impact of the proposed development on the carrying capacity of the adjacent national roads and the potential for public transport, and walking and cycling to play a significant role in the operation of the development.
- The Authority recommends that the applicant and Liffey Valley Management review parking provision as a whole for the existing, proposed and likely future uses at the centre. In the absence of such a review the proposed development would be inconsistent with the NTA policy and the Draft Transport Strategy for the GDA.
- The Authority is concerned with the pedestrian and cycling environment within Liffey Valley and recommend a coherent plan is put in place to cater for these modes across the centre in advance of a grant of permission.

Response to further information

- Applicant has not undertaken a review of the parking requirement
- The assumptions underlying the parking details has not been explained.
- Revised pedestrian and cycling facilities show no improvement on the original application.
- The Authority recommends a full review of the transport infrastructure proposed as part of the application.

An Taisce

- The proposal has a significant individual and cumulative impact on climate, air quality, traffic generation, surface water run-off in the area and retail impact on Dublin City Centre.
- The proposal to extend LVSC and develop a car park would promote an unsustainable pattern of development and exacerbate car dependency and transport generated emissions.
- The subject site is contrary to the key policy objectives of the Retail Planning Guidelines, 2012. There would be potential impact on the retail base in Dublin City Centre, and retail and other services in west Dublin.
- The proposed development would be contrary to Smarter Travel Policy guidelines in generating additional inappropriate retail traffic on the M50 and N4.
- Council should have regard to Climate Action and Low Carbon Development Act 2015 and the Planning Acts.
- Reference is made to the worsening traffic congestion around Dublin.

Transport Infrastructure Ireland

- The documentation submitted does not demonstrate that the current development proposal alone or in conjunction with permitted and planned development will not create an adverse impact on the safety, carrying

capacity and efficiency of the national road network due to the lack of roads upgrade proposals, appropriate mitigation measures and improved transportation infrastructure required to facilitate development.

- Public transport provision remains deficient in the area and therefore access to development in Liffey Valley remains reliant on the private car utilising national road network N4 and M50 which is one of the most heavily trafficked area in the country.
- Conditions on the M50 are at a stage where relatively minor increases in traffic volume can result in significant impacts in terms of congestion at many times of the day and the week and not just during “typical” peak hours.
- The traffic and transportation assessment and preliminary stage mobility management plan does not adequately demonstrate that the proposed development alone or in conjunction with permitted and planning development will not undermine operational efficiency and capacity of the N4, the N4 Fonthill Road interchange and the M50.
- The Authority considers that conditions in relation to demand management measures of a previous permission now need to be addressed.

Irish Water

No objections subject to conditions

4.0 **Planning History**

The planning history associated with Liffey Valley Shopping Centre is extensive and it is not proposed to provide such an exhaustive list but rather capture the relevant and pertinent applications.

The parent permission pertaining to the overall Liffey Valley Shopping Centre site would appear to be PL. 06S.093483 which provided for a district town centre development, cinema, 34 industrial/warehouse/office units, 157 bedroom hotel,

petrol filling station, leisure centre including swimming pool. It is noted that there was a retail floor cap of 23,500sq.m. applied by condition. There have been many alterations over the years to this parent permission.

File Ref. No. PL.06S.235942 (Planning Authority Ref No. SD09A/0161)

Planning permission refused on appeal for a mixed use retail, commercial and civic/community development with a total combined gross floor area of 68,537sq.m. on a 18.08 hectare site comprising a retail extension of 60,745sq.m. gross floor area (net comparison retail floor area is 28,406sq.m.) and a new civic quarter 7,792sq.m. gross floor area with car parking provision of 2,658 car parking spaces. The application also provided for road and junction improvement works and pedestrian crossings.

Planning permission was refused for a reason pertaining to the

“inappropriate design in the civic core area and the provision of a surface car park in particular in an area which is a key entrance point for the planned new town centre. The proposal fails to provide a strong landmark feature in this location, does not facilitate adequate street/ground level activity along key frontages, and does not provide adequate enclosed/definition on the northern side of the proposed Civic Plaza.”

The proposal was not considered to accord with the provisions of the Local Area Plan.

File Ref. No. 06S.240473

Permission granted to Tesco Ireland for development of a licensed retail anchor store, café, retail service unit and five retail units to the south of the appeal site. This development would front onto the new east-west street. Pursuant to site inspection this site remains undeveloped.

File Ref. No. 06S.242026

Permission granted for a development consisting of a 3 storey building along the northern elevation of the 'west-end' of the shopping centre which consists of a 3-storey retail unit (6,640sq.m.), 6 restaurants laid out over 3 stories, new double height entrance to cinema and a new entrance lobby to existing western entrance to main shopping centre, new own door retail unit adjoining proposed entrance lobby to main shopping centre. The proposal also provided for ground floor extension to the cinema, a two storey goods loading building and creation of a broadly elliptical civic open space to the north of the proposed 3 storey restaurant/retail extension and use of the western end car park as a temporary event area. This development has been constructed and is operational.

5.0 Policy Context

5.1. Regional Planning Guidelines for the Greater Dublin Area 2010-2022

These guidelines set out the vision for the GDA as an economically vibrant, active and sustainable international Gateway Region, with strong connectivity across the GDA Region, nationally and worldwide.

5.2. Retail Strategy for the Greater Dublin Area 2008-2016

These Guidelines indicate that the Liffey Valley Shopping Centre is designated as a Level 2, Major Retail Centre located within the Metropolitan area. The Guidelines set out that it is very important that in order to achieve a sustainable and inclusive strategy such centres offer the widest access to shopping activities for the greatest number of people. The Strategy sets out Council specific recommendations, the relevant one is as follows:

*“to facilitate the continuing development of the Liffey Valley Centre at Quarryvale as the second major town centre in the County by **upgrading the urban form of the town centre area** to provide for **the development of new streets and civic spaces**, and a range of people intensive uses appropriate to a major town centre based on **high quality urban design**. Part of this will facilitate the continuation of a strong retailing sector in this*

centre to meet the needs of its catchment within South Dublin and support the future vitality and viability of the centre.” (my emphasis)

Paragraph 4.27 sets out that Liffey Valley trades well, but is in danger of becoming less competitive because of its smaller size and more limited retail offer. In the 2001 Strategy it was recommended that future retail growth in the South Dublin Council area should generally be directed into Liffey Valley. Whilst there was expansion of retail warehousing in the Liffey Valley area, no expansion of non-bulky comparison shopping or of convenience shopping took place.

5.3. Smarter Travel, A New Transport Policy for Ireland 2009-2020

Chapter 3 the Government reaffirms its vision for sustainability in transport and sets out five key goals: (i) to reduce overall travel demand, (ii) to maximise the efficiency of the transport network, (iii) to reduce reliance on fossil fuels, (iv) to reduce transport emissions and (v) to improve accessibility to transport.

Importantly, this document emphasises that “commuters will only begin to consider a shift from car to bus transport when the advantages of the bus are greater than those of the car” (p 40)

5.4. Transport Strategy for the Greater Dublin Area 2016-2035

This transport strategy provides a framework for the planning and delivery of transport infrastructure and services in the GDA over the next two decades. It sets out that it is an essential component along with investment programmes in other sectors, for the orderly development of the GDA over the next 20 years. Key messages contained in the strategy, include inter alia, that transport must be a key consideration in land use planning; in the short term, funding for large-scale transport projects will be limited; addressing urban congestion is a priority; the capacity of the strategic road network must be protected.

5.5. South Dublin County Development Plan 2016-2022

Liffey Valley Shopping Centre, a Major Retail centre and Level 2 Retail Centre in the Retail Strategy for the GDA is located at the eastern periphery of the Lucan area.

Section 5.2.2 sets out the retail hierarchy. Liffey Valley Shopping Centre is identified as a Level 2 centre. These centres should be well connected and served by high quality public transport, and should be serving population catchments in excess of 60,000 people.

Section 5.3.0 sets out overarching retail policies which are examined in more detail in the assessment section of this report.

Chapter 6 of the development plan deals with Transport and Mobility. The overarching policy of the Council is to promote the sustainable development of the County through the creation of an integrated transport network that services the needs of communities and businesses. An identified action is the preparation of a Local Access Study for the Liffey Valley Retail Centre that also incorporates the Palmerstown, North Clondalkin and South Lucan communities and that takes full account of the need to regulate motorised traffic within these communities relative to the Liffey Valley Retail Centre, no later than two years after the 2016-2022 County Development Plan is approved.

5.6. Liffey Valley Town Centre Local Area Plan 2008-2014

This plan was extended for a further four years and as such remains the statutory plan until March 2018. The vision statement is:

“To facilitate the development of Liffey Valley as a vibrant and sustainable Town Centre and a place where the whole community can avail of the highest standards of employment, services and amenities. To ensure that Liffey Valley Town Centre is characterised by an attractive

built environment, good connections and accessibility and that Liffey Valley is a place where people choose to be and can be proud of”.

The LAP identifies the appeal site as being within the retail core.

6.0 The Appeal

6.1. Grounds of Appeal

First Party Grounds of Appeal

The main points are summarised as follows:

- Response to reason no. 1 for refusal: The basis for the conclusion that the multi-storey car park represents a material contravention is by way of an assessment of a permitted development that did not form part of the planning application and was not located within the proposed development site. This fundamentally contravenes that which its own policy documents provide for. *“A proposed development can only materially contravene the CDP based on the proposals that are submitted for assessment and not by way of previously permitted development that did not form part of the proposals.”* The existing parking at Liffey Valley was approved as part of another development that was compliant at the time with the CDP.
- Reference is made to case law in this regard *Maye v. Sligo Borough Council* (2007) I.E.H.C. 146; *Roughan v. Clare County Council* (Unreported, High Court, December 18, 1996), *Barron J.*; and *Wicklow County Council v. Forest Fencing*. It is concluded that there is no basis for the determination that a material contravention of the Development Plan has occurred.
- Reference is made to the recent adoption of the current development plan and that it is reasonable to assume that its contents are consistent with current national and regional planning policy. There is an obligation on the local authority to ensure that detailed policies and objectives are consistent with national and regional policies.

