

Waterford Boundary Review .

Submission by Stephanie Taheny, Town Planner.

It is my firm belief that Waterford City and County Council should be responsible for that part of Waterford City and its immediate environs, currently located within Kilkenny County Council, and identified on the proposed boundary extension map in order, in the words of the commission

'To ensure effective local government for Waterford and its hinterland with particular regard to the need to maximise the economics performance and potential of the area.'

I reject the proposition that Kilkenny County Council can govern this area in a manner that will 'maximise ***the economic performance and potential of the area***'.

Several arguments can and will be made in support of the boundary extension but my submission will focus on one particular area of Kilkenny's planning policy in relation to the Northern suburbs of Waterford City that I have observed in great detail over a number of years and leads me to conclude that they have acted to the detriment of Waterford city's development and growth, have defied government policy in relation to the national spatial strategy and the retail planning guidelines. In support of this contention I offer a case study of Kilkenny County Councils collusion in the development of a large scale retail development in Abbeylands, Ferrybank in contravention of the retail planning guidelines, An Bord Pleanála, the advice of their own planning consultants DTZ and despite objections from Waterford City Council and neighbouring planning authorities.

The result of this bad planning by Kilkenny County Council had resulted in an investment of approximately 40 million in a shopping centre in this suburb of Waterford City which is totally unsuited to the needs of the local community, of a scale that could never be viable within the local catchment population, the proof of which is it has never opened and traded and stands now as a symbol of all that was wrong in the era of the Celtic tiger.

The citizens of Ireland are picking up the tab for the excessiveness and reckless decisions of that period and developers and banks are being blamed. But the finger of blame should also be pointed at planning authorities who had responsibility for the proper planning and sustainable development of areas and the interpretation of government policy and guidelines and instead, in the case of Kilkenny County Council, were complicit in this excess, the motivation for which can only have been to increase the revenue from commercial rates within their jurisdiction.

More importantly, investment in this failed scheme represents a lost opportunity for the redevelopment of the North Quays which would have better served the proper planning and sustainable development of Waterford City and enhanced its status as a Gateway City.

This case study is proof positive that inter- county cooperation is fictional in the crucial area of planning and the argument that a boundary extension is not required because of this inter-county cooperation cannot be substantiated. The objective of a joint retail strategy Waterford and Kilkenny has appeared in planning policy documents as far back

as 2000 and appears again in the current 2015-2020 Kilkenny Development plan and in all these 15 , Kilkenny County council has not engaged with Waterford city to achieve a Joint Retail Strategy. At this stage a Joint Retail Strategy may well be a case of closing the stable door when the horse has bolted except that worse may come if the real intention behind the design of the Ferrybank Shopping Centre, to be a **Regional Shopping Centre** on a par with Mahon Point in Cork and Crescent Shopping Centre in Limerick, is allowed to take shape in the future and pressure is mounted for the conversion of all the so called non retail floor space to retail use. This is definitely not a decision I would like to see adjudicated on by Kilkenny County Council.

The origins of the Ferrybank Shopping Centre are to be found back as the 1980s. Waterford City Council had of necessity constructed housing developments in the Kilkenny suburbs of Waterford City in 1980s to satisfy a housing demand that was not being met by Kilkenny County Council. Waterford City also provided a site for a new school and playing pitches. In addition they purchased land for the provision of a neighbourhood centre to serve the expanding community. This was consistent with Waterford City Council's policy for the development of neighbourhoods with community and retail facilities. A neighbourhood centre was defined as **650 sq meter (7000sq ft)** in size with a supermarket and a number of small retail units

Waterford City Council put the site for the neighbourhood centre up for sale and the site was purchased by Deerland Construction Ltd, the Director being Derry Mc Philips from Kilkenny who was also the original developer of City Square shopping centre in Waterford city centre until he was taken out by Sisks in the mid 1980s who completed the development.

Following the purchase of the site for the neighbourhood centre, Kilkenny County Council re-designated it as a District Centre in their 2002 Retail Strategy. A District Centre was defined as consisting around **10,000sq m** and consisting of a large foodstore and containing a range of unit shops and non retail service outlets such as banks post office or hairdressers. They perform an important retail function for the local community living within a 15-20 minute drive time of the site..

On 23/12 /2002 Deerland Construction Ltd proceeded to make an application for planning permission for a District Centre of **24 204sq meters** gross and a basement car park of 13.471sq meters, an overall size of **37.675 sq meters**. Waterford City Council, Carrick on Suir Town Council and New Ross Town Council objected to the proposed development on the grounds of scale and type of goods proposed to be sold. In their letter of objection 30/1/2005 Waterford City Council Director of Services, Michael Walsh, pointed out the requirements of the Retail Planning Guidelines and the policy set down in the Kilkenny County Development Plan 2002 (Vol1)(section 3.4.13)that a Joint Retail strategy for the Greater Waterford Area be prepared and adopted by the prescribed Local authorities. This proposal for a joint Retail Strategy would be repeated again in 2004 in variation no 3 of the plan (Kilkenny Retail Strategy Review) and proposed again in the Review of Kilkenny City and County Retail Strategy 2007. It would appear

again in the Kilkenny Development plan 2007-2013 yet Kilkenny county council have yet to engage in the development of a Joint Retail Strategy. As we will see the absence of such a Joint Retail Strategy over the following years of the economic boom allowed Kilkenny County Council to do as they pleased in relation to the retail developments in the Northern Suburbs of the city.

