



Planning and Development Acts 2000 to 2017

Planning Authority: Fingal County Council

Planning Register Reference Number: FW16A/0176

Appeal by Nebil Campbell-Shaw of 97 Castlefield Court, Clonsilla, Dublin and by La Vista Limited and E.P. Lynam Properties Limited care of Downey Planning of 1 Westland Square, Pearse Street, Dublin against the decision made on the 11th day of August, 2017 by Fingal County Council to grant subject to conditions a permission to the said La Vista Limited and E.P. Lynam Properties Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: A mixed use development on lands bounded by Clonsilla Road to the south, Clonsilla Link Road to the east and the residential development of Portersgate to the west, Clonsilla, Dublin. The development will consist of the provision of a total of 103 number residential units and a local neighbourhood centre. The development comprises: (1) the construction of 67 number two storey residential dwellings (45 number three bed and 22 number four bed dwellings) all with two number car parking spaces, (2) two number three storey apartment blocks comprising 36 number apartments (12 number one bed and 24 number two bed apartment units) with 40 number car parking spaces, 36 number bicycle spaces and bin store, (3) one number two storey commercial unit comprising 1,288 square metres of retail convenience food store including off licence and ancillary services at ground floor; offices at first floor, with associated elevational signage, (4) one number single storey structure comprising one number café and one number retail

unit with associated elevational signage, (5) 82 number car parking spaces and two number motorbike spaces to serve commercial development, (6) construction of new vehicular access and pedestrian access points off the Clonsilla Link Road, upgrade works to Clonsilla Road to include footpath and cycle lane, (7) landscaping, boundary treatments and one number playground, (8) one number ESB substation and (9) engineering and all site development works necessary to facilitate the development.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to:

- (a) the zoning of the site for residential and town centre development in the Fingal County Development Plan 2017 to 2023,
- (b) to the planning history of the site,
- (c) to the pattern of development in the area, including residential development, and
- (d) to the proximity of the site to public transport infrastructure,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the current Fingal County Development Plan, would not endanger public safety by reason of traffic hazard, would not seriously injure the residential or visual amenity of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars lodged with the planning authority on the 17th day of July 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority:
 - (a) details of the proposed access from Portersgate Heights to the public open space at the northern apex of the application site,
 - (b) details of a childproof boundary treatment between the public open space and Clonsilla Link Road,

- (c) parking spaces numbers 16, 19 and 20 shall be omitted and a revised car parking layout shall be submitted with car parking spaces numbers 42-52 inclusive on the southern boundary relocated in a northerly direction and the bin and bicycle storage relocated within the revised layout,
- (d) a revised landscape plan with a heavily planted landscape buffer along the full extent of the southern boundary of the site, and
- (e) a revised southern elevation to the commercial unit along Clonsilla Road. External finishes along the entire length of the elevation to match the corner element, that is, reconstituted stone.

Reason: In the interest of residential and visual amenity.

- 3. (a) The retail unit shall be confined to Class 1 of Part 4, Schedule 2 of the Planning and Development Regulations, 2001, as amended. Any change of use shall require a separate grant of planning permission.
- (b) No hot food takeaways, bookmakers or totem signs shall be permitted as part of this permission.

Reason: In the interest of residential amenity and public safety.

- 4. Trees to be removed on site shall be felled in late summer or autumn. Any disturbance to bats or badger setts on site shall be in a manner to be agreed in writing with the planning authority on the advice of a qualified ecologist.

Reason: In the interest of nature conservation.

5. Water supply and drainage arrangements, with the exception of the attenuation which shall be as shown on drawing number L053-003 submitted to the planning authority on the 17th day of July 2017, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. All rear gardens shall be bounded with 1.8 metre high concrete block walls, suitably capped and rendered, on both sides, or by 1.8 metre high timber fences with concrete posts.

Reason: In the interests of residential and visual amenity.

7. No walls, fences or other boundary treatment shall be constructed around the front gardens of the proposed dwellings, and front gardens shall be kept as “open plan”.

Reason: To ensure that the proposed scheme remains open plan in nature/appearance, in the interest of visual amenity.

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

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

9. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements, other than those agreed under condition number 8 of this Order, shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

10. (a) The areas to be taken in charge by the planning authority shall be as shown on drawing number PL104-Rev PL01, submitted to the planning authority on 17th day of July, 2017.
- (b) The other areas of the site shall be maintained by a legally constituted management company. Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

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

Reason: In the interest of visual amenity.

12. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

13. Details of the materials, colours and textures of all the external finishes within the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

Reason: In the interest of visual amenity.

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

15. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

16. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

17. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

18. Provision shall be made for a cycleway along the Clonsilla Road within the development. Details of such provision, including construction and demarcation, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

19. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
 - (i) the species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder,
 - (ii) details of screen planting which shall not include cupressocyparis x leylandii,
 - (iii) details of roadside/street planting which shall not include prunus species, and
 - (iv) hard landscaping works, specifying surfacing materials, furniture and finished levels.
- (b) specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment, and
- (c) a timescale for implementation including details of phasing.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

20. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

21. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

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

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

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

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

24. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

25. The developer shall pay to the planning authority a financial contribution in respect of Clonsilla to Dunboyne (pace) railway line in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