- The appropriateness of a multi-storey car park as a land use on the site is acceptable having regard to the zoning objective. It is set out that this element of the Manager's Order / Planner's report was prepared prior to the adoption of the current CDP at which point the site was zoned "town centre". However, under the Major Retail Centre zoning for the site it is reasonable to assume that the opinion on the Local Authority would have remained the same.
- Should the use "car park" not have been deemed suitable at Liffey Valley then it would not have been included as a use that was "permitted in principle". Reference is made to *Byrne v. Fingal County Council* where it was that out that as the land use in the case was expressly included as one of the acceptable uses under the relevant zoning objective there was no question of material contravention.
- It was not the intention of the applicant to maximise the number of car parking spaces associated with the Liffey Valley Plaza Scheme. The car parking standards set out in the CDP are based on gross floor figures. Therefore, a strict application of parking standards would require the inclusion of the additional 12,023sq.m. of ancillary space, management offices etc. that were not included.
- It was considered that there was a degree of interpretation needed in the interests of responding to the spirit of the parking standards in the CDP. The intention was to balance the need to promote greater use of sustainable modes of transport whilst making provision for the number of spaces that are reasonably needed to service the proposed scheme.
- With regard to the ice arena, the actual parking requirement for an ice arena has been assessed by NRB Traffic Consultants and found to be in the order of 1249 spaces as opposed to the 167 which would be required through the application of the CDP standards.
- The proposed Liffey Valley Plaza Scheme has taken account of the relevant development standards and provided the exact quantum of car parking that was required under the current development plan.
- The footprint of the Liffey Valley Plaza Scheme incorporates a site that currently provides 204 no. parking spaces for the existing centre and these

spaces will be permanently lost as part of the proposed development. There was an oversight in the initial planning documentation submitted to the local authority where the loss of these spaces were not factored into the assessment of car parking provision. These permitted spaces could be incorporated into the proposed multi-storey car park.

- There are unanswered questions in relation to the approach taken by the local authority to retrospectively assessing the existing Liffey Valley Centre and its associated car park in light of current CDP standards. The car parking associated with the existing centre has the benefit of full planning permission.
- The Liffey Valley Plaza scheme is a new development and the quantum of car parking spaces in the multi-storey car park is provided to facilitate the new development and that location.
- Proposals for a multi-storey car park were submitted as part of the Liffey Valley Plaza scheme broadly in line with what was envisaged in the LAP.
- The grounds of appeal provide a response to section 37 (2) (b) (i) of the Planning and Development Act in the event that the proposal is considered to be a materially contravention of the plan. It is submitted that as recognised at both local and regional level the Liffey Valley lands are of strategic importance. The Planning Authority has taken a different interpretation with regards to the provision of car parking at Liffey Valley by way of refusing the multi-storey car park. The decision contradicts provisions set out in the CDP and the LAP specifically sets out the requirement for a multi-storey car park. Overall the provisions of section 37 (2) (b) (ii) of the Act as amended apply in the current case as the objectives of the CDP appear not to be clearly stated given that the Planning authority has taken a very different view on key objectives in this instance. Reference is also made to recent applications that were permitted where there was an oversupply of car parking spaces thus establishing a clear pattern allowing the Board to utilise its powers under section 37 (2) (b) (iv) of the Act.
- A transport related response in respect of the first reason for refusal is also outlined. The response supports the planning case and provides a transport justification for the multi-storey car park.

- A parking management plan can be implemented from the outset. This would be linked to mode share targets for sustainable travel based on a bi-annual review of the effectiveness of the parking control system as improvements to the sustainable transport network are delivered.
- The inclusion of the multi-storey car park as part of this application not only responded to an actual need but considered the type of uses proposed and location of same. It is crucial that parking is provided adjacent to the ice arena and that the peak events which would not coincide with AM or PM peak traffic are accommodated.
- The provision of inadequate parking for the overall scheme will have consequences for the commercial success of the ice arena. The car park is an integrated and fundamental part of the design.
- Tables are provided detailing car park occupancy results. It is set out that the extended centre will require at least 20% additional parking due to increased trading, for the normal Saturday Trading period, this would result in a requirement for a 3,950 parking spaces (3,289 plus 20%).
- The quantum of car parking spaces is not excessive and is required from an operations perspective. It strikes a balance between providing for the typical peaks during the year, whilst being able to safely manage but not overprovide for the annual peaks. It is based on a scientific needs based assessment for the proposed development including the unique ice arena. The local authority's decision is based on generic development plan standards that do not factor in c. 12,023sq.m. gfa of ancillary circulation space, management offices and mall areas and uses 'stadium' as the standard for the Ice Arena, which significantly underestimates its requirements.
- Response to Reason no. 2 – It is unclear how the proposal would provide an undesirable precedent for other similar developments. The inclusion of the ice arena is a distinct element of the scheme which in itself means that precedence is not possible. It is unlikely that an ice arena would be developed anywhere else as the full capital cost of development has to be subsidised by the developer.

- The provision of a multi-storey car park associated with the Liffey Valley Plaza scheme will set a desirable precedent in terms of the efficient use of land and the sustainable development of a strategically located brownfield site.
- The extent to which the multi-storey car park would in itself and cumulatively be harmful to the residential amenities of the area is unclear. It is reasonable to conclude that the proposed car park has been located adjacent to the use it is proposed to serve so as to avoid impacting on residential amenity. An undersupply of car parking equally can have an adverse impact on residential amenity.
- Reason no. 3 for refusal: This reason for refusal seeks to link parking provision and trip generation which in itself is an incorrect approach but its inclusion in the reason necessitates a review of how the planning authority arrived at such a conclusion. Appendix B provides a detailed response prepared by Transport Consultants NRB and SYSTRA to the issues raised around trip generation, congestion, modelling, database etc.
- The decision to refuse permission would appear to have been influenced by both the NTA and TII to some degree. The Liffey Valley Centre with the proposed development would have a parking ratio of 1:20 which is under provided for when compared to Tallaght (1:14) and Blanchardstown (1:18). Under-provision of parking may encourage visitors to travel to other centres resulting in unsustainable travel patterns. An evidence based approach was undertaken by traffic experts in order to obtain a percentage figure for new trips which is not just based on a single approach but on two separate methodologies that have been used successfully to calculate the percentage of new trips for other major retail expansions.
- The basis for refusal reason 3 is the assumption that car parking is in excess of development plan standards which is not the case. The refusal is grounded on the misinterpretation of the use of the NTA's ERM model and the association of car parking spaces directly with trip generation.
- The levels of trip generation have been demonstrated as being acceptable and will not give rise to traffic impact.

- Refusal reason no. 4: This reason for refusal focuses again on the assumption that parking spaces generated traffic which will result in queuing. The reason for this refusal is similar to reason no. 3. The issue of queue lengths was considered from the outset in the design process. The need to avoid queues directly informed the design of the multi-storey car park, operational initiatives and the use of a Variable Message System (VMS).
- The overall plan for Liffey Valley is to provide a permeable and accessible development with a multitude of access points and demand-driven alternative transport-mode availability, all accommodated and facilitated in the design concept. The existing car parks are currently inefficient and result in long and inefficient search times, primarily due to the lack of operational VMS.
- The Planning Authority and OCSC are forecasting a significant increase in car traffic generated as a result of the development, however, they have refused the multi-storey car park. Therefore, this will result in further increased congestion, overspill parking and frustration with the resulting adverse impact on local traffic conditions and driver frustration.
- It is set out that providing adequate car parking in tandem with a VMS system will serve to significantly reduce vehicle queues and delays. It is set out that many drivers to Liffey Valley are very much unaware of the permeability and accessibility of the centre from the south via Coldcut Road and their actual ability to ‘circumnavigate’ the entire Centre through the use of the existing spine road (which is an effective ring road around Liffey Valley). This currently has the effect of focussing and concentrating all vehicular arrivals and departures in one location.
- The response summarises points already made but also highlights that ABP may wish to add or remove spaces from the car-park however indicates that the ground and first floor of the multi-storey car park are crucial to the design as they integrate into the ice arena, food and beverage area and public plaza.
- Appeal against Special Financial Contribution – Condition 18 requires the payment of a Section 48 (2) (c) development contribution of €5,000,000 for traffic related infrastructure upgrades. It is submitted that the condition is unjustified and are requesting that the condition is removed in its entirety. The

LAP carried out a detailed transport modelling exercise in order to specify the infrastructural upgrades required. The current congestion on the local road network is not as a result of development in the Liffey Valley area. It would appear that the need to provide further upgrades to the local road network is based on development that has occurred outside of the Liffey Valley area. The response outlines recent road upgrades which are referred to in full in the assessment. It is requested that the special contribution be omitted as the additional upgrades do not relate to the development of the Liffey Valley lands and are in response to unrelated development in the wider urban area.

- With regard to the signalised junction upgrade requirement, it is set out that based on observations of junction operation all evidence presented in terms of analysis confirms that the improved junction upgrades which have been carried out to date are operating well following completion of the works.
- It is understandable why the local authority would now want to replace the existing, recently upgraded junctions by way of signal controlled junctions. Such signals allow the local authority to manage traffic queues by way of adjustments to signal timings and a management system akin to this is not available with the recent upgrades to the roundabouts. Signals would allow the Council to prioritise traffic flow primarily in the north-south direction on Fonthill Road, possibly at the expense of traffic leaving the Liffey Valley Centre. It is submitted that it is clear that the existing junctions have better balanced traffic capacity characteristics and that the Council requirement for an upgrade to signal control is driven by a traffic management demand rather than representing a requirement to off-set any possible traffic increases as a result of development.
- It is considered that the main purpose of the proposed signalised junction is to provide a greater level of traffic control, and specifically to provide more 'green time' at peak hours to commuter based travel on the Fonthill Road. This approach encourages car usage as a means of travelling to work and against the principles of sustainable development. Furthermore, the proposed signalling of the junctions does not relate to the operation of the Liffey Valley Plaza scheme but rather the wider urban area. Thus, it is requested that the Board omits the special contribution of €5,000,000 on the basis that the

purpose of the signalised junctions is not related to the operation of the proposed Liffey Valley Plaza Scheme.

