



An
Bord
Pleanála

Inspector's Report PL06D.246832

Development

Permission for amendments to the permitted development under Reg. Ref. D15A/0392 for the upgrade and refurbishment of Stillorgan Village Centre with all associated site works at Stillorgan Shopping Centre, Lower Kilmacud Road and Old Dublin Road, Stillorgan, Co. Dublin

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D16A/0271

Applicant(s)

Cavalli Investments Plc

Type of Appeal

Third party against grant

Planning Authority Decision

Planning permission s.t. conditions

Appellant(s)

CS Calzature Ltd.

Observer(s)

None

Date of Site Inspection

20th September 2016

Inspector

Mary Kennelly

1.0 Site Location and Description

- 1.1. The appeal relates to an established shopping centre on the junction of Lower Kilmacud Road and Old Dublin Road, Stillorgan. It is sited approx. 200m to the west of the N11. The site is situated on the northern side of Kilmacud Road Lr., which is the main road travelling through Stillorgan village, with commercial premises, including neighbourhood shops, restaurants, cafes, pubs etc. along both sides of the main road. Old Dublin Road runs alongside the eastern boundary of the site and serves a mainly suburban residential area with a school but also serves the Stillorgan Bowling Centre and the Library at the southern end.
- 1.2. The shopping centre was constructed in the 1960s and is fairly typical of its time. It comprises a large single-storey and part two-storey complex which is laid out in an L-shape with a square block on the inside of the 'L', which has an open courtyard at the centre. The L-shaped block runs parallel to the western and northern boundaries (each abutting residential cul-de-sacs) and the large surface car parking area, (referred to as the 'Red Car Park' in the submissions), occupies the southern and eastern parts of the site. There is an internal pedestrian street which runs alongside the western and southern frontage of the L-shaped block. This space is partially covered by cantilevered canopies and is paved with seats/benches. There is a good mix and wide variety of shops including Tesco, Dunnes Stores, a number of pharmacies, hairdressers, restaurants, cafes and individual retail businesses. The 2-storey elements are principally located along the western and northern boundaries. There is an overflow car park on the opposite (southern) side of Kilmacud Road, further to the west, which is referred to as the 'Green Car Park' in the submissions.
- 1.3. The service areas are generally located alongside the western and northern boundaries, behind the L-shaped block, and in the central courtyard area, in the centre of the square block. There is a Starbucks café at the southwestern corner of the square block which has a two-storey element. The appellant's unit, is located immediately to the north of Starbucks.

1.4. I refer the Board to the appendices to this report which include maps and photos of the site.

2.0 Planning History

2.1 There is an extensive and detailed planning history associated with the shopping centre, which is set out in the Planning Authority reports. I have summarised the most relevant ones below:-

D05A/0215 – planning permission was granted for demolition of part of the shopping centre, 6,961sq.m; the retention and refurbishment of 9,278sq.m; and the construction of an additional 32,113sq.m, resulting in an overall floor area of 41,391sq.m. The retail floor space for this proposal was 18,046sq.m with 895 parking spaces. This permission has not been implemented, but was extended until August 2016.

D09A/0830 – permission granted for change of use of Unit 49 to use as a shop and restaurant/takeaway, new shopfront and signage.

PL06D.237769 – permission granted by Board for expansion of restaurant unit (Eddie Rockets) into vacant retail unit (Reg. Ref. D10A/0276).

D11A/003 – permission granted for combining three shopfronts into one complete frontage and the provision of new external signage at Units 47-49.

PL06D.241807 – permission granted by Board on appeal against D12A/0289, (October 2013), for two storey extension to south-west corner incorporating a single retail unit at ground floor (533m²) and a restaurant unit at first floor (475m² with ancillary sale of hot food off the premises). This permission has not been implemented but remains extant. Please note that recent application to amend this permission made under DA16A/0293, (see below).

Section 5 Declaration – P.A. issued Section 5 Declaration stating that shopping centre and overflow car park is not development and is not exempted development.

