



Planning and Development Acts 2000 to 2018

Planning Authority: Fingal County Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 29th day of May 2018 by Crekav Trading GP Limited care of Marlet Property Group Limited, Floor 7, College House, Townsend Street, Dublin 2.

Proposed Development:

A strategic housing development at the site of the Former Baily Court Hotel, Main Street, and at lands located south of the Martello Tower on Balcadden Road, Howth, County Dublin, all on a site measuring circa 1.55 hectares (net).

The development will consist of:

- The demolition of existing structures on site including the disused sports building (circa 604 square metres) on the Balcadden Road site and the former Baily Court Hotel Buildings on Main Street (circa 2,051 square metres) and a reduction in ground levels.
- Construction of 164 number residential units in three number separate apartment blocks and one mews building, comprising 158 number apartments and six number duplexes which includes 40 number one-bed units, 97 number two-bed units and 27 number three-bed units.

- Provision of 397 number bicycle parking spaces and a total of 120 number car parking spaces, which comprises 112 number spaces in an underground basement in Block C and eight number on-street parking spaces.
- Provision of commercial/retail space (circa 757 square metres), which includes a community room (circa 161 square metres), two number retail units (circa 429 square metres and circa 96 square metres) and a café (circa 71 square metres).
- The main vehicular entrance to the scheme will be from Main Street to serve the underground car park in Block C.
- The scheme provides for a new linear plaza which will create a new pedestrian link between Main Street and Balcadden Road to include the creation of an additional two number new public plazas and also maintains and upgrades the pedestrian link from Abbey Street to Balcadden Road below the Martello Tower. The public footpath on the opposite side of Balcadden Road will be widened for the length of the site as part of the development.
- All other ancillary site development works, site services, a sub-station, public lighting, plant, bin stores, bike stores, boundary treatments and landscaping.
- Commercial and retail signage (circa 75 square metres).

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

In coming to its decision, the Board had regard to the following:

- (a) the location of the subject site within the established settlement of Howth village,
- (b) the policies and objectives set out in the Fingal Development Plan 2017-2023,
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- (d) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013,
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, and the accompanying Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (f) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in March 2018,
- (g) the Guidelines for Planning Authorities on The Planning System and Flood Risk Management (including the associated technical appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009,
- (h) the Architectural Heritage Protection Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011,
- (i) the nature, scale, and design of the proposed development,
- (j) the availability in the area of a wide range of social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,
- (l) the planning history of the subject site,
- (m) the submissions and observations received, and
- (n) the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would constitute an acceptable residential density at this location, would be generally acceptable in terms of urban design, height and quantum of development, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board noted the Stage 1 Appropriate Assessment Screening Report submitted by the applicant and the Appropriate Assessment Screening determination carried out by the Inspector. The proposed development is located partly within the Howth Head Special Area of Conservation (site code: 000202), and is proximate to the Howth Head Coast Special Protection Area (site code: 004113) and to the Ireland's Eye Special Protection Area (site code: 004117). The Board concurred with the Inspector's analysis, and adopted her conclusions and recommendations in this regard. The Board was therefore satisfied, having regard to the nature, location and scale of the subject development, that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects on these European sites or on any other European sites, in view of the conservation objectives of the sites.

Environmental Impact Assessment Screening

The Board noted the Environmental / EIAR Screening Report submitted by the applicant and the EIAR screening determination carried out by the Inspector. The Board concurred with the analysis and conclusions of the Inspector in relation to the need for an Environmental Impact Assessment of the proposed development and was satisfied that, by reason its nature and scale, and by reason of the urban location of the subject site, the subject development would not be likely to have significant effects on the environment, and adopted the Inspector's report in that regard. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conditions

1. The proposed 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 proposed development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Prior to commencement of any works on site, revised details shall be submitted to, and agreed in writing with, the planning authority providing for the following:
- (a) Internal floor to ceiling height at ground floor apartments fronting onto the pedestrian street shall be a minimum of three metres. All other ground floor apartments shall have floor to ceiling heights of a minimum of 2.7 metres.
 - (b) The private amenity spaces to the ground floor apartments within Blocks B and C fronting onto the linear plaza / pedestrian street shall be winter gardens.
 - (c) Apartment number C5-16 in Block C shall be omitted.
 - (d) The roof ridge level to the corner section of Block A shall be reduced by 1.5 metres. Roofs to the adjoining sections of this building shall be stepped down by between 300 millimetres to 500 millimetres to maintain grain. Eaves levels shall remain as applied for in order to ensure a shallower roof profile.
 - (e) The overhang at first floor level and above at the corner part of Block A shall be omitted so that the ground and first floor elevation is flush.
 - (f) The dark coloured brick finish to Block A shall be omitted and the finish shall be either of light coloured render or of brick of the same buff colour as is proposed for the apartment blocks.

Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area, and to enhance visual amenity within the Architectural Conservation Area.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, 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 satisfactory standard of development.

4. The period during which the development hereby permitted may be carried out shall be five years from the date of this Order.

Reason: It is considered that a duration of more than five years for the carrying out of this development, having regard to its scale and nature, is not warranted.

5. Pedestrian access to the Main Street plaza, the Balscadden plaza and the Abbey Street plaza, and along the linear plaza / the pedestrian street and the northern pathway around Block C, shall be permanently open to the public 24 hours a day. No gates, security barrier or security hut shall be permitted at the entrances to this development from Balscadden Road, Main Street or the pathway access to the Martello Tower. These areas, as indicated on Murray and Associates drawing number 1710_PL_P_06 as "Class 2 Open Space", together with the access road from Main Street to the underground car park in Block C, and the paved area and car parking spaces between Block A and Main Street, shall be taken in charge by the planning authority upon completion of the development.

Reason: In the interest of ensuring permeability, in accordance with national policy, and to ensure that the publicly accessible areas are under the control of the planning authority in perpetuity.

6. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:
- (a) The roads and traffic arrangements serving the site (including road signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
 - (b) The roads' layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii. Turning radii from Main Street shall be no greater than three metres.
 - (c) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works, and in the case of the areas specified in condition number 5 of this permission, shall be to the "taking in charge" standards of the authority.
 - (d) A minimum of three car parking spaces shall be reserved for car sharing, which shall be managed by the management company for the development.
 - (e) All of the car parking spaces within the basement area of Block C shall be provided with electrical connection points, to allow for functional electric vehicle charging.
 - (f) Car parking spaces, with the exception of those fronting onto Main Street, shall be reserved solely for the use of the occupants of the proposed apartments, and shall be leased or sold off in conjunction with the residential units, with no apartment unit being provided with more than one space. The car parking spaces shall not be leased or sold, or otherwise transferred or conveyed, to other than apartment occupiers.
 - (g) A Mobility Management Plan shall be submitted to the planning authority for its written agreement, within one year of the making available by the developer for occupation of the first apartment. It shall

be updated annually thereafter for a period of five years and any amendments agreed in writing with the planning authority.

- (h) A suitable location for the marshalling of bins other than Main Street shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interests of pedestrian, cyclist and traffic safety and in order to protect residential amenity.

- 7. The community room in Block B shall be made available for use by the residents of the development and of the wider community. Within three months of the making available by the developer for occupation of the first unit (whether commercial or residential) within the development, the management arrangements for this community use shall be agreed in writing with the planning authority. Any proposed change of use from community space shall be subject of a separate application for planning permission.

Reason: in the interests of clarity and ensuring adequate provision of community space.

8. The developer shall implement and comply with all recommendations set out in the GDG Geotechnical Survey, contained in Appendix 1 of the OCSC Engineering Report, with specific reference to those identified in Sections 4-7 inclusive. All works shall be carried out to the relevant Eurocode. This shall include temporary works which are required to be carried out in accordance with the requirements of the relevant Eurocode. Prior to the commencement of any works on site, a construction programme of works shall be submitted to, and agreed in writing with, the planning authority detailing:
- (a) Details of any further site investigation which shall be undertaken on site.
 - (b) Locations of monitoring which shall be undertaken, prior to the commencement of construction until a period of six months after construction is completed.

Reason: In the interest of safety and to protect the residential amenities of adjoining property.

9. All works to ensure the stability of the mound to the Martello Tower and slopes to the western, southern and eastern boundaries of the site shall be designed and supervised by a qualified engineer with professional indemnity insurance. A copy of the professional indemnity certificate and associated design drawings for the proposed works shall be submitted to the planning authority for its written agreement, prior to the commencement of any works on site.

Reason: In the interest of safety and of the proper planning and sustainable development of the area.

10. The site shall be landscaped in accordance with an amended scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This shall provide for the following changes to the scheme submitted with the application:
- (a) The northern boundary retaining wall shall be clad in local Howth stone or similar material.
 - (b) The section of retaining wall adjoining the steps at Balscadden Road shall be clad in local Howth stone or a similar material.
 - (c) The provision of additional tree planting within the Main Street plaza, and the provision of public seating within the Main Street plaza and along the Main Street frontage, and the replacement of the grassed area along Main Street with paving.
 - (d) Integrated construction tree pit systems shall provide for 16 cubic metres of root space.
 - (e) The extension of the proposed line of pine trees along the northern site boundary to meet with the eastern edge of Block C.
 - (f) Play facilities shall comply with British Standards European Norm (BS EN) 1176 and BS EN 1177 in relation to equipment and play surfacing and be Royal Society for the Prevention of Accidents (RoSPA) certified.