- With regard to apportionment of cost should the Board decide a special contribution is payable, it is submitted that there is very little information as to the basis for calculating the apportionment of cost.
- Fonthill Road represents a main transport artery in south Dublin that has peak time traffic issues for a long time. It is well known that the Arc roundabout has operated at or above theoretical capacity for some time. In this context, it is important to give due regard to the weighting of traffic on the Fonthill road in qualitative terms, and the degree to which it serves the Liffey Valley Centre.
- Reference is made to inordinately high HGV movements on the Fonthill Road and that the adjacent Fonthill Retail park generates significant weekday Am and PM Peak traffic flows demonstrating that other uses impact on the road network.
- The Fonthill retail park roundabout was recently subject to an upgrade by the applicant significantly increasing the traffic capacity available and benefitting the wider urban area.
- It is considered that a suitable mechanism available to the local authority for calculating the appropriate apportionment of cost for the proposed upgrade works was to undertake a full traffic analysis. In this regard, the local authority has not pursued what could be considered a legitimate approach and has abstained from providing a basis for how the figure of €5m has been calculated.
- The applicant provides figures for the worst case scenario upon the junctions associated with the proposal and considers that a contribution of 20% towards the cost of the junction upgrade may be appropriate.
- The applicant sets out that they have prepared comprehensive and detailed design drawings supported by a detailed cost analysis for the signals hardware. In summary, it was found that the actual accurate costs analysis for the SDCC and OCSC proposed signalised junction upgrade is €4,715,000 which is significantly lower than the cost estimate of €7,989,926. Based on a

20% apportionment should the Board deem it appropriate to apply a special contribution that the appropriate sum is €943,000.

6.2. The Moriarty Group

The grounds of this appeal are summarised as follows:

- The general provision of development on site is somewhat acceptable however concerns are raised over the provision of 1,820 additional car parking spaces and the increased traffic implications that would be generated if permission is granted.
- It is considered that the development would significantly add to the overall level of traffic congestion on the N4, M50 motorway and other radial routes in the immediate vicinity of Liffey Valley causing a detrimental and wholly unacceptable impact on traffic management of the area.
- The proposed development includes for the provision of 1,820 car parking spaces in addition to the approximate 3,500 existing spaces.
- The existing shopping centre causes a serious traffic hazard in the area generating high traffic flows and congested traffic back logs on surrounding arterial roads, particularly on the Kennelsford Road, Palmerstown which is situated near the vicinity of the subject site.
- It is the opinion of the appellant that the existing road network does not have the capacity to cater for the increased levels of vehicular activity.
- The concerns with regard to traffic are also shared with a number of bodies whom raised concerns. It is noted that the traffic survey originally submitted was insufficient and incomplete and did not include extended journeys throughout Dublin. It was also submitted that Liffey Valley Shopping Centre had an oversupply of parking, resulting in inefficient use of serviced lands.
- Reference is made to submissions from prescribed bodies and inter departmental report from the planning authority which are referred to elsewhere in this report.

- It is submitted that notwithstanding the provision of adequate (despite an over-provision) parking in line with the development plan standards the development will nonetheless attract excessive car travel to the site and result in traffic congestion to the surrounding road network which is unacceptable.
- Reference is made to the planner's report that "*no detailed assessment of the effects that the development will have on the strategic road network was carried out*". The proposal should not be developed in any way unless a provision of adequate traffic alleviation and a sustainable travel plan is demonstrated.
- The proposal would result in a large amount of car generated travel. It is considered that the lack of public transport and the 'out of centre' location of the Liffey Valley development would result in an overall increase in vehicle based trip generation to and from Liffey Valley culminating in congestion at different times throughout the day and week. It is requested that it be acknowledged that this type of development is grossly unsustainable.
- The submission concludes by submitting that the oversupply of car parking is not a balanced approach to both car parking management and sustainable travel. The applicant's inclusion of such excessive car parking spaces has failed to recognise the need to limit the impact of traffic congestion and promote more sustainable forms of transportation.
- If development is to be granted the applicant should be conditioned to provide for substantial upgrading works to the existing road network of the area in line with the Fonthill Road/N4 Junction Upgrade as included in the South Dublin County Council's Six Year Programme for road improvement works to provide for greater access/egress to LVSC/South Lucan and to improve traffic flow and alleviate tailbacks onto the N4.

6.3. An Taisce – Third Party Appeal

The grounds of this appeal are summarised as follows:

- The proposal has an individual and cumulative impact on climate and air quality principally because of traffic generation and increasing diesel particle pollution around the M50 corridor.
- There is cumulative issue of run-off and management of oil contaminated surface water in the Liffey Valley corridor from hard surfaced areas
- There is potential impact on the retail base in Dublin City Centre, and retail and other services in west Dublin
- The proposal would reinforce and exacerbate car use and dependence.
- The provision of a skating arena near the M50 junction raises concerns about site suitability and traffic generation.
- Particular transportation issues were raised by the Transport Infrastructure Ireland and National Transport Authority submissions.
- ABP will need to satisfy itself on its regard to the application of national and EU law. It is put to the Board that a specific legal issue in this appeal is the adequacy of the mitigation measures on traffic management, the excessive level of issues left to post-consent agreement between the applicant and the planning authority. This is a practice on which the Board has been previously culpable as shown in the decision in the previous Liffey Valley additional retail consent on PL.06S.240743.
- It is not possible to determine whether a consent is appropriate for this application if the mitigation measures to reduce traffic generation and congestion is unresolved.
- Reference is made to the planning history of “Quarryvale” and the planner’s report reference that *“it is considered that future role of Liffey Valley may be as a regional shopping centre”*. There is no planning basis to this under the Retail Planning Guidelines of the Strategic Planning Guidelines for creating a stand-alone regional centre.

- The Board should have regard to the Climate Action and Low Carbon Development Act 2015 and the Planning and Development Act 2000 as amended.
- It is submitted that the provisions of the current South Dublin development plan are inadequate in achieving the objectives of the Climate Action and Low Carbon Act referred to. The proposal to extend the retail capacity of Liffey Valley retail mall would exacerbate an unsustainable pattern of car-based development unrelated to a town centre or other mixed use service area.
- Public transport accessibility from the GDA and beyond is the prime consideration which should govern the location selection of any new facility such as the proposed skating arena. The location suitability of Liffey Valley mall site has not been demonstrated.
- The proposal would exacerbate car-dependent and car-based development and would contravene the overriding policies set out in Smarter Travel policy.
- The development has three separate main transport generation and demand aspects, namely employee travel, retail travel and travel to the leisure / skating centre.
- The conditions in the decision notification fail to address the Smarter Travel targets.
- No routes or service level or timetable are defined for the shuttle bus required under Condition 2 (b) in the notification of grant of permission; this leaves the nature, extent and effectiveness of the proposed shuttle bus unresolved and consequently the extent of its contribution to reducing car access and dependence both for employees and shoppers and other users, such as the gym. It is not legally appropriate, that such a major issue of environmental mitigation namely traffic generation, should be left to be resolved by post-consent agreement between the applicant and the local authority.
- Concerns are raised about the Mobility Management Plan and the major deficiencies in the condition as employee travel and retail travel require separate measures.
- Condition 2 (f) leaves the issue of parking charges unresolved.

- With regard to condition 4 the extent and management of traffic generated by events is unresolved. The number of events is not identified. As the arena is designed for non-skating events the number could be considerable and has not been determined.
- The suitability of the site cannot be justified or a potentially better public transport accessible alternative location site be considered instead e.g. on the Dublin to Adamstown/Kildare rail-line.
- This is a car based retail development adding significantly to an already problematic car-dependent location along the M50. Car generation congestion is undermining the function of the M50 as a strategic transport link to key gateways including Dublin Port and the Airport. It is important that uncongested strategic access be maintained for public transport service vehicles.
- According to TII figures 2015, traffic on the M50 is now at its highest ever level. Consideration is now being given to Travel Demand Management for the M50. The requirement for travel demand management was part of ABP planning consent for adding new lanes to the M50, which should already have been put in place. Reference is made to condition 7 of the consent and the submission states that *“blame for the failure to curb the mounting congestion on the M50 lies with ABP in attaching such an inadequate condition requiring a scheme but no implementation requirement”*.
- Reference is made to the TII submission in response to the further information which still considered deficiencies in the application. The issue of parking charges remains unresolved and condition 2 (f) does not address the concern since the wording of the condition requires a management plan for parking but not any effective provisions for its implementation.
- Reference is also made to the NTA submission to the further information which raised concerns about parking and pedestrian/cycle facilities.
- It is submitted that the application warrants refusal on information deficiency; strategic location and planning policy grounds.

- A request is also made for award of expenses under section 145 planning and development act, 2000.

6.4. Applicant Response to third party appeals

In the interests of brevity only the main points in response to the appeal are summarised hereunder to avoid duplication of statements already made.

- The comparison retail component is comparatively modest in the context of similar centres and is considerably less than the previous application at the site, with a renewed emphasis and focus on quality of design, the public realm, customer/visitor experience and diversity of use.
- The delivery of the Liffey Valley Plaza is needed to address current unsustainable travel patterns and to mitigate against the continued dominance of competing centres which have permitted extensions.
- The development responds to the needs of the existing patronage as much as it seeks to attract new custom.
- At a local level there has been much investment in the frontloading of roads infrastructure in the area with recent roads upgrades completed in 2016.
- The An Taisce's appeal focusses on the historical context and fails to recognise the current planning policy.
- Reference is made to the demographic shift in Dublin and continuing growth patterns. There is a strong locational relationship between the Liffey Valley Centre with areas designated for significant population growth and employment generating uses.
- The Retail Impact Statement submitted was undertaken fully in accordance with the requirements of the Retail Planning Guidelines.
- The principle assumptions that underlies the low levels of trade diversion is that the recent growth of population experienced in the surrounding area, and the expected continuation of population growth, will support increases in retail floorspace associated with the Liffey Valley Plaza Scheme.