Despite all the objections and the absence of a joint retail strategy Kilkenny County Council went ahead and granted permission but their decision was overturned on appeal to An Bord Pleanála on the 20/12/2004 on the grounds that by reason of its bulk, mass and scale, its monolithic form and internalised nature, its lack of pedestrian scale or of visual or functional linkages to the surrounding area would be visually intrusive and would fail to provide an appropriate form of urban design for the site.

There is no doubting that this was a clear message to both the developer and to a Kilkenny County Council in relation to the development of this site. What happened next is unbelievable but true. On 9/8/2005 2005 Deerland Construction Ltd lodged a new application ref 05/1873 for a District Centre of **30,883 sq m gross** and two levels of basement car parking with area

30,000 sq m resulting in an overall size of **64,289 sq meters** double the size of the original application. Objectors to the original proposal feeling their case had been won on appeal were not prepared for this repeat application which was described in such terms as to give the impression that it was not as large as the previous application and disguising the retail floor space content by the designation of large areas of the ground floor as car showrooms and 1900 sq meter on the first floor as a food court and the previous 26 retail units as a gym, medical centre, retail warehouse and non retail service units. It is worth pointing this second proposal was the same size as the City Square Shopping Centre **31,000sq m** gross retail floorspace and two levels of basement car parking in the heart of Waterford City.

Kilkenny County Council granted planning permission and a third party appeal followed by a nearby resident but was subsequently withdrawn resulting in the granting of permission on the 27/10/2006.

In 2007 Dunnes Stores entered into an agreement with Holtglen, part of Deerland Construction Ltd to purchase the anchor store within the centre for 21million euro. There followed several more applications for alterations and enlargements to the District Centre a few of which were granted by Kilkenny County Council and one major expansion refused by Kilkenny County Council following the advice of their consultants DTZ and Refused again by An Bord Pleanála following a first part appeal.

When the shopping centre was under well under construction the process of converting the non retail uses to retail uses also began commencing with the submission of several individual applications for a change of use of the non service retail units to retail uses. It was abundantly clear that the huge areas devoted to car showrooms on the ground floor which had stepped access only and no outdoor parking areas for cars were destined for a change of use to large scale retail units for a second anchor store. The food court on first floor level looked larger than the food court in Dublin Airport and could hardly be justified in terms of the local need. Kilkenny County Council set about changing the retail policy to allow for the conversion of the non retail floor space to retail floor space.

In 2008 Kilkenny County Council prepared a Local Area Plan in accordance with section 18 19 and 20 of the Planning and Development Act 2000, as amended, for the Ferrybank Belview Area.

The Draft Local Area Plan went on public display on the 25th July 2008. The closing date for submission was 5th September 2008. The Manager's report on submissions received, dated 11th November 2008 was presented to the Council on the 15th November and followed by two additional reports of the 17th November and 25th November.

Following a decision of the 17th November 2008 the proposed amendments (material alteration) to the Ferrybank Belview Draft Local Area Plan went on public display on the 29th December 2008 until 13 January 2009 and submission was invited to the contents of the changes and associated environmental report. At the Council meeting of the 16th March 2009 the Manager's report was adopted by 22 votes to one with 3 Council members absent.

The Manager's report of the 16th March adopted by the Council included a material amendment to the local area plan that was not published in the proposed amendment (material alterations to the Draft local area plan) and did not relate to the contents of the amendments on display.

Included in the plan was the following additional statement.

The Ferrybank shopping centre is to be designated as a Gateway Suburban Centre above the level of the existing District Centre definition of the a RPG 's but below the level of town centre and to allow it to expand by a further 3000sq meters of additional level 2 type comparison shopping in order to sustain the provision of retail facilities in the centre and the area in the short to medium term. This retail policy will be the subject to review within 3 years from the adoption of the LAP.

In adopting the Local Area plan with this amendment Kilkenny county council denied the public and Waterford City Council the opportunity to make observation on this very significant policy change and secondly they erred in law by introducing in a local plan an objective that was inconsistent with the objectives of the a county development plan.(While the managers report stated that this new objective required a material variation of the county development plan it could not have been included as an objective of the local plan until such time as the county development plan had gone through the variation process) .

Thirdly any such variation to the retail strategy would require ' a broad assessment of the requirement for additional retail floor space in according with Annex 3.

Kilkenny County Council had refused planning permission for the expansion of this centre in 2007

on the advice of their consultants DTZ who stated

As the subject application clearly is seeking to provide the transition from District Centre to something akin to a large out of centre shopping centre in a Waterford context , this cannot be determined as being appropriate or not at this stage in hyena absence of the context of a Regional Retail Strategy.

