



An
Bord
Pleanála

Inspector's Report ABP316076-23

Development	Demolish existing public house, erect 26 apartments.
Location	Finches Shopping Centre, Neilstown Road, Clondalkin, Dublin 22.
Planning Authority	South Dublin Co Co.
Planning Authority Reg. Ref.	SD22A/0346
Applicant(s)	Old Nangor Road Limited.
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party v Grant
Appellant(s)	<ol style="list-style-type: none">1. Brendan Farrelly2. Andalusian Properties3. Dean Graham4. Aisling Grendon
Observer(s)	None
Date of Site Inspection	15 th July 2024
Inspector	Hugh Mannion

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
4.0 Planning History.....	5
5.0 Policy and Context.....	5
5.7. Development Plan.....	6
5.8. Natural Heritage Designations	6
5.9. EIA Screening	6
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Applicant Response	7
6.3. Planning Authority Response.....	9
6.4. Observations.....	9
6.5. Further Responses	9
7.0 Assessment.....	9
8.0 Recommendation.....	13
9.0 Reasons and Considerations.....	14
10.0 Conditions	14

1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.1267ha and is located beside the roundabout at the junction of Collinstown Road and Neilstown Road, Clondalkin, Dublin 22. The site is currently occupied by a single storey public house and is part of a mixed use residential and commercial development. On the adjoining site to the south (on Neilstown Road) is a three-storey building (Chaplains Court) comprising ground floor shops with two floors of apartments above. To the east along Collinstown Road is another three-storey building (Chaplains Place) with ground floor shops and two residential floors above. West of the site and on the other side of Neilstown Road is a terrace of 5 two storey houses. Northwest of the application site on Neilstown Road are three blocks of 3 storey apartments.

2.0 Proposed Development

- 2.1. The proposed development comprises:
- The demolition of an existing public house,
 - Erection of a ground floor public house with a 4-storey apartment block over with 26 units (4 one bed units and 22 two bed units),
 - 13 car parking spaces, bin storage and bike stands,
 - First floor courtyard above car park and a 3rd floor roof terrace,
 - Boundary treatment and other works

All at Finches Shopping Centre, Neilstown Road, County Dublin.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted permission subject to 16 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The planner's report recommended a grant of permission generally as set out in the City Manager's Order.

3.2.3. The initial planners' report recommended requesting additional information as follows;

- Proposed apartments 1, 2, and 3 are too close to the footpath. These apartments should be amended to increase the setback from the footpaths. A better mix of materials, colours and forms should be introduced.
- The application should demonstrate how they will achieve the minimum Green Space Factor in accordance with policy G15 Objective 4 in the County Development Plan.
- The carparking spaces should be increased. A swept path analysis should demonstrate accessibility for fire tenders and large refuse vehicles.
- Surface water may not be discharged to the foul sewer – alternative arrangements must be proposed.

3.2.4. Other Technical Reports

3.2.5. **Environmental Services** reported that the developer should provide a Construction and Demolition Waste Plan prior to commencement of development.

3.2.6. **Parks and Landscape Service** sought additional information to provide adequate green space in accordance with G15 Objective 4 of the CDP and in relation to the disposal of surface water.

3.2.7. **Environmental Health** sought additional information in relation to the noise impacts of the proposed public house in nearby property and that noise control measures should be incorporated into the proposed development.

3.2.8. **Uisce Eireann** reported no objection subject to conditions.

4.0 Planning History

- 4.1. The planning history is detailed in the planning offices report. Of note is SD21A/0216 a slightly larger mixed commercial/residential development where the application was withdrawn.

5.0 Policy and Context

- 5.1. The **National Planning Framework (NPF) 2040** seeks to secure compact and sustainable growth through concentrating new development in existing cities, towns and smaller settlements.
- 5.2. National Policy Objective 3a is to “deliver 40% of all new homes nationally within the built-up footprint of existing settlements”.
- 5.3. National Policy Objective 3b is to “deliver at least 50% of all new homes in the cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford”
- 5.4. The **Sustainable Residential Development in Compact Settlements Guidelines** for Planning Authorities repeat the policy framework set out in the NPF which emphasises ambitious growth targets for cities and metropolitan areas to 2040. Table 3.1 makes the point in relation to City – Urban Neighbourhoods :-
- 5.5. “The city urban neighbourhoods category includes: (i) the compact medium density residential neighbourhoods around the city centre that have evolved overtime to include a greater range of land uses, (ii) strategic and sustainable development locations⁷, (iii) town centres designated in a statutory development plan, and (iv) lands around existing or planned high-capacity public transport nodes or interchanges (defined in Table 3.8) – all within the city and suburbs area. These are highly accessible urban locations with good access to employment, education and institutional uses and public transport. It is a policy and objective of these Guidelines that residential densities in the range 50 dwellings per ha (dph) to 250 dph (net) shall generally be applied in urban neighbourhoods of Dublin and Cork”.
- 5.6. The **Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DoH, LG & Heritage December 2022)** section 4.20 states that in central and/or accessible urban locations in larger scale and higher density developments, comprising wholly of apartments in more central

locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity.

5.7. Development Plan

5.8. The site is zoned LC “to protect, improve and provide for future development of local centres” in the South Dublin County Development Plan 2022 – 2028. Public house and residential uses are acceptable in principle in this zone.

5.9. Natural Heritage Designations

Not relevant in this case.

5.10. EIA Screening

5.11. The proposed development is of a class to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies. The proposed development is significantly below the threshold (500 residential units) which would trigger the requirement for the submission of an EIAR and carrying out of an EIA. Having regard to the nature and modest scale of the proposed development located on a brownfield site, its location in a built-up urban area where public water supply and foul sewerage is available, the absence of any ecologically significant areas within application site or on adjoining lands, and the nature of any likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

- The applicant has not engaged with neighbouring residents/businesses or management companies to address matters of inadequate parking spaces, access/right of way and traffic congestion related to nearby uses cheche/Medical centre.
- Health and safety issues arise where the supermarket car park is used for parking and truck deliveries.
- The car park includes 28 spaces owned by Rowlagh Village Management Company – these will be impacted upon during the construction phase.
- The applicant does not own the land proposed to access the proposed development.
- The proposed development will negatively impact on local residents during construction phases.
- The proposed development will give rise to antisocial behaviour which will particularly impact on houses in Chaplains Row. The proposed apartment terraces facing onto Chaplains Row have the capacity to injure the amenity of these existing houses.

6.2. Applicant Response

- The site is served by several community services including public library, national school, community college and commercial services.
- Several bus routes (76, 76a, G2) are within 100m of the site while Clondalkin/Fonthill train station is about 1.8km away.
- This application was subject to a request for additional information which resulted in improvements to privacy on ground floor apartments, greater variation in materials and colours, increased parking from 12 to 13 spaces and clarification on accessibility of service vehicles.

- The proposed development will provide much needed housing and comply with Part V in relation to social and affordable housing.
- The site is zoned LC for development of local centres where residential and public house uses are permitted in principle. The proposed development will contribute to the mix of uses within the existing centre.
- The mix of 1 and 2 bed units is appropriate to the area. Apartment floor areas meet or exceed the relevant standards.
- The availability of daylight and sunlight to the units complied with planning authority standards. Open space provision is adequate. Car spaces were increased to 13 while there are 72 bike spaces.
- The proposed development will be accessed from Collinstown Road and evidence demonstrating a ROW for the access was submitted with the application.
- A construction management plan as required by the planning authority's condition 16 will be put in place. This will manage construction traffic and ensure that there are no negative impacts on adjoining users. The provision of car parking spaces, bike parking and proximity to public transport will ensure that no unacceptable impact on surrounding car parking will arise from the proposed development.
- The proposed development will enhance the area with an improved public house development and additional residential uses. A four storey building is not excessively high.
- The proposed apartments are 28m from the existing houses on Chaplains Row and will not give rise to overlooking
- Private amenity space is provided for residents and the development will be managed by a management company. The proposed development will not give rise to antisocial behaviour.

6.3. **Planning Authority Response**

- The points raised in the appeals are covered in the planning authority's reports.

6.4. **Observations**

- None

6.5. **Further Responses**

- None

7.0 **Assessment**

7.1. This assessment will address development plan policy, legal interest, car parking, residential impacts, surface water disposal.

7.2. **Development Plan policy.**

7.3. The application site accommodates a public house and is part of a larger area zoned LC – Local Centre in the current South County Dublin Development Plan. The land use zoning objective lists public house and residential uses as acceptable in principle and I conclude, therefore, that the proposed development is acceptable in principle.