- The RIS concludes that in the design year of 2021 there will be available capacity for the proposed development
- The Strategic Transport Assessment submitted with the application was produced with the use of the NTA's Eastern Regional Model and has shown that the proposal will result in only a marginal increase in car traffic on both the N4 and M50 in the opening year.
- Contribution of traffic to the local road network will reduce marginally to 3.1% additional traffic in the southbound direction and less than 1.3% additional traffic in the northbound direction.
- The appellants do not recognise that Liffey Valley is located adjacent to two existing Quality Bus Corridors (QBC's) and an orbital QBC and in the medium to longer term, a new light rail line running from the city centre to Lucan.
- Based on the results of the ERM the base year scenario indicates that the vast majority of trips to Liffey Valley are relatively short in length with approximately 60% originating within less than 8km from the site and approximately 42% originating locally within the bounds of the N4, N7 and M50 in the areas of Clondalkin and Lucan.
- By 2035 the proportion of trips less than 8km increases to 65% and over 47% originating within the bounds of the N4, N7 and M50.
- An appropriate mechanism for managing demand and encouraging sustainable transport is through the implementation of dynamic or variable parking charges. A management plan for paid parking will be implemented as conditioned. It would be important that the parking charges at LVSC would be comparable with parking charges implemented at alternative centres in the GDA to ensure that car trips do not divert to centres further away.
- An Automated Number Plate Recognition (ANPR) Cordon Survey was undertaken in October 2016 and confirms the high Heavy Goods Vehicles (HGVs) number which exist on Fonthill Road, which is unrelated to the operation of the Liffey Valley Centre.

- The high percentage of HGV's are primarily due to a vehicle weight restriction which exists on the R136 through Lucan causing traffic diversion and significant loading through the Liffey Valley estates roads.
- Further sensitivity testing has been carried out by the applicants which confirm that there is a negligible impact on local road capacity associated with the proposed development.
- With regard to the car parking provision, it is set out that it will greatly assist in alleviating the traffic impact of the entire scheme. The multi-storey car park and its location is critical to the successful operation of the ice rink.
- With regard to air quality and climate, it is set out that there will be no significant increase in pollutant levels and ambient levels of regulated air pollutants will remain well below the relevant ambient air quality limit values.
- The impact of the proposed scheme on emissions of CO, benzene, PM₁₀, PM_{2.5} and NO₂ levels were assessed relative to the "do nothing" levels in years 2020 and 2035. Relative to the baseline levels, some increases and decreases in pollutant levels are predicted as a result of the proposed scheme. The impact of the proposed scheme is negligible at all 6 worst-case receptors assessed. It is set out that the impact of the proposal on national greenhouse gas emission will be insignificant in terms of Ireland's obligations under the EU 2020 Target.
- In response to the surface water it is submitted that the risk of contaminated surface water will not have

6.5. Planning Authority Response

- With regard to parking it is set out that the Council cannot apply current standards to a development that has been authorised for over 20 years.
- In calculating parking requirements, a development must be considered in its entirety, as not as several distinct and isolated elements.
- The appellants have considered the whole centre in their Traffic Impact Assessment. This includes an assumption that 80% of the trips to the new development will be from the existing centre. It is contended that in the

interest of balanced assessment, traffic and parking must be considered in a consistent manner.

- The applicant has not provided a robust case for exceeding the parking requirement.
- The special contribution sought is in line with the O'Connor Sutton Cronin studies undertaken and represents a feasible mitigation measure for minimising the impact of the proposed development on the surrounding area.
- The amount sought is a reasonable proportion of the overall cost to be sought from the developer when the scale of the development is considered.

7.0 **Assessment**

Having regard to national, regional and local policies, inspected the site and immediate environs, and following examination and consideration of all the submissions and documentation on the file, I consider that the substantive planning issues pertaining to this de novo assessment can be encapsulated under the following headings:

- Compliance with statutory plans
- Retail Impact Assessment
- Urban Design
- Traffic and Transport
- Environmental Impact Assessment
- Appropriate Assessment
- Special Development Contribution
- Award of costs

7.1. Compliance with Statutory Plans

- 7.1.1. In terms of retail hierarchy, the LVSC is designated as a Level 2 Major Town Centre in the Retail Strategy for the Greater Dublin Area. The Retail Strategy 2016 envisages that such towns would have a lettable floor space of 40,000sq.m. where the catchment area exceeds a population of 60,000. The original permission for LVSC capped the retail floor space at 23,000sq.m. However, additional retail floor space has been permitted since then is in the region of 6,500sq.m. The proposal in this application is seeking to add approximately 29,700sq.m. further floor space. The cumulative net retail floor space would be in the region of just under 60,000sq.m.
- 7.1.2. The site has a land-use zoning objective *“MRC- Major Retail Centre – to protect, improve and provide for the future development of a major retail centre”* as set out in the South Dublin County Development Plan 2016. The site was previously zoned as “town centre” in the previous development plan. The amended zoning reflects the designation of Liffey Valley as a Level 2 centre in the Retail Strategy for the GDA. The site forms part of the Liffey Valley Town Centre Local Area Plan 2008 which has been re-adopted and remains in force until March 2018. The overall objectives and vision for the Liffey Valley Area is *“to facilitate the development of Liffey Valley as a vibrant and sustainable Town Centre and a place where the whole community can avail of the highest standards of employment, services and amenities. To ensure that Liffey Valley is characterised by an attractive built environment, good connections and accessibility, and that Liffey Valley is a place where people choose to be and can be proud of”*. Whilst the applicant makes reference to some ambiguity between the CDP and the LAP, I do not consider there to be any. The amended zoning objective reflects the Regional Guidelines and Retail Strategy for the GDA and as such the proposal for expansion of the town centre is compatible with the amended zoning and the uses proposed are all permitted in principle under this zoning. The LAP is still in force and provides a clear framework as to how the LAP lands are to be developed. The overarching policies and objectives remain applicable.
- 7.1.3. The strategic framework identified in the Local Area Plan that will shape the future development of the town centre identifies the lands subject to this appeal as being within the retail core. The LAP strategy is to facilitate the development of three interconnected ‘core’ areas focused on civic, retail and residential land uses. The

proposal in this application is clearly within the retail core and is consistent with the vision for this area, providing new east-west street, north-south boulevard, along with a gateway public plaza. Having regard to the aforementioned and the fact that this is an extension to an existing established Level 2 retail centre, the principle for expansion is acceptable.

7.2. Retail Impact Assessment

- 7.2.1. A retail impact statement (RIS) was submitted with the application. The statement sets out that a retail capacity in South Dublin County Council has already been carried out and the quantum of retail floorspace that can be sustained has already been established. Notwithstanding the submission of the RIS, I would refer the Board to section 6.8 of the Retail Strategy for the GDA which provides that

*“where an application is made within existing defined major town or county town centres, it will **not always be necessary to demonstrate the quantitative need for retail proposals** in assessing such proposed developments. In setting out the retail impact of the development the report should **focus on how the scheme will add/detract from the quality of the town centre** – both in relation improving retail, urban design, integration with the built fabric and quality of life in the town/centre.”*

As discussed heretofore, the proposal is located on appropriately zoned lands within the grounds of an established Level 2 major town centre and I would be satisfied that a quantitative need for the proposal is not warranted.

- 7.2.2. Having regard to the concerns raised by appellants' it is considered that consideration be given to the issue of trade-draw. In this regard, I accept that there will be diversion from other retail centres within the GDA and beyond to the LVSC. The EIS identifies in Figure 5.2 the Liffey Valley Regional Catchment. The population projection for 2021 for the catchment area identified is 180,602. The net comparison floor area is estimated with the proposed development to be 58,143sq.m. with a turnover of €8,408 in 2021. In general, the trade draw identified in the RIS from other study areas is in the region of 1% higher than the current trade draw. There appears

to be a discrepancy as to the actual impact on Tallaght town (also a level 2 town) and I would consider that the trade-draw away from this centre will be greater than the 1% indicated in Table 8.1.

- 7.2.3. I would be satisfied that adequate consideration has been given to the Strategic Development Zones of both Adamstown and Clonburris. Whilst Clonburris plan allows for up to 38,000sq.m. of comparison shopping, regard needs to be given to the retail hierarchy. The floor area (if completed in full) would exceed the quantum of floorspace provided for currently at the LVSC. In any event the full completion of this floor area would be contingent on the development of maximum number of housing units so as to sustain this level of retail at Clonburris. Having regard to the concerns raised by An Taisce, I do not consider that the nature and scale of the subject proposal would be in direct competition with smaller retail developments in residential areas, which are considered to satisfy different consumer needs. I also consider that the proposed extension will serve to reinforce Liffey Valley as a Level 2, major town without compromising the primacy of the City Centre.
- 7.2.4. The proposal will undoubtedly improve the urban design and built environment at this location providing a readily identifiable town centre for established residents in the area. A new east-west street is to be provided which will appropriately integrate the permitted foodstore to the south of the appeal site. The provision of retail, leisure and entertainment uses centred around the new public plaza will contribute to the creation of an vibrant town centre core. The improved pedestrian and cycle paths along existing access routes and improved routes to the new street will help integrate existing stand-alone developments to the town centre, promoting vitality and vibrancy in the immediate area. Whilst it is accepted that retail centres need to remain competitive regard has to be given to the resultant traffic and transportation issues, loss of trade to nearby service centres and the impact such a development would have on the identified settlement and retail hierarchy in the development plan.

7.3. Urban Design

- 7.3.1. One of the key objectives of the Local Area Plan is to develop Liffey Valley Town Centre “as a medium to high density Town Centre with an upgraded urban form focused around a network of urban streets and squares, innovative buildings and people intensive land uses.” The achievement of critical mass ultimately contributes

to more sustainable land-uses and travel patterns thereby helping to achieving a core policy in the Development Plan of sustainable long-term growth. The applicant has set out that a *“key component of the scheme is the delivery of an enhanced environment for visitors, consumers, and those seeking leisure and entertainment activities”*. The proposal provides for a “public plaza” which the applicant indicates will be a hive of activity surrounded by restaurants, cafes, leisure facilities and a variety of retail stores and will act as a meeting place for the community and visitors to the centre. It is set out that the location of the plaza on the new east-west street will provide the missing link that ties the permitted foodstore to the south, in with the Liffey Valley Centre. The proposal will make available to the public the ‘significant view corridor’ to the Dublin Mountains to the south.