Nevertheless Kilkenny County council made this significant amendment to their retail strategy **overnight** without any quantitative assessment , without any regard to the completion nearby of the local shopping Centre in Ross Abbey , Rathculiheen of over 2000 sq meter then vacant for over a year and without regard to by then the very obvious downturn in the economy. They also introduced a completely new concept and level of retail provision '**Gateway Suburban Centre**' that was not provided for in the Retail Planning Guidelines

Waterford City Council had waged a battle for over a decade on several fronts against the aspirations of developers from outside of the city to get planning permission for large scale out of town of town shopping Centres; at Williamstown/ Outer Ring Road by Orst Ltd,

Director Gerard Barrett, Galway (Edward Holdings now in NAMA); at the Cork Road /former Waterford crystal sports and leisure centre site by Parker Green International Waterford Ltd, Director Dr Gerard O Hare, Newry County Down now in NAMA; at the Butlerstown Retail Park by James Tracey, Butlerstown Developments and TK MAXX determined in the High Court. The purchase of a site near the six cross roads in Kilbarry for €25 million by Philip Lynch of Kildare in the expectation that planning permission would be forthcoming for an out town shopping centre is well documented although no planning application was ever made. Waterford City Council was successful in the battle on all their southern fronts, but their rearguard was let down in the Northern suburbs of the city by Kilkenny County Council who permitted the large scale suburban shopping centre at Ferrybank.

In all likelihood had Ferrybank been built as a District Centre to the prescribed 10,000 sq meters it may have been viable in this location and the residents of Ferrybank would have the facilities that Waterford City Council originally intended when they bought and sold this site as a neighbourhood centre. The aspirations of the developer for a centre as large as City Square in Waterford City, aided and abetted by Kilkenny County Council, a centre that was economically and financially unsustainable, has left the residents of the Northern suburbs without the facilities they deserved.

By the time construction of the Ferrybank Shopping Centre was completed Dunnes Stores had a change of heart and wanted to get out of the deal to occupy the anchor unit. The matter went to arbitration and then to the High Court who upheld the arbitrator's decision that Holtglen/Deerland Constuction Ltd was entitled to €20 million payment from Dunnes. Dunnes continued to refuse to pay and in 2012 Holtglen issued proceedings to have Dunnes wound up. Dunnes paid the amount due on the eve of the court hearing. But that did not end matters as Dunnes are still refusing to comply with that part of the agreement which requires them to actually fit out and **open** their store in the Ferrybank Shopping Centre, described by Margaret Heffernan in a letter to NAMA chief executive Brendan Mc Donagh, '**as an unmitigated disaster**' ..(NAMA are now involved since the original developer Deerland Construction Ltd and Holtglen became insolvent).

Contemporaneously with the development of a shopping centre to serve the need of the northern suburbs and Ferrybank the future of the North Quays of Waterford, in the wake of the relocation of the port of Waterford to Belview in County Kilkenny became the subject of several studies, vision statements, international competitions and planning frameworks. The North Quays have been identified as an area with potential for urban regeneration which would consolidate the city centre of Waterford as a major urban centre since 1998. In October 1998 the architectural service of the Office of Public Works prepared a development vision for the North Quays. In summary the vision for the development proposed a mixed use development, venue building, hotel, Marina and public space. This was followed in 2002 by an OPW organised International Architectural and Urban Design Competition for the North Quays.

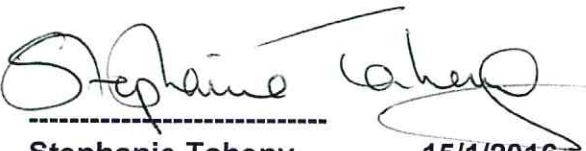
The National Development plan identified key investment priorities in the Gateway cities and in Waterford included the renewal and development of the North Quays. PLUTS, the Waterford planning and transportation study identified the key development catalyst for the northern suburbs of Waterford as the opening of the N 25 bye-pass and the Development of major employment at Belview and in the North Quays.

The development of the North Quays as a northward extension of the existing City Centre has been highlighted as one of the key components of the spatial strategy for Waterford. This landmark redevelopment site will form a new modern mixed use district with a major emphasis upon retail and office based employment in order to reduce the growth at peripheral location in the city .PLUTs pg 27

Kilkenny's decision to allow Deerland Construction Ltd to develop a large scale suburban shopping centre on the site at Abbeylands totally undermined the objectives for the redevelopment of the North Quays which was the proper location for large scale investment north of the river and would have been the catalyst for the redevelopment of the North Quays and for the overall enhancement of Waterford City as a Regional Gateway..

Conclusion

The main argument put forward by Kilkenny County Council to the previous boundary extension was the loss of a substantial rates base in the Ferrybank Belview area and the insinuation that that Inter-authority co-operation between Kilkenny. County council and Waterford City was feasible in the planning and development of the City. The promotion of the Ferrybank shopping centre by Kilkenny County Council to the detriment of Waterford City Centre and the opportunity lost for investment in the a North Quays is one example of the failure of inter- authority co- operation and a sound argument for the case for the northern suburbs of Waterford City to be administered by the one authority, Waterford City Council .



Stephanie Taheny
Town Planner

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