7.4. The density is relatively high at 200/ha but given the local centre zoning for the site set out in the County Development Plan and the availability of public services (including public transport) I consider that the application site is one to which the advice set out in Table 3.1 of the Sustainable Residential Development in Compact Settlements Guidelines applies and that proposed development generally complies with the national and local guidance in providing higher densities in appropriate locations.

7.5. **Legal Interest**

7.6. The appeals state that the applicant does not have sufficient legal interest to carry out the proposed development.

- 7.7. The proposed development will make use of an existing vehicular access from Collinstown Road to the rear of the block and terminating in 13 new car parking spaces. The appeals (see especially Andalusian Properties Ltd) make the point that the proposed development/car parking will negatively impact on a further 24 existing car parking spaces that serve a mix of apartments and commercial/retail uses within the overall Finches Shopping Centre. The appeals further draw into question the legal interest of the applicant to carry out the development.
- 7.8. The applicant responded to the appeal, *inter alia*, making the point that a solicitor's letter, folio details and a drawing showing the applicant's freehold property and a right of way was submitted with the application demonstrating that the applicant has sufficient legal interest to make an application/carry out the proposed development.
- 7.9. This material was available to the planning authority and for consideration by the third-party appellants. The appellants have not engaged with the material in a manner that would undermine the claim that the applicant has sufficient legal interest to, at least, make a valid application. The advice set out in the Development Management Guidelines for Planning Authorities (DOEHLG 2007) is relevant in this context. The Guidelines make the point (section 5.13) that where, at application stage, submissions by a third party raise doubts as to the sufficiency of legal interest and only where it is clear from the applicant's response that the applicant does not have legal interest that permission should be refused. I note that the planning authority was satisfied with the applicant's legal interest and did not raise the matter further.
- 7.10. I would distinguish between sufficient legal interest to make a valid application and sufficient legal interest to carry out the development. I am satisfied that the material submitted with the application anticipated the query in relation to sufficient legal interest raised in the appeal and I conclude that the applicant has sufficient legal interest to make a valid application and that permission should not be refused on this point.
- 7.11. **Car Parking.**
- 7.12. The appeal makes the case that car parking provision is insufficient and will give rise to congestion and traffic conflict with the existing and permitted car spaces accessed over the same lane onto Collinstown Road.

- 7.13. The County Development Plan sets out standards for car parking provision in table 12.26 and distinguishes between car parking zones 1 and 2. The application site is in car parking zone 2. Table 12.26 provides that apartments should be provided with one space per 2 bed unit and 0.75 spaces per 1 bed unit. The applicant calculates that this would give rise to a requirement for a maximum 25 spaces. The applicant argues (see the NRB Traffic and Transport Assessment lodged with the application) that this is excessive and not in accordance with the principles of sustainable development.
- 7.14. Additionally, it may be noted that there is no parking provision proposed for the public house use which, applying the maximum car parking requirement set out in the County Development Plan, would generate a requirement for 23 spaces.
- 7.15. The planning authority note the location of the development on a site zoned for local centre development and its proximity to good public transport links. The planning authority accepted the reduced provision as reasonable and was satisfied with the overall provision of 12 spaces plus a mobility impaired car parking space was acceptable (for a total of 13 car spaces).
- 7.16. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines (December 2022) makes the point that in appropriate locations (in central locations served by transport links) the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.
- 7.17. I conclude that, in this particular case, where there is an existing public house on site, where there are good public transport links, where generous bike parking is being provided and where there are good community services and retail opportunities in close proximity to the application site that it is appropriate to relax the maximum standards set out in the County Development Plan and that the proposed parking provision is reasonable.
- 7.18. The appeal makes the further point that accessing the car parking spaces over the shared access to Collinstown Road will give rise to traffic conflicts and congestion. The planning authority's Roads Department reported that the car parking provision was inadequate and sought additional information in relation to accessibility for refuse trucks. The Roads Department was satisfied with the autotrack analysis of the access for refuse trucks, submitted as additional information, but the planning

authority noted that the refuse collection area was outside the site boundary and imposed condition 11 seeking a revised layout for the refuse collection function.

7.19. The access lane to Collinstown Road is relatively restricted with a footpath on one side only and serves about 40 car parking spaces distributed within the overall existing local centre. Having regard to the relatively low number of additional spaces (13 spaces) and their use being restricted to the proposed residential units I conclude that these spaces do not have the capacity to materially alter the traffic loading on the lane/access to Collinstown Road in a manner as to give rise to traffic congestion or traffic hazard nor will these spaces negatively impact on the utility or accessibility of the other spaces accessed over this lane from Collinstown Road.