- 7.3.2. Pursuant to inspection of the site and its environs, and as the Board will be aware, there is a clear disconnect between permitted retail, other commercial developments and the LVSC primarily due to the inwardly focused design of the centre and the high concentration of distributor roads encircling the centre. The sea of surface parking surrounding the LVSC erodes opportunities to encourage integration and formation of meaningful streetscapes. The proposal undoubtedly provides an opportunity to integrate the permitted retail development to the south of the appeal site to the existing LVSC. The applicant has achieved this by creating a new east-west street. The proposed south facing public plaza will act not only as a strong focal point but a dramatic one vis-à-vis the scale and form of permitted developments to date in Liffey Valley. The current main entrance to the shopping centre is undefined. The proposal will provide a clear focal point for visitors as they approach Liffey Valley from the spine road and Palmerstown direction. The proposal will help encourage more pedestrian movements to and from permitted retail centres to the south. Restaurant units are located such that they open onto the plaza so as to create an animated and vibrant area. Pedestrian movements will also be enhanced through the proposed mix of uses such as the ice rink, dance studio, gym etc. It is also proposed to provide a bus and taxi stop in close proximity to the public plaza which will further establish the new proposed plaza as the main entrance to the LVSC.
- 7.3.3. The details submitted with the application clearly set out how the proposed urban design concept was established. The EIS sets out alternative layouts that were considered and that the proposed option chosen was considered the optimum in

terms of creating a streetscape. This concept evolved during the process pursuant to discussions with the Council. It is considered that the mix of proposed uses combined with the layout and coherence of the overall proposal is such that would greatly contribute to the creation of a strong east-west streetscape and will promote the integration of lands to the south. The permitted five retail units as part of the Tesco foodstore to the south of the site will also contribute to the vibrancy of this streetscape.

- 7.3.4. The details submitted with the application set out that the proposed development represents a step towards redefining the Liffey Valley Centre as a prominent economic driver, as a focal point for the community and as a tourist destination.¹ The proposal will undoubtedly mean that the LVSC will not only be a focal point for the community but will serve as a prominent retail destination in the country. This is explored further in the traffic and transportation section of this report. With regard to the urban design I would be satisfied that the proposal is such that will transform not only the shopping centre but the existing local area plan lands by creating a distinctive and strong focal point within the community. It will help to integrate existing stand-alone retail developments such as B&Q and the Barkhill Retail development and promote more pedestrian movements to and from these developments creating an identifiable town centre district.

7.4. Components of the proposed development

- 7.4.1. There are different components to the proposed development which collectively provide for a comprehensive expansion of the Liffey Valley town centre. The provision of the retail and restaurant extension has been discussed heretofore. It is proposed to have an events area within the plaza area. No details have been provided as to what type of events would be held or the pattern to such events. In any event I do not consider that the absence of such detail is critical to the assessment of this component. The use of a public plaza for hosting public events would contribute to the vibrancy of the retail core and re-affirm the area as the heart of the town centre. The remaining core components that it is proposed to examine

¹ P3, EIS, Volume 1, General Planning report

are the ice arena and the multi-storey car park. The latter was refused by the planning authority however, is considered to be an intrinsic component of the overall proposal, particularly given the proximity and scale of the proposed ice arena and should, *inter alia*, be considered in that context.

- 7.4.2. The EIS sets out that the ice arena is one of the major additions to the centre and will be located to the east of the public plaza and to the south of the multi-storey car-park. The ice arena will be to Olympic standard and will comprise of approximately 2,500 seats.² The arena comprises of a total of 10,567sq.m. gross floor space. It is proposed to provide a multi-storey car park with 1,820 car parking spaces, over four levels, north of the ice arena. The current development plan provides for stadia on major retail centre lands. Therefore, the proposal for such is considered acceptable. The ice arena will be complemented with the existing and proposed restaurants, retail and other associated leisure offerings. With regard to urban design, as already discussed it is considered that the design proposal is such that will provide a strong animated public plaza along the new east west boulevard which will contribute to the development of Liffey Valley town centre. Both the ice arena and the car park are designed such that they are interconnected. The proximity principle of such complementary uses along with the mitigation measures contained in the EIS such as visual display messaging will enhance the user experience and reduce potential delays searching for nearby parking.
- 7.4.3. The ice arena clearly has a greater catchment area than just the local community given that it will be Olympian standard and that there will be seating for 2,500 people. The impacts on the Liffey Valley area of such a facility needs to be carefully considered. The economic benefits are such that will contribute to, not only the local but the regional economy, through the creation of additional tourist numbers, demand for additional complementary services e.g. hotels etc. However, the generation of traffic associated with the ice arena and its associated effects on the receiving environment needs careful consideration. This is dealt with under the next section on traffic and transportation.

² EIS, Volume 3, p2.

7.4.4. The planning authority refused permission for the multi-storey car park on the basis that it would result in excessive levels of car parking, give rise to unsustainable travel mode and as such would materially contravene the development plan. It was also cited in reason three of the refusal that the car park would have an unacceptable impact on the surrounding road network. These issues are examined under traffic and transportation. Multi-storey car-parks are not prohibited in major retail centre lands in the zoning matrix and as such do not materially contravene the zoning objective. I concur with the First Party's response that car parks in themselves do not generate traffic. The reason for utilising a car park is ultimately to avail of a service or amenity at a particular destination. To this end, it is the actual facilities and extent of services that the applicant is proposing to construct that needs to be considered. It is also difficult to reconcile how the multi-storey car park in itself materially contravenes the development plan policies as it in itself does not encourage unsustainable travel patterns. Therefore, I am satisfied that the reason for refusal citing materially contravention cannot be sustained.

7.5. Traffic and Transportation

7.5.1. Planning Policy Context: The overarching transport and mobility objective of the County is to *"promote the sustainable development of the County through the creation of an integrated transport network that services the needs of communities and businesses"*. To realise this policy there is an action contained in the South Dublin County Development Plan to *"prepare a Local Access Study for the Liffey Valley Retail Centre that also incorporates the Palmerstown, North Clondalkin and South Lucan communities and that takes full account of the need to regulate motorised traffic within these communities relative to the Liffey Valley Retail Centre, no later than two years after the 2016-2022 County Development Plan is approved."* There is also a policy to promote sustainable development of the county by supporting and guiding national agencies in delivering major improvements to the public transport network and to ensure existing and planned public transport services provide an attractive and convenient alternative to the car. In this regard there is an action to *"support the delivery of the Luas to Lucan (linking Lucan, Liffey Valley and the City Centre). To facilitate this service the reservation along the Emerging Preferred Route for the Lucan Luas, as identified by the Railway Procurement*

Agency will be maintained, subject to a future reassessment of all of the potential route options..”. The Lucan Luas has been provided for in the light rail network programme identified in the NTA’s Transport Strategy for the GDA 2016-2035. Further the Local Access Study has not been undertaken to date.

- 7.5.2. Traffic Impact Assessment: A TIA report was prepared by NRB Consulting Engineers Ltd. Chapter 6 of the EIS deals with Traffic and Transportation and sets out that “*the impact of the development on this site should be considered in the context of the Local Area (Transport) Model for the LAP lands*”³. Traffic surveys were commissioned in March 2015 and form the basis of the assessment. The EIS provides details of the receiving environment, and puts particular emphasis on the fact that Liffey Valley is very well served by other modes of travel other than private car and that the creation of critical mass will create a demand for further improvements in existing public transport facilities.
- 7.5.3. Drawing No. NRB-TA-005 within Volume 4, EIS Appendices, January 2016, identifies alternative transport facilities. The existing bus numbers, routes and frequency of services are indicated on the drawing. No consideration has been given to the catchment area identified which is not serviced by Dublin bus. This is a fundamental flaw given that Liffey Valley is a regional destination and arguably is a national destination, particularly if the proposed ice arena was permitted.
- 7.5.4. TRICS was used to determine the traffic generated by the proposed centre extension. Traffic growth factors for the opening year 2020 and future year assessments are calculated from data obtained in the NRA Project Appraisal Guidelines Unit 5.5. The EIS concludes that the absolute worst case weekday PM peak hour impact on the N4 westbound is 2.7% and east bound is 3.0% well below the NRA (TII) recommended threshold level of 5% above which further assessment is recommended. The EIS sets out that there are significant benefits with the scheme in terms of improved cyclists facilities; improved pedestrian network facilities and very significant improvement to public transport facilities, accessibility and penetration.
- 7.5.5. The submission from the TII in March 2016 clearly set out that

³ P6-1, EIS, Volume 3.

“the documentation submitted to support this proposal does not demonstrate that the current development proposal alone or in conjunction with the permitted and planned development in the Liffey Valley Area will not create an adverse impact on safety, carrying capacity and efficiency of the national road network due to the lack of roads upgrade proposals, appropriate mitigation measures and improved transportation infrastructure required to facilitate the proposed development...”

The TII clearly set out that public transport provision remains deficient in the area. The submission sets out that free flow journey times on the M50 have increased significantly from 39 minutes in 2014 to 50 minutes in 2015 and as such minor increases in traffic volumes can result in significant impacts in terms of congestion at many times of the day. The TII submission highlights that the baseline traffic survey data considerably underestimates existing traffic volumes on the N4 and that there is no assessment of the N4 and M50 mainline or the operation of M50 junction 7 Palmerstown.

- 7.5.6. The applicant responded to this issue in the further information request setting out that Systra were commissioned to assess and quantify the impact of the proposed development by way of a Strategic Transportation Assessment (STA). This utilises the NTA's East Regional Model to develop a detailed understanding of the trip characteristics of employees and visitors to Liffey Valley. It is set out that the proposal will result in an increase in vehicular trips on the road network however the contribution of trips to the primary road network (N4, N7 and M50) will be low, ranging from 0.5-3% on an average weekday in the PM peak hours.
- 7.5.7. I refer the Board to the applicant's response to further information and in particular the current Saturday traffic levels for between 1500-1600 hours. The current levels indicate in excess of 1000 passenger car units (PCU) coming off the M50 and travelling in the direction of the LVSC. This figure represents current movements (survey April 2016) without the proposed development or the Westend Development which opened at the end of 2016. The 2020 scenario with all committed development traffic and the proposed LVSC extension indicates an increase from 1020 to 1335 off the N4 (westbound) with a similar increase from the eastbound direction. In particular, there is a significant drop in the traffic flow projections from the retail park.

