



DETERMINATION OF MERGER NOTIFICATION M/17/046 HAMMERSON / TEBA

Section 21 of the Competition Act 2002

Proposed acquisition by Hammerson plc of sole control of the Pavilions Shopping Centre I & II, Swords, Co. Dublin from Teba Unlimited Company.

Dated 14 September 2017

Introduction

1. On 9 August 2017 in accordance with section 18(1)(a) of the Competition Act 2002, as amended (“the Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of a proposed transaction whereby Hammerson plc (“Hammerson”), through the Hammerson Irish Collective Asset Management Vehicle (“Hammerson ICAV”)¹, would acquire a 50% interest and thus sole control of the Pavilions Shopping Centre I & II, Swords, Co. Dublin (the “Target Assets”), from Teba Unlimited Company (“Teba”) (the “Proposed Transaction”).

The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to a contract of sale (“the Agreement”) dated 23 May 2017 between Teba and Hammerson ICAV.²
3. Kieran Wallace and Cormac O’Connor of KPMG are currently acting as joint receivers over certain assets of Teba, including the Target Assets.³
4. Teba currently has a 50% shareholding in the Target Assets. Following implementation of the Proposed Transaction, Hammerson will acquire that 50% interest in the Target Assets from Teba. Each of Irish Life Assurance plc (“Irish Life”) and IPUT plc (“IPUT”) currently has a 25% shareholding in the Target Assets. The co-ownership agreements

¹ Hammerson ICAV is a 100% subsidiary of Hammerson International Holdings Limited, which is a 100% subsidiary of Hammerson.

² Hammerson ICAV is acting for and on behalf of the Hammerson No. 2 Fund, both of which are ultimately owned by Hammerson.

³ In correspondence with the Commission, dated 22 August 2017, Hammerson stated the following: “Teba was placed into receivership on 7 July 2016 by Triskelion Property Holdings DAC, a lender to Teba.”



between Irish Life, IPUT and Joe O'Reilly⁴ regarding the Target Assets provide that, [...]. Therefore, following implementation of the Proposed Transaction, Hammerson will acquire sole control of the Target Assets.

The Undertakings Involved

Hammerson

5. Hammerson owns, develops and manages retail property across Europe, including: (a) prime shopping centres in the United Kingdom, the State and France; (b) retail parks in the United Kingdom; and, (c) premium retail outlets across Europe.
6. Hammerson is active in the retail real estate sector in the State where it owns, develops and manages a number of properties in the State (see Table 1 below).

Table 1: Hammerson Retail Real Estate Interests in the State, as of August 2017

Asset	Control	Square metres
Dundrum Town Centre shopping centre, Dublin 16	Joint Control: Hammerson (50%) Allianz SE (50%)	139,917
ILAC shopping centre, Dublin 1	Joint Control: Hammerson (50%) [Irish Life] (50%)	17,766
Units 12, 16-18 and 19, Balally Shopping Centre, Sandyford, Dublin 18	Sole Control	1,052
Dundrum Village site, Dublin 16	Joint Control: Hammerson (50%) Allianz SE (50%)	7,779
Units 41 and 41A, Henry Street, Dublin 1	Sole Control	234

Source: The Commission based on information supplied by the Hammerson.

⁴ Teba is 100% owned by Joe O'Reilly.



7. In addition to the properties listed in Table 1, Hammerson also has sole control of a five acre urban retail development site which fronts onto Henry Street and O'Connell Street, Dublin 1 and Swords Pavilions Phase III, which encompasses an 800 space multi-storey car park, a ground level 1,000 space car park and six units in North Co. Dublin.⁵
8. For the financial year ending 31 December 2016, Hammerson had a worldwide turnover of approximately €527.1 million, of which approximately €[...] was generated in the State.