Reason: In the interests of residential and visual amenity, to ensure adequate play facilities and to maintain and improve landscape character.

11. The developer shall retain the services of a suitably qualified landscape architect throughout the life of the site development works. The approved landscaping scheme, as set out in condition 10 of this permission, shall be implemented fully not later than the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity, and to maintain and improve landscape character.

12. The developer shall comply with the following in relation to biodiversity:
- (a) Vegetation clearance and tree removal shall take place outside the bird breeding season (March 1st to August 31st).
 - (b) All buildings proposed for demolition and all mature trees proposed for felling shall be examined for evidence of bats, prior to any works by a bat specialist, including an examination of internal roof features. If required, a National Parks and Wildlife Service derogation licence shall be obtained.
 - (c) Prior to commencement of development, the developer shall submit a letter from its bat consultants, stating that they are satisfied that the final design of the external illumination proposed will be to the required specification and that important bat corridors are not illuminated.
 - (d) After installation of the external lighting, a report prepared by the bat specialist shall be submitted for the written satisfaction of the planning authority, confirming that it is operating according to specification.

Reason: In the interest of protecting the environment and to address any potential impacts on biodiversity.

13. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These details shall provide for compliance with condition 2(f) of this permission, and shall ensure that uPVC is not used for fenestration or rainwater goods.

Reason: In the interest of visual amenity and to protect the character of the Architectural Conservation Area.

14. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area, and to allow the planning authority to assess the impact of any such development through the statutory planning process.

15. Site development and building works shall be carried only out between 08.00 to 19.00 hours Mondays to Fridays inclusive, between 08.00 to 14.00 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 amenities of property in the vicinity.

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

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names.

17. The proposed retail unit / café shall not be used for the sale of hot food for consumption off the premises, without a separate planning permission for change of use.

Reason: In the interests of residential amenity and of pedestrian and traffic safety, and to allow the planning authority to assess any such development through the statutory planning process.

18. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall be responsible for the remainder of the development, other than those areas which, under condition number 5 of this permission, are to be taken in charge by the planning authority. Membership of this company shall be compulsory for all purchasers of property in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the making available by the developer for occupation of the first residential unit.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

19. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

20. 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 carry out pre-development archaeological testing of areas not previously accessible, and shall monitor all groundworks associated with the development, following demolition,
 - (c) carry out, under the direction of the archaeologist, full archaeological excavation of material previously identified in the testing report submitted with the application,
 - (d) in the event that archaeological material is found during the course of monitoring, the archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall comply with any necessary mitigation action advised by the Department of Culture, Heritage and the Gaeltacht (e.g. preservation in situ or excavation),
 - (e) 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, and
 - (f) fully protect the Ministry of War boundary markers associated with the Martello Tower.

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 (in situ or by record) of any remains that may exist within the site.

21. A plan containing details for the management of waste 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: To provide for the appropriate management of waste, and in particular recyclable materials, in the interest of protecting the environment.

22. Details of all external shopfronts and signage to the retail units and cafe shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In this regard, signage shall be restricted to individual lettering affixed directly to the shopfront / fascias, without backlighting or internal illumination.

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

23. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through windows), advertisement structures, banners, canopies, flags, or other projecting elements, other than those agreed in writing with the planning authority under condition number 22 of this permission, shall be displayed or erected on any of the proposed buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and orderly development, and to permit the planning authority to assess any such development through the statutory planning process.

24. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the buildings. Such shutters shall be of the 'open lattice' type only and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

25. 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 a demolition management plan, and a management plan for the phase 2 excavation works, together with details of intended construction practice for the development, including noise management measures, dust management and dust minimisation measures and off-site disposal of construction / demolition waste, and of excavated material.

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

26. A detailed construction traffic management plan shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery, and the location for storage of deliveries to the site. All construction traffic shall enter and leave the site via Balcadden Road, unless otherwise agreed in writing with the planning authority.

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

27. 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.

28. 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 of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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 the Board for determination.

Reason: To ensure the satisfactory completion of the development.

29. The developer shall pay the sum of €402,048 (four hundred and two thousand, and forty eight euro) (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), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, as amended, in respect of specific exceptional costs not covered in the Council's General Contributions Scheme, in respect of works proposed to be carried out by the local authority on amenity works in the area of the proposed development, in lieu of the shortfall in open space provision. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of 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 considered reasonable that the developer should contribute towards the specific exceptional costs which will be incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

30. 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.

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

Dated this day of 2018