It is unclear why there would be such a significant drop in traffic at this location in 2020. There is a significant increase in traffic flow away from the LVSC towards the N4/M50 also for this period in comparison to the current flow patterns. LINSIG Network Modelling (signals replacing ARC roundabout & new signals at Fonthill Retail Park) was carried out. The model was based on a number of assumptions including the introduction of MOVA control at bottom of N4 eastbound off slip and also on lower at Grade LV approach; the ARC roundabout being upgraded to signal control: and with improved Fonthill Retail Park junction upgraded to signal control within the existing road widths. The results for Junction 5: signals at Fonthill Retail Park indicate a degree of saturation in excess of 220% based on a weekday between 3 and 4pm. The results for a Saturday in 2020 indicates a 448% degree of saturation (Fonthill from S ahead Left). No examination or analysis of the findings of this modelling has been presented other than stating that *“as with the vast majority of similarly located town centre junctions, there are some short duration capacity related issues at some of the modelled junctions during the peak demand periods...however for the majority of the modelled periods the junctions operate well within acceptable capacity limits”*.

- 7.5.8. There is a report on file prepared by O'Connor, Sutton, Cronin (OCSC) who were commissioned by South Dublin County Council to carry out a peer review of the further information submission made by NRB consulting engineers. This response raises questions about the assumptions used and lack of substantiation of information in the further information response and the unsolicited information. Concerns were raised about the calculations for percentage of new trips to the ice rink and the vehicle occupancy rates in relation to the ice rink which formed the basis of the traffic flows inputted into the models. Concerns are also raised about the possible underestimation of the trip generation potential of the proposed development and the limited information regarding how arrivals to the development have been assigned to the local network. Serious concerns are raised about the ability of St. Loman's roundabout to operate in an acceptable manner and the differences in the LINSIG model used to assess the two roundabouts and the mean maximum queues for St. Loman's Road roundabout. OCSC raises concerns about the proposed signal plan put forward by NRB for the upgraded junction which is

considered to be a worst case scenario option for the signal plan which is particularly inefficient. In particular, reference is made to the unsolicited information submitted which refers to trip generation and that any change in travel patterns at a junction can have an obvious repercussion for any analysis results, particularly when considering the extremely high level of traffic exiting the LVSC during the PM peak hour. This report concludes by stating that the results show that a signalised junction at St. Loman's roundabout will offer some benefits in terms of operation while also having a negative impact on some approaches. However the installation of a MOVA or SCOOT system at the junction, the results could be further improved. The NRB modelling already shows the St. Loman's roundabout to be operating above capacity under its current configuration and the sensitivity testing indicates limited reserve capacity at the key junctions locally.

- 7.5.9. Having regard to the nature and extent of retail and leisure facilities proposed, in particular the ice arena with a seating capacity of 2,500, I have serious reservations about the potential impact that this shopping destination would have on the existing road network. The Transport Strategy for the GDA, specifically Figure 3.6 highlights the typical level of service on the M50 for a weekday between 8-9am. The trend for increasing traffic on this national artery is unsustainable. The EIS puts particular emphasis on the capacity of existing bus services to cater for increased patronage to LVSC. It is noteworthy that the Transport Strategy notes that considerable population in Corridor C (Maynooth - Leixlip- Lucan – to Dublin City centre which includes Liffey Valley) located outside of the local catchment area of the Maynooth and Kildare rail lines, is currently served by a number of city bus services and longer commuter bus routes. However, it is also set out that increasing levels of congestion are occurring on strategic and urban distributor roads within the Corridor C, particularly on the orbital north-south routes, linking the N4 with the N7 and on adjoining roads which in turn has a negative impact on the reliability of bus services during peak periods. Despite the emphasis on the capacity of Dublin bus to service the LVSC, no regard appears to have been given the pressures on the services as a result of increasing pressures on the carrying capacity of the strategic road network. This is a significant shortcoming in the EIS. Further, a large proportion of the identified catchment of the LVSC is not served by Dublin bus or by direct buses. Given these constraints, the

car will remain the only viable option for most people commuting to the shopping centre from both within and outside the Dublin area.

7.5.10. The planning authority has sought to address the dependency on the car in condition no. two. The wording of this condition is extensive and provide for *inter alia*, a variable message sign system (VSM), shuttle bus service; details of bus services, shelters for new east-west road; revised mobility management plan and management plan for paid parking. With respect to the shuttle bus service it would appear that the planning authority are seeking the applicant to implement a condition similar to that which was attached to permission PL.06S.240473 (Tesco foodstore) by the Board which requires the provision of a shuttle bus service between the development and the local catchment area. Whilst such a condition would go some way to promoting more sustainable forms of transport within the immediate catchment. The reality is that trips generated outside the immediate catchment are not served by any public transport route and as such will generate car borne trips. The increasing congestion in the area results in delays to the bus services which discourages people from using alternate modes of transport to that of the private car. Having regard to the scale of the proposal and the regional catchment area as supported by information in the EIS, the provision of such a shuttle bus service will not mitigate the significant effects that will arise on the strategic national road network.

7.5.11. The EIS is silent on the pattern of use for the ice arena. It is unclear whether such a facility would be generally open to the public for use on a daily basis or only on a seasonal basis. No indication is given as to the pattern of national or regional events such as ice figure skating, ice hockey events etc. despite letters of support from clubs. The documentation submitted indicates that this would be an Olympic standard arena and therefore the potential to host national and international events need to be considered and robustly assessed in terms of its effects on the carrying capacity of the existing local road network and the M50. The arena has a seating capacity of 2,500 and with Dublin Bus being the only viable alternative public mode of transport, the EIS has not assessed the reality that a significant portion of trips to

such events would originate outside the Dublin Metropolitan area and therefore would be car-dependent impacting on the existing carrying capacity of the M50 and N4. The Local Authority has sought to address the lack of information around this issue by inserting condition four which seeks the submission of a draft traffic management plan at least six weeks in advance of any full seater event in the leisure arena. It is unclear what a “full seater event” is? Do 2,500 tickets need to be purchased before an event constitutes a full seater? This condition is only appropriate where the full impacts and effects of a proposal on the transport network has been assessed and proposal considered acceptable. The condition in itself does not provide a mitigation measure but rather seeks to keep the Council abreast of potential traffic disruption that may occur as a result of an event.

7.5.12. Mobility management plan - The EIS refers to a comprehensive active mobility management plan for Liffey Valley that has been prepared and agreed with the Council. However, the details on file refer to a preliminary stage mobility management plan which will promote and support the use of alternatives modes to the private car. The mobility plan provides details of existing travel pattern questionnaires of employees in the LVSC previously carried out by Atkins. It is set out that almost 30% of Liffey Valley Centre staff live within 3.5km of the centre, and a further 40% live within 10km, provides an excellent opportunity for these staff to travel to and from the centre by modes other than private car. Reference is made to studies which have shown that adults will consider walking a maximum of 3.5km to work (approx. 30 minutes). The action plan indicates the walking zone of influence to be 3.5km which is considered too far. There are no further improvements proposed to bus services so the take-up for using bus would be negligible particularly in light of delays experienced on existing bus routes. It is unrealistic to expect such a dramatic shift in the number of employees cycling to work. The current percentage of people cycling to work is 2% and it is indicated that the percentage of people interested in cycling is 16% which appears to be based on the response that if conditions were right people would cycle.

7.5.13. A copy of the mobility management plan that was agreed with the planning authority and Liffey Valley in respect of the west end development i.e. PL242026 was requested and is on the file for reference by the Board. The surveys referred to in the

current application, informed the action plan of this MMP. It is noted that plan indicates approximately 2,100 people are employed in the LVSC. Reference is made to various initiatives that can be used to encourage a modal shift such as walking to work; pedometer challenge; provision of cycle parking; provision of free cycle accessories etc. It is noted that various measures are proposed however the first phase of implementation will be within the period of three months' post development opening and as such remain to be implemented. It is noted that clamping of cars parked for in excess of six hours is proposed to combat commuter parking. Most notably, the MMP indicates that if thresholds in respect of traffic counts are not exceeded paid parking will not be commissioned by the applicant. Paid parking is not to be implemented at the weekends or after 6pm during the week. This is concerning as it demonstrates the resistance to the introduction of paid parking which is a measure that would have a significant positive impact on reducing the reliance on car borne trips to the centre.

7.5.14. Parking: Table 6.1 of the EIS details parking requirement for the proposal and identifies a total parking provision of 1,838 spaces which is being provided, with 1820 spaces within the multi-storey car park and 18 surface disabled parking spaces. The EIS sets out that "*there is no evidence that the provision of car parking results in unnecessary car-borne trips, however there is ample evidence that under-provision of car parking results in unfettered, inappropriate and uncontrolled car parking on adjacent streets.*"⁴. It is set out that the parking provision will greatly assist in ensuring the longer term viability, and will assist in aiding the commercial success of the development. There is no doubt that the current level of free surface parking represents an unsustainable and uneconomic use of serviced land. It also reduces the capacity of delivering a strong vibrant streetscape at a key location which would help integrate the current LVSC with permitted developments to the north-west. The Board should note that in the first instance, the proposal for a multi-storey car park as opposed to surface parking represents a better planning solution for the aforementioned reasons. The planning authority focused their assessment of the car park on the overall resultant parking spaces at the LVSC. Having reviewed the development plan standards for parking and the proposed number of spaces to

⁴ P6-13, EIS, Volume 3

be provided, I do not consider that the proposal is such that fundamentally deviates from the CDP provisions and as such does not materially contravene the plan. The planner's report is silent on how an increased demand for parking arising from a national event in the ice arena would be accommodated given the lack of alternate modes of travel from areas within the catchment area not serviced by Dublin bus. The absence of sufficient parking would in my opinion greatly exacerbate traffic congestion, queues at critical junctions and also most likely result in overspill parking in nearby retail, commercial and residential areas to the detriment of the area. Equally it is also considered that in the absence of implementing demand management measures it is wholly unsustainable to facilitate the continued growth in trip rates to and from the LVSC by private car. The request for further information set out that the planning authority had serious concerns about the free parking and the lack of adequate demand management measure. These concerns are also echoed by the NTA and TII. In response, reference is made to the introduction of paid parking. However, the charges would only appear to be for long-stays to combat commuter parking and not for short stays. This runs counter to section 5.9 of the National Transport Strategy for the GDA which provides for the introduction of parking charges at out-of-town retail centres, to reduce the congestion potential at these locations.