The Target Assets

9. Teba, which currently has a 50% shareholding in the Target Assets, is 100% owned by Joe O'Reilly. The Target Assets comprise a shopping centre in Swords, North County Dublin, known as Swords Pavilions I & II. It comprises a total lettable area of approximately 43,659 square metres and currently has over 80 shops, a number of restaurants and cafés and an 11-screen cinema.⁶
10. For the financial year ending 31 December 2016, the Target Assets generated turnover in the State of approximately €[...].

Rationale for the Proposed Acquisition

11. Hammerson states the following in the notification:

“The Proposed Transaction is expected to provide Hammerson with an income return with the potential for capital value growth through the implementation of a focused business plan to enhance the shopping centre and its tenant mix.”

Third Party Submissions

12. No submission was received.

⁵ Hammerson has sole control of an undeveloped site at Beechpark, Clonsilla, Dublin 15 which currently has no rentable retail space. Hammerson also owns a 35% non-controlling interest in Kildare Village, Co Kildare.

⁶ Further information regarding the Target Assets is available here: <http://www.pavilions.ie>.



Competitive Analysis

Horizontal Overlap

13. There is a horizontal overlap between the activities of Hammerson and the Target Assets with respect to the supply of rentable retail space in the State.
14. The Commission has previously assessed the competitive impact of transactions involving the acquisition of rentable retail space.⁷ In its determination in *M/16/004 – Dekabank/Whitewater Development*, the Commission assessed the competitive impact of the relevant transaction in the potential market for the “supply of rentable commercial property (i.e., retail premises).”⁸
15. The European Commission⁹ recently considered, but ultimately left open, whether the commercial real estate sector should be segmented in accordance with the following categories of property: (i) office properties; (ii) retail properties; and (iii) industrial properties.
16. The Competition and Markets Authority, United Kingdom, (the “CMA”) in a recent decision¹⁰ regarding Hammerson’s acquisition of the Grand Central Shopping Centre in Birmingham in the UK, assessed the competitive impact of the transaction by reference to the supply of retail space, including shopping centres and the high street, stating the following:

*“The CMA notes that these offerings supply the same core service
(ie retail space) and most retailers indicated that other retail*

⁷ Please see, for example, merger determination *M/16/004 – Dekabank/Whitewater Development* which can be accessed at: <https://www.ccpic.ie/business/mergers-acquisitions/merger-notifications/m16004-deka-immobilien-dekabank-whitewater-development/>; merger determination *M/16/030 – Blackstone/Blanchardstown* which can be accessed at <https://www.ccpic.ie/business/mergers-acquisitions/merger-notifications/m16030-blackstone-grouppblanchardstown-shopping-centre/>; and merger determination *M/16/057– Universal Investment GmbH/ Liffey Valley Shopping Centre* which can be assessed at: <https://www.ccpic.ie/business/mergers-acquisitions/merger-notifications/m16057-universal-investmentliffey-valley-shopping-centre/>

⁸ Please see, merger determination *M/16/004 – Dekabank/Whitewater Development* which can be accessed at <https://www.ccpic.ie/business/mergers-acquisitions/merger-notifications/m16004-deka-immobilien-dekabank-whitewater-development/>.

⁹ Please see the European Commission decision in *Case No COMP/M.8229 – Hammerson/Irish Life/ILAC shopping centre* which can be accessed at: http://ec.europa.eu/competition/mergers/cases/decisions/m8229_100_4.pdf.

¹⁰ Please see paragraph 33 of the CMA decision in *ME/6597/16- Completed acquisition by Hammerson plc of the Grand Central Shopping Centre* which can be accessed at: <https://assets.publishing.service.gov.uk/media/57babace40f0b61272000008/hammerson-gc-full-text-decision.pdf>



space may offer an alternative in the context of their preferences across a range of factors, including location.”

17. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. The Commission does not need to come to a definitive view on the precise relevant product market in this instance since its conclusion on the likely competitive impact of the Proposed Transaction will be unaffected whether the precise relevant product market is narrow (e.g., separate potential markets for each category of rentable commercial space: (i) the supply of office space; (ii) the supply of retail space; and, (iii) the supply of industrial space) or broader (e.g., the potential market for the supply of all categories of rentable commercial space). However, for the purposes of this determination, the Commission has followed its approach in *M/16/004 – Dekabank/Whitewater Development* and has assessed the likely competitive impact of the Proposed Transaction in the potential market for the supply of rentable retail space.¹¹
18. In relation to the geographic scope of the relevant product market, [Hammerson states] in the notification that *“the relevant geographic market should comprise Ireland or the [Greater Dublin Area (“GDA”)]¹².”*
19. In the Commission’s determination in *M/16/004 – Dekabank/Whitewater Development*, the Commission assessed the competitive impact of the relevant transaction by reference to the *“narrowest possible relevant geographic market, namely regionally in Cork and County Kildare.”¹³*
20. The European Commission¹⁴ recently considered, but ultimately left open, whether real estate markets can be regarded as national, regional or local, stating the following:

¹¹ The Commission notes that in *Case COMP/M.8229 – Hammerson/Irish Life/ILAC shopping centre*, the European Commission assessed the impact of that transaction in a narrower potential product market, namely the rental of retail space in shopping centres of at least 8 000 or 10 000 square metres. The European Commission’s decision in *Case COMP/M.8229 – Hammerson/Irish Life/ILAC shopping centre* can be accessed at: http://ec.europa.eu/competition/mergers/cases/decisions/m8229_100_4.pdf.

¹² The geographic area comprising a 50 km radius around Dublin city

¹³ Please see, merger determination *M/16/004 – Dekabank/Whitewater Development* which can be accessed at <https://www.cpc.ie/business/mergers-acquisitions/merger-notifications/m16004-deka-immobilien-dekabank-whitewater-development/>.

¹⁴ Please see paragraph 20 of the European Commission decision in *Case COMP/M.8229 – Hammerson/Irish Life/ILAC shopping centre* which can be accessed at: http://ec.europa.eu/competition/mergers/cases/decisions/m8229_100_4.pdf.



“the [European] Commission considered in previous cases, but ultimately left open whether there is any scope for a regional market definition and examined the markets for rental of retail space in shopping centres of at least 8 000 or 10 000 sqm within a 50 km radius around the relevant city in the region. As far as the present case is concerned, the Parties note that, in the case of Dublin, a 50 km radius substantially encompasses the whole of the Great Dublin Area (“GDA”).”

21. The Commission does not need to come to a definitive view on the precise relevant geographic market in this instance since its conclusion on the competitive impact of the Proposed Transaction will be unaffected whether the precise relevant geographic market is narrow (e.g., the GDA) or broader (e.g., the State). However, in order to determine whether the Proposed Transaction might result in a substantial lessening of competition in the State, the Commission has analysed its likely competitive impact by reference to a 50 km radius around Dublin city centre which substantially encompasses the whole of the Great Dublin Area (“GDA”).¹⁵

Conclusion

22. For the purposes of its analysis, the Commission has assessed the competitive impact of the Proposed Transaction in the potential market for the supply of rentable retail space in the GDA.

The Supply of Rentable Retail Space in the GDA

23. There has been an increase in the demand for rentable commercial property in the GDA in recent years as a result of the growing Irish economy.¹⁶ Hammerson states the following in the notification:

¹⁵ Please see paragraph 20 of the European Commission decision in Case COMP/M.8229 – Hammerson/Irish Life/ILAC shopping centre which can be accessed at: http://ec.europa.eu/competition/mergers/cases/decisions/m8229_100_4.pdf.