7.20. Finally, on this point the planning authority attached condition 11 in relation to access for refuse vehicles. I recommend draft condition number 8 to address this matter.

7.21. Residential Impacts.

7.22. The appeals make the point that the proposed development is such proximity to existing residential uses, especially Chaplains Row, on the other side of Neilstown Road that the proposed development will give rise to antisocial activity and the proposed balconies will negatively impact on the amenity of the houses in Chaplains Row.

7.23. The proposed development will be managed by a management company and the public house use is subject to the appropriate licencing laws. I conclude that there is no basis to conclude that the proposed development will give rise to anti-social behaviour in a manner as to require refusal of planning permission in this case.

7.24. The proposed apartments are about 28m from the houses on Chaplains Row. This separation distance comprises Neilstown Road, two footpaths, two roadside green verges and by the front yards of the houses on Chaplains Row. Having regard to this separation distance I conclude that the proposed development has no capacity to materially impact on the amenity of the existing houses on Chaplains Row.

7.25. Surface Water Disposal

7.26. The original application proposed discharging surface water into a combined sewer. The planning authority sought amendments to the proposed arrangement. The applicant responded that the application does not propose the discharge of clean

surface water to a combined system. The planning authority's Water Services reported no objection to the arrangement. I conclude that draft condition number 3 below allows the planning authority to manage the matter.

7.27. Amendments required by Condition 10.

7.28. Although not referred to in the appeals it is appropriate to refer to condition 10 in the planning authority's decision.

7.29. The planning authority in the request for additional information requested the applicant to amend the proposal to amend proposed units 1, 2 and 3 to enhance the residential amenity of these units by setting them back from the edge of the site and providing traditional planning along the site boundary. The applicant submitted a revised ground floor layout (see Alternative Ground Floor Plan Drawing 2201 Rev D and Landscape Ground Floor Drawing DWG.6 submitted on 24 January 2023) which provides a set back and additional planting along the edge of the application site. I consider that the balcony terraces are adequately sized and set back from the boundary and in this basis would not repeat the planning authority's condition 10(a).

7.30. In relation to condition 10 (b) and (c) I recommend condition 5 in the draft order below.

7.31. Appropriate Assessment Screening

7.32. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the availability of public sewerage and public water supplies, the nature of receiving environment as a brownfield site in a built up urban area and the distance from any European site and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

8.1. I recommend a grant of planning permission.

9.0 Reasons and Considerations

- 9.1. The application site is zoned for local services in the South County Dublin County Development Plan 2022 to 2028, wherein public house and residential uses are acceptable in principle.

Having regard to:

- a) the provisions of the County Development Plan,
- b) to the existing public house use on site,
- c) to the mix of commercial, residential and community uses in the area,
- d) to the availability of public transport infrastructure to serve the proposed development

and subject to the conditions set out below is considered that the proposed development would not seriously injure the residential amenity of property in the vicinity, would not endanger public safety by reason of traffic hazard, and would, otherwise, be in accordance with the provisions of the current County Development Plan and 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 [as amended by the further plans and particulars submitted on the 24 th day of January 2023 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.
----	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<p>Reason: In the interest of clarity.</p>
2.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>The ground floor terraces of apartments 1, 2 and 3 shall be fitted with 1.5m high metal railings. The exact specifications of these railings shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: in the interest of residential amenity.</p>
6.	<p>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.</p> <p>Reason: In the interests of visual and residential amenity.</p>
7.	<p>Proposals for an apartment block name 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 numbers, shall be provided in accordance with the agreed scheme. 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).</p>

	Reason: In the interests of urban legibility.
8.	<p>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 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.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
9.	<p>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 hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
10.	<p>A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development. This scheme shall include the following:-</p> <ul style="list-style-type: none"> a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development; b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings; c) details of proposed street furniture, including bollards, lighting fixtures and seating;

	<p>d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.</p> <p>The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.</p> <p>Reason: In the interest of visual amenity.</p>
11.	<p>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 of roads, footpaths, watermains, drains, 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 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.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>
12.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
13.	<p>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 social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted</p>

	<p>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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.</p> <p>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 for the area.</p>
14.	<p>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.</p> <p>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.</p>

10.12. I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Hugh Mannion
Senior Planning Inspector

22nd July 2024.