- 7.5.15. The proposed multi-storey facility has been adequately integrated into the overall architectural design concept. However, the primary concern that has not been addressed is how LVSC will actively create a shift in travel away from the private car. This has already been discussed and I do not propose to labour on this issue. However, I do consider that there is merit in providing a multi storey car park in conjunction with reducing some surface car parking. The most logical place where surface spaces should be removed are those spaces nearest the West end development. The LAP identifies this area as the core civic area. This area immediately bounds the spine road. The spine road is currently devoid of an urban edge at this location mainly due to the inward looking developments that have been permitted. The omission of surface parking and provision of commercial development which creates a focal point with a strong urban edge would greatly contribute to the creation of a more aesthetically pleasing and animated streetscape. Should the Board be favourably disposed to the proposed development, it is

recommended that revised plans are provided so as to eliminate parking at this location. The said lands are within the applicant's ownership.

7.5.16. Separately, it is considered that the disabled parking for cars within the coach area should be provided elsewhere and this area be designated solely for coaches so to avoid conflict in user type vehicles within this area.

7.5.17. Pedestrian crossing and Cycle paths: In general, the proposal for both pedestrian and cyclists are considered acceptable. However, the Board should be aware that the planning authority sought further information and set out that the proposed toucan crossing for the roundabout at the western end of the new east-west road are not on the desire line for pedestrians. The applicant was requested to submit a complete re-design of the roundabout to a DMURS type roundabout with signal controlled crossings of the four arms of the roundabout provided. The applicant indicates that the fourth arm of the roundabout within the adjacent retail park is not within the applicant's control. The applicants provided an alternative layout on drawing Nrb-rfi-004 with toucans located just off the circulating carriageway on three arms of the roundabout however they clearly set out that they are not proposing this layout. It is also set out by the applicant that the crossing length/time of the straight crossings will be excessive with associated impact on traffic flows. Whilst the toucan crossings would be located within pedestrian desire lines at this roundabout, I agree with the applicant that crossing times will be increased for pedestrians with consequential impact on traffic flows. I also consider that the applicant's proposed location of the staggered toucan crossings allows motorists more time to stop on approach to the crossing.

7.5.18. Concluding comments: Having regard to the scale and extent of uses proposed, the associated increase in traffic movements to and from the LVSC, and in the absence of any alternative public transport other than Dublin Bus or meaningful proposals for demand management measures by the applicant, primarily paid parking, the proposed development will have a detrimental impact on the road network. The NTA and TII both raised concerns about the implications of the proposal on the national strategic network. The modelling results for various junctions submitted as a

response to further information clearly demonstrates that critical junctions will operate well above capacity. The effects of such were not fully explored in particular the implications for the M50 and N4 which is critical given the current increasing congestion on the M50. Considering the action identified in the LAP for a Local Access Study, it is considered that in the absence of this study, the proposal would be premature and would have a further detrimental effect on an already overstretched national road network.

7.6. Environmental Impact Assessment

7.6.1. Under Article 2 of the Council Directive 85/337/EEC (as amended by 97/11/EC, 2003/35/EC and 2011/92/EU) the EIA Directive – Member States are required to ensure that, before consent is given for projects that are likely to have significant effects on the environment and before the project commences, an assessment is carried out by the competent authority with regard to their effects. Section 172 of the Planning and Development Act, 2000, as amended by Section 54 of the Planning and Development Act, 2010, now specifically requires planning authorities and An Bord Pleanála to carry out an environmental impact assessment in relevant cases.

7.6.2. Schedule 5 of the Planning and Development Regulations as amended sets out development for the purposes of Part 10. Section 10 of Part 2 sets out details in respect of infrastructure projects it provides that

(iii) construction of a shopping centre with a gross floor space exceeding 10,000 square metres

(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district

The proposal pertains to an urban development on a site of 9.35 hectares and also includes the extension to an existing shopping centre of 51,545sq.m. gross floor area. The proposal is of a class and exceeds the threshold set and as which requires a mandatory environmental impact statement (EIS).

7.6.3. An EIS accompanied the planning application and follows a grouped format structure with each environmental topic presented in a separate chapter. The purpose of the EIS is to provide a detailed description of the proposed development and outline potential impacts associated with the construction and operation of the proposed development. It is considered that the EIS submitted with the application, in overall terms, is in compliance with Articles 94 and 111 of the Planning and Development Regulations, 2001, as amended. In this regard, it is noted that the EIS contains the information specified in paragraph 1 of Schedule 6 of the Regulations. The EIS is considered to:

- Describe the proposal, including the site, design and size of the project;
- Describe the measures envisaged to avoid, reduce and, if possible, remedy significant adverse effects;
- Provides the data necessary to identify and assess the main effects the project is likely to have on the environment;
- Give an outline of the main alternatives studied and the main reasons for the choice of site and development, taking into account the effects on the environment.

The EIS contains the relevant information specified in paragraph 2 of Schedule 6 of the Regulations. It is considered that there is an adequate summary of the EIS in non-technical language. The purpose of the non-technical summary is to set out the main aspects of the environment likely to be affected in a non-technical manner.

7.6.4. With regard to alternatives, the EIS sets out that the proposed land use has been determined by the zoning objective adopted during the LAP and CDP process. The development has evolved during the design stage. Reference is made to interviews and shortlisting of candidates who were invited to participate in a design competition for the project. Three design options considered during the design competition are outlined in the EIS. A final preferred option (current scheme) incorporated a number of changes to option 3 that was selected. It is considered that the issue of alternatives was adequately considered during the EIA process.

7.6.5. With regard to EIA, I have identified, described and assessed the likely significant direct and indirect effects of the proposal under the following headings:-

(a) Human beings, flora and fauna – noise and dust; visual impact; traffic; tourism

(b) Soil, water, air, climate and the landscape – noise disturbance, climate change, improved streetscape.

(c) Material assets and the cultural heritage- impact on road network and tourism.

(d) The interaction between the factors mentioned in paragraphs (a), (b) and (c)

The more likely significant effects on the environment arising from the proposed development are considered to have been adequately identified, described and assessed in the EIS submitted with the application and indeed my assessment heretofore. Hence, the following description and assessment refers to the outstanding likely significant effects identified above.

7.6.6. (a) **Human Beings, Flora and Fauna** - Having regard to all the information on the file, the most likely significant effect will be increased traffic (directly and indirectly) in the short and long term; increased noise, dirt and dust emissions during construction works; increased employment particularly in the long term. It is considered that disruption during the construction phase will be localised and temporary in nature and subject to the mitigation measures set out in the EIS would be acceptable. The EIS acknowledges the regional reach of the proposed project, yet fails to adequately consider impacts arising from increased traffic volumes on humans. This issue has been dealt with under the traffic and transportation section of this report. Noise, and visual impact are the other likely significant effects that will arise. With regard to noise, the effects will be short term and can be mitigated. With regard to visual impact, there will be a change on the urban landscape, however it is considered such change would be positive and contribute to the creation of a vibrant and lively new streetscape within the town centre zoning.

7.6.7. One of the limitations identified in the EIS with regard to flora and fauna was that site visits occurred in December 2015 during the winter period which is outside the optimal growing season for plants limiting survey findings. Only ad hoc bird surveys

could be carried out also. The EIS has considered cumulative impacts upon, *inter alia*, species through the loss of foraging areas and concludes that the proposal would be unlikely to result in significant impacts upon flora and fauna which I consider to be a reasonable conclusion in light of the characteristics of the site and immediate environs.

7.6.8. (b) **Soil, water, air, climate and the landscape** – Trial pits were excavated to investigate the soil conditions on-site. Table 7.4 indicates the soil leachate results. Trial pit 3 indicated high levels for Sulphate. Samples were analysed for compliance according to the Waste Acceptance Criteria (WAC) which determines the suitability for disposal to landfill. This result sample exceeds the inert WAC criteria for dissolved sulphates and total dissolved solids. It is set out that in certain circumstances that up to three times the higher limit for specific parameters can be accepted by an inert landfill and that the sample is within these limits. No further commentary is provided on what ‘certain circumstances’ are. In any event, this matter is such that would fall within the remit of the EPA and may require a waste licence. Whilst there is a risk of contamination of soil and groundwater due to excavation and infilling; accidental spills and leaks and/or contamination of surface water run-off, it is considered that such risks are low and such impacts would not be expected to have any direct likely or significant long term effect subject to the mitigation measures outlined in the EIS such as minimisation of soil movement; use of bunded storage areas; refuelling of vehicles in designated areas; establishment of a construction environmental management plan.

7.6.9. The River Liffey is the main hydrological feature in the area, located approx. 830m north of the appeal site. The Quarryvale stream is located approx. 800m west of the site and joins the Liffey. The EIS sets out that there is no hydrological link between the site and these waterbodies. Water demand for the proposal is estimated to be c. 430m³ per day from the Belgard Reservoir. It is proposed to connect the wastewater from the proposed development by gravity to the existing outfall located on the eastern boundary of the site. With regard to surface water drainage 80% of such water will drain into the existing Palmerstown/River Liffey outfall whilst the remaining 20% will drain to the existing surface water system towards the N4/River Liffey

outfall. It is proposed to attenuate runoff from the larger drainage system as per the GSDS guidelines however no attenuation will be provided for the smaller area. It is considered that no significant effects would arise in relation to hydrology. Mitigation measures outlined, further reduce the potential for such effects.

7.6.10. An Taisce in its appeal has raised specific concerns about climate and air emissions. I am satisfied that the proposal subject to the mitigation measures proposed will not have an undue negative impact on the climate or air quality. I would also refer the Board to submissions from the Environmental Health Officer and the Environment, Water and Climate Change sections who considered the proposal acceptable subject to conditions.

