



Planning and Development Acts 2000 to 2018

Planning Authority: Fingal County Council

Planning Register Reference Number: FW17A/0120

Appeal by Lambourn Residents' Association care of Sinead Reid of 2 Lambourn Avenue, Clonsilla Village, Dublin and by Ian Cunningham care of Douglas Wallace of 1 Grantham Street, Dublin against the decision made on the 6th day of February, 2018 by Fingal County Council to grant subject to conditions a permission to the said Ian Cunningham in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a mixed use development consisting of (1) restaurant/fast food take-away areas at ground floor level; (2) a total of four number residential apartments at first floor level and second floor (set-back) level comprising three number three-bedroom units and one number two-bedroom unit; (3) residential circulation areas; (4) residential external terrace areas; (5) the relocation of site vehicular and pedestrian access onto Clonsilla Road; and (6) all ancillary site works and services at Clonsilla Road (adjacent/east of Applegreen Service Station), Clonsilla Village, Dublin.

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 the provisions of the Fingal County Development Plan 2017 to 2023, and to the nature, and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. The proposed development 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 submitted to the planning authority on the 18th day of January 2018, 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. For the avoidance of doubt:
 - (a) one restaurant at ground floor level and four apartments at first and second floor levels are permitted, and
 - (b) the hot food takeaway is not permitted.

Reason: In the interest of residential and visual amenity.

3. The developer shall provide an additional full height solid metal screen located on the east facing south east corner of the balcony associated with apartment number 4. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed development and any signs shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. 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 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

6. The developer shall comply with the following landscape requirements:
 - (a) prior to the commencement of development, full details of the final species selection (trees, hedges, shrubs and plants) and final landscaping details (hard and soft) for the development, shall be submitted to, and agreed in writing with, the planning authority,
 - (b) prior to the commencement of development, full details and specifications of the proposed constructed tree pits, that is, clearly showing if a structural growing medium or a crate systems/cell systems will be used shall be submitted to, and agreed in writing with, the planning authority,

- (c) notwithstanding the type of under-pavement system to be adopted, some means for air and moisture to reach the growing media shall be provided to sustain soil life and to maintain moisture levels. Below-ground irrigation and aeration systems shall be installed in all hard surfaced areas,
- (d) a root barrier shall be installed in the vicinity of boundary walls and services,
- (e) the developer shall facilitate the inspection by the planning authority of the constructed tree pits/trench to assess the depth and conditions of drainage layers, backfill materials, presence of compaction, anaerobic conditions or waterlogging,
- (f) trees to be planted along the road front shall be standard 20-25 centimetres girth rootballed *Corylus columna*,
- (g) the proposed bike stands shall not be located under any street trees and shall be relocated to a more suitable location, details of which shall be agreed in writing with the planning authority prior to the commencement of development,
- (h) all tree felling work as per Arboricultural Impact drawing number 102 shall be carried out by a qualified and experienced tree surgery contractor before commencement of any other site operations and shall be in accordance with BS 3998: 2010 Tree Work – Recommendations,
- (i) the landscape plan and details submitted on the 18th day of January, 2018 shall be carried out in full no later than the first planting season after the first occupation of the first unit (residential or restaurant),

- (j) all hard and soft landscape works shall be completed in accordance with the approved Landscape Plan,
- (k) all trees, shrubs and hedge plants supplied shall comply with the requirements of BS: 3936 Specification for Nursery Stock,
- (l) new tree planting shall be planned, designed, sourced, planted and managed in accordance with 'BS 8545: 2014 Trees: from nursery to independence in the landscape – Recommendations',
- (m) any tree, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or diseased within three years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.

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

7. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and

- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site,
and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. 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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

8. The restaurant shall only open between 0800 and 2300 hours Monday to Saturday and between 1000 and 2200 hours on Sundays and public holidays. Deliveries to the restaurant shall only occur between 0800 and 1100 hours Monday to Saturday and not at all on Sundays and public holidays, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of clarity and residential amenity.

9. 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 shall be submitted to, and agreed in writing with, the planning authority before development commences. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

10. The developer shall control odour emissions from the premises in accordance with measures including extract duct details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

11. The development shall be managed in accordance with a management scheme which shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development. This scheme shall provide adequate measures relating to the future maintenance of the development; including landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services together with management responsibilities and maintenance schedules

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

12. Water supply and drainage arrangements, including the disposal of surface water and internal basement drainage, shall comply with the requirements of the planning authority for such works and services.

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

13. The developer shall comply with the following transportation requirements:-

- (a) the relocation of the bus stop shall be agreed in writing with the planning authority prior to construction and all works shall be carried out at the expense of the developer,
- (b) the four residential parking spaces shall be permanently designated to each unit, and signed and lined appropriately,
- (c) the residential car parking spaces shall remain in the charge of the relevant management company,

- (d) the access road shall be constructed to taking in charge standards, and
- (e) all the above works shall be carried out at the expense of the developer in accordance with the requirements of the planning authority.

Reason: In the interests of orderly development and road safety.

- 14. The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried out on the adjoining public roads by the developer and at the developer's expense on a daily basis.

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

- 15. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

16. The developer shall pay to the planning authority a financial contribution of seventeen thousand, six hundred and eight euro (€17,608) in respect of the shortfall of open space, in accordance with the requirements of Objectives PM52, PM53, DMS57 and DMS58 of the Fingal Development Plan 2017 to 2023 (based on a shortfall of 300 square metres), and the terms of section 9(b) the Development Contribution Scheme made under section 48 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. The application of any indexation required by this condition 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.

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

17. The developer shall pay to the planning authority a financial contribution of twenty-one thousand, four hundred and thirty-three euro (€21,433) in respect of the 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.

The application of any indexation required by this condition 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.

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.

18. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, 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 Development Contribution Scheme made under section 48 of the Act be applied to the permission.

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion 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.

Terry Prendergast
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2018.

