



Planning and Development Acts 2000 to 2019

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 4th day of November 2019 by Crekav Trading GP Limited, care of Tom Phillips & Associates, Planning Consultants, 80 Harcourt Street, Dublin

Proposed Development

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

The proposed development will consist of

- The demolition of existing structures on site including the disused sports building (circa 604 square metres) on the Balscadden Road site and the former Baily Court Hotel Buildings on Main Street (circa 2,051 square metres).
- Construction of 177 number residential units in three number separate apartment blocks and one mews building ranging in height from two to five storeys, comprising 171 number apartments and six number duplexes which includes 44 number one-bed units, 103 number two-bed units and 30 number three-bed units.

- Balconies/winter gardens/terraces to be provided on all elevations at all levels for the three number apartment blocks. Roof Gardens will be provided on Block C.
- Provision 406 number private bicycle parking spaces and a total of 146 number car parking spaces, which comprises 112 number spaces in an underground basement in Block C, 26 number spaces in a podium car park in Block B 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. A secondary vehicular entrance from Balcadden Road will access the podium parking in Block B.
- 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 to facilitate construction and the provision of the basement car park, site services, piped infrastructure, a sub-station, public lighting, plant, bin stores, bike stores, boundary treatments and hard and soft landscaping. It is proposed to reduce the ground levels on the site from circa 35.0 metres ordnance datum to circa 20.0 metres ordnance datum. The basement car park of Block C is proposed at circa 17.0 metres ordnance datum. Excavation will range from 0 metres to up to circa 18 metres in depth to facilitate the construction of the development and basement car park. This equates to circa 78,000 cubic metres of material to be removed from site in total.
- 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 site's location within the built-up urban area in Howth on lands mainly zoned for town centre and residential development under the Fingal Development Plan 2017-2023;
- (b) the policies and objectives in the Fingal Development Plan 2017-2023;
- (c) the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (e) the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031;
- (f) the Guidelines for Sustainable Residential Developments 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;
- (g) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018;
- (h) the Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;

- (i) the Planning System and Flood Risk Management guidelines (including the associated Technical Appendices) issued by the Department of the Environment, Heritage and Local Government in November 2009;
- (j) the nature, scale and design of the proposed development;
- (k) the availability in the area of a wide range of social, and transport infrastructure including a railway station;
- (l) the pattern of existing and permitted development in the area;
- (m) the submissions and observations received, and
- (n) the report of the Inspector.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on the Howth Head Special Area of Conservation (site code 000202) and the Howth Head Coast Special Protection Area (site code 004113) and Ireland's Eye Special Protection Area (site code 004117), taking into account the nature, scale and location of the proposed development, the omission of the proposed works and construction traffic on the Balscadden Road required by the conditions below, the information submitted with the application, the Inspector's report and the submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that the development that is authorised by this permission would not be likely to have a significant effect on the above European sites or on any other European site in view of the sites' conservation objectives, either individually or in combination with any other plan or project, and that a Stage 2 Appropriate Assessment is not required.

Environmental Impact Assessment

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment

Screening Assessment Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature, scale and extent of the proposed development on an urban site served by public infrastructure;
- (b) the absence of any significant environmental sensitivities in the area, and
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would respect and enhance the historic and architectural character of the area, would be acceptable in terms of urban design, height and quantum of development, would not seriously injure the amenities of the area or of property in the vicinity, would not damage the natural heritage of the area, would not give rise to flooding in the area, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that a grant of permission that could materially contravene the allocation of 498 homes to Howth under the core strategy and settlement strategy, set out in section 2 of the Fingal County Development Plan 2017-2023, would be justified in accordance with sections 37(2)(b)(i),(ii) and (iii) of the Planning and Development Act 2000, as amended, having regard to:

- (a) the Government's policy to ramp up delivery of housing from its current under-supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016;
- (b) objectives 3a, 3b, 10, 11 and 35 of the National Planning Framework;
- (c) section 5.8 of the 2009 Guidelines for Sustainable Residential Developments in Urban Areas issued in 2009;
- (d) section 2.4 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued in March 2018;
- (e) SPPR1 of the Guidelines for Planning Authorities on Urban Development and Building Height issued in December 2018;
- (f) objective RPO 4.3 of the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031, and
- (g) objectives SS01 and SS15 of the Fingal Development Plan 2017-2023,

all of which support higher density residential development consisting of apartments on public transport corridors within the built-up area of Dublin City and its suburbs, as is proposed 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.

Reason: In the interest of clarity.

2. The proposed widening of the footpath along the Balscadden Road shall be omitted from the proposed development.

Reason: To protect pedestrians and to safeguard the structural integrity of the road.

3. Pedestrian access to the western and eastern plazas, the pedestrian street and the northern pathway around Block C shall be permanent, open 24 hours a day, and 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 or within the development in a manner which would prevent pedestrian access between the areas identified above.

Reason: In the interest of social inclusion.

4. The community room in Block B shall be made available for use by the residents of the development and the wider community. Within three months of the first occupation of the development by residents, the management arrangements for this community use shall be agreed 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.

5. The materials, colours and finishes of the authorised buildings, the treatment of boundaries within the development and the landscaping of the site shall generally be in accordance with the details submitted with the application unless the prior written consent of the planning authority has been obtained for variations to them.

Reason: In the interest of visual amenity.

6. Details of the proposed shopfronts for the permitted commercial units shall be submitted for the written agreement of the planning authority prior to the occupation of those units, along with proposals for the management of waste and the control of odours. Thereafter any signs, screens, shutters or other such features and any ducts or air handling equipment on the exterior of the permitted buildings shall comply with the requirements of the planning authority.

Reason: In the interests of visual and residential amenity.

7. Construction traffic shall generally use route Option Number 2 between the site and Sutton Cross save in exceptional circumstances where the prior written consent of the planning authority has been obtained. Construction traffic shall not use the Balscadden Road. Otherwise the works required to complete the permitted development shall be carried out in accordance with

the methods and subject to the controls set out in the various reports submitted with the application including:

- (a) The Structural and Geotechnical Engineering Report,
- (b) The Construction Environmental Management Plan,
- (c) The Air Quality and Climate Impacts Report,
- (d) Vibration Management Plan and
- (e) The Ecological Impact Assessment Report.

A record of daily checks that the works are being undertaken in accordance with the applicable reports shall be kept for inspection by the planning authority. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.

Reason: To protect adjoining properties, the amenity of the area and road safety during construction.

8. Site development and building works shall be carried out only between 0700 to 1900 hours 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.

9. Proposals for street and block names, numbering schemes and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme. The proposed names 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 place names for new residential areas.

10. 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.

Reason: In the interests of visual and residential amenity.

11. 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.

12. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

13. 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 within each block 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.

14. A minimum of 10% of all communal car parking spaces should be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

15. 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. The Ministry of War boundary markers associated with the Martello Tower shall be protected in full during the course of the development and maintained thereafter.

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.

- 16. 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

- 17. 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 include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of the apartments in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

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

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. Prior to commencement of development, the developer 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.

20. 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.

21. 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 in respect of public 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.

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

Dated this day of 2020