D15A/0392 – permission granted (Sept. 2015) for changes to elevations of shopping centre, minor extensions, minor demolitions and alterations within the shopping centre complex and both the main car park (red) and the overflow car park (green).

The permitted development may be summarised as follows:

- Upgrade/refurbish external elevations and internal wall elevations.
- Replace partial canopy over pedestrian walkway with glazed canopy extending the full width of the walkway.
- Units 46 and 47-49 – provide additional FF level (415m²) above Donnybrook Fair (47-49) to be used as a café/restaurant and amalgamate Unit 46 (C&D Shoes) with Units 47-49 to form single unit (352m²). Extend Unit 46 by 16m² and provide staircase within this unit for access to proposed restaurant.
- Unit 19 – extend this GF unit in use as an off-licence by 12m².
- Entrance to site – relocate entrance from Lower Kilmacud Rd. further to west.
- Car parks – re-ordering, relining, changes to entrances, amendments to internal layout and pedestrian/vehicular circulation.
- Signage, landscaping, lighting – alterations.

D16A/0293 – permission granted on 12th August 2016 for amendments to permission granted by Board under 241807. The amendments were relatively minor and related to layout and configuration and increase in size of restaurant.

3.0 **Proposed Development**

3.1 The proposed development seeks to amend a recently granted planning permission for the refurbishment and extension of the shopping centre (D15A/0392).

3.2 Main elements of proposal may be summarised as follows :-

- First floor restaurant - Omit first floor extension over Donnybrook Fair for restaurant (415m²). External treatment would still present as a first floor area with a solid coloured fibre-cement board system replacing the permitted glazing.
- Unit 46 - Omit FF roof terrace and staircase access to roof terrace at Unit 46.
- Unit 50 – incorporate into Donnybrook Fair and extend by 16m² to “square off” footprint. Provide fibre-cement board system above to tie in with treatment above Donnybrook Fair.
- Units 60-62 – Rock’s Fine Diamond. Provide 55m² extension to this jewellery shop and a new shopfront in order to “square it off”. This will result in the loss of two parking bays.
- Internal pedestrian mall - Repair and replace paving on pedestrian circulation area. Carry out minor alteration to alignment of first floor walls to accommodate new canopy. The glass canopy previously permitted is to be installed over the internal mall section.
- External facades – proposals to alter cladding, solid to void ratios, provide new metal reveals to mall entrance and amendments to levels of roof and parapet. It is proposed to change the Lower Kilmacud Road elevation by replacing permitted glazed unit with coloured fibre-cement. The previously permitted glazed canopies along the perimeter, i.e. to the external facades of Lower Kilmacud Road and Old Dublin Road elevations, are proposed to be replaced by solid canopies. It is also proposed to provide a partial canopy outside the Tesco store at the southwestern corner of the centre.
- Lighting strategy – alterations to lighting including internal up-lighting in central courtyard and provision of up-lighting to first floor area of Units 47-49/50.
- Means of Escape from fire – provide door openings, fire escape stairs and associated internal alterations in order to comply with requirements. Provide new

single-storey sprinkler tank and pump house to rear (56m²), which is located in the north-western corner, (not north-eastern as stated in submissions).

4.0 Planning Authority Decision

4.1 The P.A. decided to grant planning permission on 9th June 2016 subject to ten conditions, the majority of which were standard type conditions requiring adherence to plans and particulars, apart from the following:-

Conditions 3 & 4 - Permission will expire on expiry of parent permission (D15A/0392) and development to be carried out in accordance with parent permission except for amendments hereby permitted.

Condition 7 - restricted use of fire escapes and associated walkways for this purpose.

Condition 8 - required submission of samples of cladding for agreement.