¹⁶ The Commission has recently approved a number of such transactions in the GDA. Please see, for example, merger Determination M/16/030 – Blackstone/Blanchardstown which can be accessed at <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/M-16-030-Blackstone-Blanchardstown-Public.pdf> and merger determination M/16/057– Universal Investment GmbH/ Liffey Valley Shopping Centre which can be assessed at: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/04/M-16-057-Universal-Investment-GmbH-Liffey-Valley-Shopping-Centre-Public.pdf>. The European Commission has recently approved the acquisition of joint control by Hammerson and Irish Life Assurance plc of ILAC Shopping Centre. Please see European Commission Case M.8229 – Hammerson/Irish Life/ILAC shopping centre which can be accessed at http://ec.europa.eu/competition/mergers/cases/decisions/m8229_100_4.pdf.



“Following a period of contraction as a result of the 2008 financial crisis, the Irish retail real estate sector has witnessed significant activity since the beginning of 2014.”

24. Hammerson commissioned [...] to prepare [total] market [...] [size] estimates for the potential market for the supply of rentable retail space in the GDA. [...] estimated the total square metres of retail space in the GDA at the end of 2016 and into quarter one in 2017 to be 1,737,847.¹⁷
25. In the GDA, Hammerson currently owns approximately 188,094¹⁸ square metres of rentable retail space and the Target Assets comprise 43,659 square metres of rentable retail space. These figures suggest that following implementation of the Proposed Transaction, Hammerson will own at most [10-15]% of the total rentable retail space in the GDA. On this basis, following implementation of the Proposed Transaction, Hammerson’s increase in market share in the potential market for the supply of rentable retail space in the GDA will be at most [0-5]%.
26. In addition, there are a number of international property investors¹⁹ currently active in the supply of rentable retail space in the GDA, as well as a number of Irish competitors²⁰. These competitors will continue to act as a competitive constraint on Hammerson in the potential market for the supply of rentable retail space in the GDA, following implementation of the Proposed Transaction.
27. During the Commission’s assessment of the competitive effects of the Proposed Transaction, the Commission contacted a number of third parties, including customers common to both parties, in order to ascertain their views about the likely impact of the Proposed Transaction. None of the respondents raised any concerns about the

¹⁷ Hammerson states the following in the notification, “[...] estimates that at the end of 2016 (and into Q1 2017) there was a total of 1,737,847 square metres of retail space in the GDA. This consists of 992,973 square metres of shopping centres >5,000 square metres, 390,453 square metres of retail parks >5,000 square metres, 111,186 square metres of retail schemes <5,000 square metres, 59,458 square metres of retail space in Grafton Street, 119,357 square metres of retail space on Henry Street and 64,420 square metres of retail space on O’Connell Street. It does not include i) Kildare Village or ii) any other retail space on the high street in any other street in Dublin other than the three main retail streets above.”

¹⁸ The Commission notes that this figure includes the Dublin Central (19,877 square meters) property which is currently an urban retail development site.

¹⁹ These include the Blackstone Group L.P. (Blanchardstown Shopping Centre, Co. Dublin), Deka Immobilien Investment GmbH (Whitewater Shopping Centre, Newbridge, County Kildare), UniversalInvestment-Gesellschaft mit beschränkter Haftung/BVK Highstreet Retail (Liffey Valley Shopping Centre, County Dublin) and Oaktree Capital Management Limited (Newhall Retail Park, County Dublin).

²⁰ These include Irish Life and IPUT.



Proposed Transaction. One customer, common to both parties, noted that the Proposed Transaction will enhance their bargaining power with Hammerson.

28. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in the State in respect to the supply of rentable retail space in the GDA.

Vertical Overlap

29. There is no vertical relationship between the parties in the State. Therefore, the Proposed Transaction does not raise any vertical competition concerns in the State.

Conclusion

30. In light of the above, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

Ancillary Restraints

31. No ancillary restraints were notified.



Determination

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, has determined that, in its opinion, the result of the proposed transaction whereby Hammerson plc would acquire a 50% shareholding and thus sole control of the Pavilions Shopping Centre I & II, Swords, Co. Dublin, will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

Brian McHugh

Member

Competition and Consumer Protection Commission