7.6.11. (c) **Material Assets and Cultural Heritage**– It is considered that the proposal would not impact on the cultural heritage of the area. The greatest impact as discussed heretofore will be visual impact with the creation of a strong urban streetscape. There are no recorded monuments within or bordering the site. The mitigation measure proposed in this regard includes archaeological monitoring for all ground works which is considered appropriate

7.6.12. (d) **Interactions** – The effects of the interactions between human beings and noise; human beings, visual impact and tourism; humans, air quality and climate change are implicit in the range of preceding issues raised.

7.6.13. In conclusion, it is considered that the proposed development would not give rise to significant environmental impacts other than the concerns specifically raised by this Inspector under the particular headings of the assessment. In terms of the quality of the information contained in the EIS, it is considered that this document is adequate. Having regard to the requirement of Article 94 and Schedule 6 of the Planning and Development Regulations, 2001, with respect to the information to be contained in an EIS, the submitted document conforms in broad terms to the required content of an EIS. Accordingly, I am of the opinion that Section 132 of the Planning and Development Act, 2000 as amended not be invoked in this instance.

7.7. **Appropriate Assessment**

7.7.1. Introduction: Article 6 (3) of the Habitats Directive requires an appropriate assessment to be undertaken for any plan or programme not directly connected with

or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. An NIS was submitted with the application as the applicant set out that the proposed development was considered to require full appropriate assessment as it was not possible to rule out significant effects on a number of sites which may arise from a potential contamination event occurring during the construction stage of the development. The NIS is contained in EIS, Volume 5, Technical reports.

7.7.2. Screening for Appropriate Assessment: This stage identifies the likely significant impacts on a European site, if any, which would arise from a proposed development either alone or in combination with other plans and projects. If there is a likelihood of significant effects occurring as a result of the proposed plan or project, either alone or in combination with other plans and projects, then there is no requirement to under AA. The screening report submitted is considered to adequately describe the proposed development site, receiving environment and the proposal itself. The following Natura 2000 sites were identified as being located within the zone of influence on which there is the possibility of a significant effect arising from the proposed development.

Table 1 Natura 2000 sites within 15km of the appeal site

Site Name	Site Code	Approx. Location relative to site (as crow flies)
Rye Water Valley/Cartron SAC	(001398)	6.5km west of the appeal site
Glenasmole Valley SAC	(001209)	11km south of the site
South Dublin Bay and River Tolka SPA	(004024)	11km east of the site
South Dublin Bay SAC	(000210)	12km east of the site
North Dublin Bay SAC	(0002026)	13km east of the site

Whilst the Wicklow Mountains SPA and North Bull Islands SPA have been identified within the 15km range by the applicant, I consider these sites to be in excess of 15km of the site. In any event, I am satisfied that no potential significant effects arise either alone or in combination to warrant further consideration. There is no link with the appeal site and there are no potential effects on the protected species of these sites.

7.7.3. Conclusion on Stage 1 screening: Having regard to nature and scale of the proposed development on serviced lands, the nature of the receiving environment and proximity to the nearest European site it is reasonable to conclude that no Appropriate Assessment issues arise and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site in view of the sites' conservation objectives. I note the concerns regarding potential construction-related surface water discharges from the proposed development and the potential for these effects to reach downstream sites. It is considered however that the likelihood of such is not significant having regard to the distance of the appeal site from these downstream sites in view of their conservation objectives.

7.7.4. Stage 2 – Appropriate Assessment The consultants for the applicant following the precautionary principle were not satisfied that the likelihood of significant effects on four of the European Sites could be excluded and proceeded to Stage 2. For completeness and in the event that the Board consider that there is a potential significant effect either individually or in combination with other plans or projects on any of these European Sites in view of their conservation objectives' I propose to examine the potential for such effects and mitigation measures outlined by the applicant. The four sites of relevance are:

- North Dublin Bay SAC
- South Dublin Bay SAC
- South Dublin Bay and River Tolka Estuary SPA
- North Bull Island SPA

The AA sets out that all of the intertidal and estuarine habitats within Dublin Bay's European Sites would be potentially at risk from silt laden surface water discharges, contaminated water discharges or an accidental pollution incident during construction works associated with the proposed development if they were of a sufficient magnitude and duration to affect water quality in Dublin Bay. It is set out that wintering bird species would be vulnerable to the effects of silt laden surface water discharges, contaminated water discharges or an accidental pollution incident during construction works associated with the proposed development. The consultants have set out that the magnitude and duration of such events would have to be sufficient. Section 6.2 of the AA report outlines mitigation measures proposed to address the potential adverse effects from the proposed development. An outline construction management plan is proposed which will address all potentially polluting activities and includes mitigation measures for critical elements such as storage and handling of harmful materials. The AA report concludes by setting out that the nature of the proposed development and the potential relationship between the proposed development site and the relevant European sites; and applying the precautionary principle, it is the opinion of the consultants that there will be no adverse impact on the integrity of any of the four relevant European Sites (that could not be ruled out at Stage 1 screening).

7.8. Special Financial Contribution

7.8.1. The First Party set out that the imposition of the special financial contribution seeking a payment of €5 million is unjustified and it is requested that it be removed in its entirety.

7.8.2. I would refer the Board to Section 48(2)(c) of the Act which states that Planning Authorities may require the payment of a special development contribution in respect of a particular development where specified exceptional costs not covered by the General Contribution Scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development. Paragraph 7.12 of the 'Development Management, Guidelines for Planning Authorities, 2007' states the following:

“special contribution requirements in respect of a particular development may be imposed under section 48(2)(c) of the

Planning Act where specific exceptional costs not covered by a scheme are incurred by a local authority in the provision of public infrastructure and facilities which benefit the proposed development. A condition requiring a special contribution must be amenable to implementation under the terms of Section 48(12) of the Planning Act; therefore, it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis of the calculation, including how it is apportioned to the particular development”.

Therefore, on the basis of the foregoing, it is necessary to consider whether or not the special development contribution as imposed complies with the requirements of Section 48(2)(c) of the Act.

7.8.3. The planning authority set out in the condition that

“these works include the provision of a planned ‘SCOOT’ adaptive control system for the road network in the Liffey Valley area. These works will include signalisation of the St. Loman’s roundabout and the Fonthill Retail roundabout. Also included will be the hard linking of the following junctions, the N4 eastbound/Fonthill Road, the St. Loman’s roundabout, the Fonthill Retail Park park junction and the Spine Road C / Coldcut Road junction and the installation of CCTV of three junctions with high level masts and appropriate bases for Fonthill Retail Park junction, St. Loman’s junction and Spine Road C / Coldcut Road junction. Additional congestion loops will be placed on the N4 off-slip.....”

The condition attached in the schedule of conditions by the Planner would appear to be derived from the Area Engineer’s report which indicates that the traffic can be actively managed by the provision of signalised junctions at St. Loman’s roundabout and the Fonthill Retail Roundabout. Reference was made in the O’Connor Sutton Cronin reviews undertaken to consider various scenarios for the roundabout upgrades and also the costs of upgrading the two roundabouts which was estimated at €7,989,926 and €5 million was

estimated to be a reasonable cost of contribution towards a special contribution. In this regard there is a preliminary cost estimate report on the file which sets out how the €7,989,926 figure was arrived at. Should the Board be pre-disposed to a grant of permission in this instance, the documentation on file clearly demonstrates that there will be a significant increase of traffic on the local network and certain junctions will operate well above capacity at particular times. I am satisfied that the junctions/roundabouts identified in the condition cited by the planning authority are consistent with those junctions that would be required to be either upgraded or managed so as to control traffic flows in the area. These additional works and signalisation would be considered to be outside the terms of the general scheme and as such a special contribution is justifiable. With regard to the apportionment of cost, I would tend to concur with the First Party that no rationale or justification has been given for the allocation of €5 million in costs to the First Party.

7.8.4. NRB on behalf of the First Party undertook an assessment of the projected opening year traffic increases associated with the proposed Liffey Valley Plaza scheme on the Arc and Fonthill roundabouts. The figures are estimated using data from the Eastern Regional Model and 2016 traffic survey data. The assessment is based solely on the proposed Liffey Valley Plaza Scheme and not the entire Liffey Valley Centre, as it is the proposed Plaza Scheme alone that is subject to the requirement for a special contribution. The details submitted demonstrate a range of resulting % impact of between 3.9 and 5.5%. However, there is quite clearly a higher impact, e.g. 9.2% at certain times. The First Party set out that if the Board were to determine that the upgrades as identified by the planning authority and OCSC are necessary it is considered that a contribution of 20% towards the cost of the junction upgrade may be appropriate.

7.8.5. The First Party has provided a detailed cost analysis in terms of the construction costs for the proposed junction upgrades. There is clearly a disparity between the costs cited by the applicant i.e. €4,715,000 as opposed to approx. €7.89 million cited by the Council. The First party consider an apportionment of 20% to be fair given rise

to a payment of €943,000. Given the discrepancies in the modelling and capacity of existing roundabouts and local road network to cater for increased traffic it is difficult to definitively ascertain at this juncture what apportionment of costs would be reasonable.

7.9. Award of Costs

- 7.9.1. An Taisce in their appeal submission has requested award of expenses under section 145 of the Planning and Development Act 2000 as amended. Their justification for such is based on the range of issues and concerns raised by An Taisce. No details in relation to costs sought have been provided. It is considered that there were no onerous issues that would require the payment of costs in this instance.

8.0 Recommendation

- 8.1. I recommend that the proposed development should be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the scale of the development proposed, the traffic impact assessment submitted by the applicant, and the report commissioned for the Planning Authority '*Review of FI Submission*' *Transport Assessment*, the proposed development would interfere with traffic flows on the local road network, particularly at Bothair and Life / Fonthill Road / St. Loman's Road junction and the Fonthill Road / Coldcut Road junction and would therefore give rise to serious traffic congestion. Consequently, it is considered that the proposal would have an undue negative impact on the strategic road network, namely the N4 and M50 which are currently experience operational pressure as identified in the Transport Strategy for the Greater Dublin Area 2016-2035. It is considered that the traffic generated by the development of the scale proposed in conjunction with the absence of appropriate demand

management measures including the provision of paid parking for short visits to the Liffey Valley Shopping Centre, would interfere with the national and local road network in the area and would, therefore, create serious traffic congestion and be contrary to the proper planning and sustainable development of the area.

Joanna Kelly
Planning Inspector

23rd January 2017