4.2 Planning Authority Reports

The Area Planner considered that the proposed development is acceptable in principle and that most of the amendments are required to enable implementation of the permitted scheme in accordance with other codes/requirements. It was noted that there are no changes proposed to the permitted alterations to access and parking arrangements, other than the fact that 2 parking bays would be lost due to the proposed alterations to Unit 60-62. However, it was considered that in terms of the availability of parking at the centre, this would be negligible.

Overall, it was pointed out that the refurbishment and upgrading of the centre is in accordance with the Development Plan and LAP objectives for the area and that these objectives also emphasise the need to facilitate the provision of an enhanced pedestrian environment as well as the need for clear signage. In general, it was considered that the proposed amendments would not undermine the ability to achieve these objectives. The replacement of the glass canopy on the perimeter was

considered to result in negligible impact on the public realm. The omission of the restaurant was not considered to be of major concern given that there was a further application under consideration which proposed the provision of a restaurant elsewhere within the centre. The Board should note that in the intervening period, the P.A. has granted planning permission for this development (Ref. D16A/0293).

4.3 Other Technical Reports

Drainage Dept. (12/5/16) – no objection subject to conditions (as per D15A/0392).

Transport Section (02/06/16) - no objection subject to conditions, (as per D15A/0392). It was noted that the inner service area is no longer used for parking but recommended a review of the visibility splay for vehicles exiting the service area.

4.4 Third Party Observations

There was 1 no. observation from the third party appellant, an existing tenant. The main points raised are similar to those contained in the grounds of appeal, which are summarised below.

5.0 Policy Context

5.1 Dun Laoghaire Rathdown County Development Plan 2016-2022

The site is zoned 'Objective DC', the Zoning Objective for which is to Protect, Provide for and/or Improve mixed-use district centre facilities. Extracts from the Development Plan 2016-2022 are attached. Section 3.2.6 – Stillorgan District Centre - The specific objectives include the following:

- To promote the future redevelopment of Stillorgan as a multi-faceted, mixed-use sustainable District Centre having regard to the broad objectives of the Stillorgan LAP.
- The regeneration and redevelopment of Stillorgan District Centre should create an urban context in respect of scale, design and layout.

- The creation of good quality spaces and enhanced public realm will be a prerequisite.
- The residential amenity of established residential areas on the fringes of the District Centre to be protected, and where possible, enhanced.

5.2 Stillorgan Local Area Plan 2007 – 2017

The shopping centre is recognised as being a pivotal site but is one which has “no architectural value” and is a source of “frequent congestion and conflict between pedestrians and cars”. It is stated (Chapter 5) that piecemeal development has resulted in a poor quality environment with a decline in the public realm. The District Centre is identified as Mixed Use-Medium Density, which seeks to establish “a core of diverse retail, residential and employment development, which will assist in the development of a vibrant District Centre adjacent to the Retail Core, but allowing a transition to the existing and proposed residential areas”. It is anticipated that the redevelopment or regeneration of the centre will result in an urban context in relation to its scale, design and layout.

Strategic objectives include:-

- Make a positive contribution to the physical environment and public realm and provide a high quality of design.
- Facilitate the provision of an enhanced pedestrian environment.
- Provide clear signage for car parking.
- Building design shall reflect its function, be easily interpreted and create architectural diversity. Architecture and palette of materials to be of a high quality.
- Building should create a strong building edge and have a high visual impact.

6.0 Grounds of Appeal

6.1 The third party appeal (tenant of Unit 43, Carl Scarpa) is against the decision to grant permission. The grounds of appeal can be summarised as follows:

1. **Position of security shutters** – The proposed development will result in inadequate security measures. The existing shutters are located just outside Unit 43 and when they are closed in the evenings, it provides a secure environment from which the appellant currently benefits. However, the proposed development

does not seem to include any replacement security shutters, but it is assumed that the location of any such shutters will be changed such that Unit 43 is outside of the secure environment at night. This is unacceptable to the appellant.

