

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Fingal County**

**Planning Register Reference Number: F15A/0438**

An Bord Pleanála Reference Number: PL 06F.246755

**APPEAL** by Stephen Brogan of 27 Turnberry Square, Baldoyle, Dublin and by Crekav Landbank Investments Limited care of New Generation Names of 4 Inver Mews, Old Chapel Ground, Arklow, County Wicklow and by others against the decision made on the 24<sup>th</sup> day of May, 2016 by Fingal County Council to grant subject to conditions a permission to the said Crekav Landbank Investments Limited in accordance with plans and particulars lodged with the said Council.

## **PROPOSED DEVELOPMENT:**

- (1) Part demolition, repair, refurbishment, and sub-division of 'Saint Mary's' to provide for nine units (four, two-bed apartments and three, three-bed and two, two-bed duplex units, ranging from 95.25 square metres to 251 square metres), works to Saint Mary's include; (a) demolition of; the 20<sup>th</sup> century structure to the west (256 square metres); the central stair core section (64 square metres) to the west of the Chapel and external stair cores to the front and side of Saint Mary's; the glasshouse/shed (43 square metres) and garage/grotto (23 square metres), (b) removal of some internal partition walls and bathrooms at ground and first floor, (c) construction of a replacement two-storey extension to the western side of the existing Chapel to provide for access and living accommodation for the proposed apartments (133 square metres) and construction of a rear entrance block (10 square metres) to the western 18<sup>th</sup> Century wing, (d) construction of some internal walls and opening up of some existing internal walls at ground and first floor, (e) provision of two new door opes and entrance stairs in place of existing windows opes along the front and rear façade of the

eastern wing, to provide access to the duplex units; provision of a single window ope at first floor level of the Chapel along the front façade, (f) replacement of a single door access with a window ope at first floor and the provision of two window opes at ground floor on the eastern elevation and the provision of a new window ope on the ground and altered window ope at first floor of the western elevation.

- (2) The provision of 17, three-bed, three-storey, terraced units along the western and southern boundaries of the site, to the rear of the protected structure, as follows; seven Type A 121.5 square metres, one Type A1 122.5 square metres, one Type A2 121.5 square metres, six Type B 148.5 square metres, one Type B1 148.5 square metres, one Type B2 172 square metres and a bin store (30 square metres) at the north-eastern corner.

Permission will include all associated site works including the provision of solar panels, hard and soft landscaping and boundary treatment; associated bicycle and car-parking provision, including off-street parking along Dublin Street; the upgrading of existing vehicular entrance on Dublin Street; the provision of a walkway and pedestrian access gates to the rear of the site to provide access from the nursing home to the graveyard; provision of foul and surface water drains and attenuation on site with connections to existing services and provision of a water mains on site with connection to the water mains. This application relates to a protected structure and its curtilage on a site of 0.725 hectares at 'Saint Mary's' former Christian Brother Retirement Home (part of which is a protected structure, number 795, currently vacant), Dublin Street, Baldoyle, County 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 location and the zoning of the site and the proposed reuse of a vacant protected structure, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the character of the area or the amenities of property in the vicinity, would not have unacceptable impacts of the integrity of the protected structure 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 on the 27<sup>th</sup> day of April 2016, 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, details of the boundary treatment along the western and eastern boundaries of the open space to the south of the proposed development, including the proposed gates shall be submitted to and agreed in writing with the planning authority. In default of such agreement, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity and orderly development.

3. Any vehicular use of the pathway proposed directly to the south of the proposed development shall be limited solely to hearses accessing the graveyard from the nursing home to the west of the development site.

**Reason:** In the interest of residential amenity.

4. (a) Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwellinghouses without a prior grant of planning permission.
- (b) All internal garages shall be retained as vehicular garages only unless by prior grant of permission from the planning authority.

**Reason:** In the interest of residential amenity and orderly development.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water and provision for existing foul sewer connections within the site, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

6. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and the underground car park, shall be in accordance with the detailed standards of the planning authority for such works.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

7. Public lighting shall be provided in accordance with a scheme, (which shall include lighting along pedestrian routes through open spaces), 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 residential unit.

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

8. 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. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interest of visual and residential amenity.

9. 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.

10. The developer shall adhere to the requirements of the Conservation Officer in respect of the stained glass and the openings within the Protected Structure. Details in relation to service runs, external pipes, ducts and extent of wall chases and the roofing material, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** To protect the character of the protected structure.

11. Site development and building works shall be carried out only between the hours of 0800 to 1900 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.

12. 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, railway safety and off-site disposal of construction/demolition waste including any excess soil arising from the proposed excavation of the site.

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

13. A plan containing details of 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 prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

15. 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.

16. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) 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.

17. 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.

18. 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.

19. 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.



20. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000, as amended, in lieu of open space provision towards the cost of amenity works in the area of the proposed development in accordance with the requirements of the requirements of the Fingal Development Plan based on a shortfall of 665 square metres of open space. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

---

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

**Dated this            day of            2016.**