2. **Removal of canopy and inadequate lighting for shopfront and signage**– the existing unit is illuminated by downlights which are located within the canopy. As the canopy is to be replaced, it is assumed that new lighting will be provided. However, there is no indication of any such proposal for replacement lighting. Unit 43 seems to be the only unit that would not benefit from such lighting and signage lighting. The removal of the canopy itself will also result in increased glare and a reduced visual connection into the unit in bright daylight conditions.
3. **No proposal to replace shopfront** – serious concerns are raised regarding the proposed interface and junction between the new glazed façade to the shopping centre, with metal reveals, and the existing timber shopfront to Unit 43. As the proposed canopy does not extend as far as Unit 43, it is unclear how the new façade will meet the existing shopfront or if there will be a reduction in the display area.
4. **Increased maintenance issues** – concern is raised regarding the likelihood of increased future maintenance issues relating to the existing timber shopfront, which would be exposed to the weather. This would arise from the removal of the canopy outside the unit and would result in increased maintenance costs
5. **Inadequate surface water drainage** – The lack of detailed proposals on how the new paved area outside the shop unit is to be drained is of concern.

6.2 Planning Authority Response

The P.A. responded to the grounds of appeal on 19th July 2016 by expressing the opinion that the matters raised are issues to be resolved between the appellant and the developer. It was further stated that the detailed assessment in the Planner's Report should be taken into account. The decision to grant permission is reaffirmed.

6.3 First Party Response

John Spain Associates, on behalf of the first party, responded on 28th July 2016. The submission is mainly in the form of a rebuttal of the grounds of appeal. However, the following points are of note:

- **The appeal is without substance** – S 138 of the P&D Act 2000 (as amended) provides for the Board, at its absolute discretion, to dismiss an appeal in circumstances including where the appeal is without substance. It is submitted that in this instance, the appeal relates to matters which have either been permitted under the parent permission (D15A/0392) and are not proposed to be amended or relate to management and maintenance issues between the applicant and the appellant. It is requested that the board dismiss the appeal on this basis.
- **Inadequate security measures** – There is no change proposed to the security arrangement permitted pursuant to D15A/0392. The centre has 24 hour security and management which ensures the security of all shops.
- **Inadequate shopfront/signage lighting/potential for glare** – Removal of the existing canopy was permitted under D15A/0392. The lighting strategy for the centre is based on a holistic and consistent approach which includes changes to the signage and lighting to the appellant's unit and other units. The Design Team has provided details of the proposed changes to all tenants, including the appellant.
- **Inadequate surface water drainage** – The canopy removal and associated proposals for surface water drainage were permitted under D15A/0392. This is a detailed design matter, which has been the subject of information provided to the appellant by the Design Team. The rainwater will continue to fall away to the centre drain.

- **Reduction in display area/maintenance issues with existing shopfront** – in response to concerns that no details have been provided of the interface of the new façade with the existing shopfront, it is stated that this is a matter of detailed design and construction and that the applicant will work with all tenants, including the appellant to address any issues of potential concern in this regard.

7.0 Assessment

7.1 The main issues arising from this appeal are considered to be as follows:

- Principle of development
- Visual amenity
- Drainage
- Appropriate assessment

7.2 Zoning and principle of development

7.2.1 The zoning objective seeks to protect, provide for and/or improve mixed-use District Centre facilities. The specific objectives of the CDP emphasise the need for developments to provide for good quality architecture and materials, as well as good quality spaces and an enhanced public realm. The Stillorgan LAP identifies the poor quality environment of the existing shopping centre, which plays a pivotal role in the development of the area, and the decline in the public realm, which it is stated has arisen primarily from piecemeal development over the years. The LAP envisages that the refurbishment and upgrading of the shopping centre would make a positive contribution to the physical environment and to the public realm and provide a high quality of design.

7.2.2 It is considered that the proposed alterations and amendments to the permitted development under D15A/0392 would not undermine the overall effectiveness of the permitted plans to upgrade and refurbish the shopping centre. It is noted that the

glass canopy over the internal mall area, which is currently largely open to the elements, remains a central part of the proposed refurbishment and that this will make a significant improvement to the public realm. Although the new canopy and associated façade commences just to the north of the appellant's shop unit, this was permitted previously, and is not proposed to be altered. It is considered, therefore, that the proposed development would be consistent with the zoning objective and with the specific objectives of both the Development Plan and the Local Area Plan.

7.3 Visual amenity

7.3.1 The alterations to the external elevations, cladding system and introduction of metal reveals would result in a negligible impact on the overall design and appearance of the permitted alterations to the shopping centre. The proposal to omit the restaurant and second floor to the Donnybrook Fair unit is not ideal, but given that there are other restaurants both existing and now permitted, it is considered that this is acceptable. The overall approach to the design previously permitted (as set out in the Design Statement submitted with D15A/0392) includes the provision of false walls at first floor level to both support the canopy and to create the appearance of a first floor. It is noted that in place of the permitted first floor restaurant, it is now proposed to create the illusion of a second floor from the south by continuing the facades along this elevation. It is considered, therefore, that this amendment would not adversely affect the overall objectives of the design and appearance of the proposed refurbishment.

7.3.2 The appellant has expressed concern regarding the interface between the façade/entrance to the shopping centre and the existing shopfront to Unit 43. However, there are no changes proposed to that which was previously permitted. Similarly, concern expressed regarding signage and lighting appears to be unfounded as there are no significant changes proposed to these elements in the current scheme. However, the permitted development (D15A/0392) which involves the removal of the canopy and provision of a new canopy, signage and lighting arrangements will inevitably result in changes to these elements. Should there be

any detailed proposals for new signage and/or a new shopfront, any such proposals would require a new planning application.

7.3.3 Thus, whilst the detailed design of the interface is a matter for the applicant and the appellant to resolve, it is considered that should the Board be minded to grant permission, appropriately worded conditions should be attached to any such permission requiring any detailed proposals for a new shopfront to be submitted as a new application, that no further advertising shall be erected or displayed without a further grant of permission and that any security roller shutters to be installed shall be recessed behind the shop windows or glass façade.

7.3.4 It is considered that subject to compliance with such conditions, the amendments to the permitted scheme currently proposed would not result in any significant changes to the planned refurbishment of the shopping centre in terms of the overall design and appearance. It would not, therefore, result in any adverse impact on the visual amenities of the area.

7.4 Drainage

7.4.1 It is noted that the Engineering Report submitted with the application for the parent permission set out the details of the proposed drainage proposals, which were permitted under D15A/0392. This permission was subject to a standard condition requiring compliance with the planning authority's requirements. There are no proposals to change the drainage arrangements.

7.5 Appropriate Assessment

7.5.1 Having regard to the nature and scale of the proposed development and the nature of the receiving environment in a serviced and built-up area, (as described above), it is considered that no Appropriate Assessment issues arise. It is considered, therefore, 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.

8.0 Recommendation

- 8.1 I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations as set out below.

9.0 REASONS AND CONSIDERATIONS

Having regard to the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022, to the scale and nature of the proposed development and to the development permitted under D15A/0392, it is considered that subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and would not seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. The development shall be carried out in accordance with all relevant conditions of planning permission Reg. Ref. D15A/0392, with the exception of the departures hereby granted by this order for amendments to that scheme. This permission shall expire on the expiry date of D15A/0392.

Reason: Having regard to the nature of the development and in the interests of clarity.

3. Details of all external shopfronts and signage shall be the subject of a separate planning application.

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

4. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application and permitted under Reg. Ref. D15A/0392) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

5. 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.

6. Details (including samples) of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. The fire escapes hereby permitted and associated walkways shall be used solely for fire escape purposes.

Reason: In the interests of protecting residential amenity.

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

Reason: To ensure adequate servicing of the development, and to prevent pollution.

9. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Mary Kennelly
Senior Planning Inspector

27th September 2016