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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Fingal County Council**

**Planning Register Reference Number: F18A/0723**

**Appeal** by Michael Rickard of Baily Green Road, Howth Summit, Howth, County Dublin against the decision made on the 6<sup>th</sup> day of November, 2019 by Fingal County Council to grant subject to conditions a permission to Martin and Valerie McCourt care of Fergus Flanagan Architects Limited of Crescent Quay, Wexford Town, County Wexford in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** (1) The demolition of the existing habitable dwelling on site, (2) the provision of a replacement detached two storey house and garage, (3) new connection to local authority foul mains, (4) amendments to existing vehicular entrance and all associated site works at Whitewater, Baily Green Road, Howth, Co. Dublin, as amended by the further public notice received by the planning authority on the 17<sup>th</sup> day of October, 2019.

**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 provisions of the Fingal County Development Plan 2017-2023, the Howth Special Amenity Area Order 1999, the nature, scale and extent of the proposed development, the proposed connections to public mains drainage and water infrastructure to serve the replacement dwelling and the established residential occupation of this site up to recent years in the form of a detached dwelling, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Screening for Appropriate Assessment**

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site.

The Board noted that the published boundary of the Howth Head Special Area of Conservation (Site Code: 000202) appeared to overlap with the proposed development site. However, the Board agreed with the conclusions of the developer's ecologist as set out in the Report for the purposes of Appropriate Assessment Screening (submitted to the planning authority as further information on the 8<sup>th</sup> day of October, 2019) that the mapping of the European site extents was based on historical Cassini base mapping which has given rise to discrepancies in relation to residential plots in the area and a misalignment of the mapping with the historical residential land boundary for the appeal site and other sites in the area. The Board was, therefore, satisfied that the boundary of the European Site lies outside the proposed development site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the Howth Head Special Area of Conservation (Site Code: 000202) and the Howth Head Coast Special Protection Area (Site Code: 004113), or any other European site, in view of the sites' conservation objectives.

## 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 8<sup>th</sup> day of October, 2019, 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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The permitted unit shall be used as a single dwelling unit apart from such use as may be exempted development for the purposes of the Planning and Development Regulations, 2001, as amended.

**Reason:** To prevent unauthorised development.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house.

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

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

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

5. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

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

6. Drainage arrangements, including the 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.

7. No additional development shall take place above roof parapet level, including 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 amenities of property in the vicinity and the visual amenities of the area.

8. The developer shall comply with the following requirements of the planning authority:

- (a) No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900 millimetres, which would interfere or obstruct (or could obstruct over time) the required visibility envelopes.
- (b) The submitted landscape plan shall be implemented in the first planting season following the completion of construction works.

- (c) The recommendations of the submitted tree report shall be undertaken, including retention of screening vegetation, replacement planting of native species as per Howth Special Amenity Area Order Design Guidelines and tree protection fencing. The proposed tree and vegetation works shall take into consideration the requirements of the Wildlife Act.
- (d) All boundary treatments shall comply with the Howth Special Amenity Area Order Design Guidelines and their final detailed design be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- (e) Upon completion of the construction of the dwelling house and prior to its occupation, the lane serving it shall be resurfaced with the full details of these works to be in accordance with the Howth Special Amenity Area Order Design Guidelines and these works together with a time frame for their completion submitted for the written agreement of the planning authority.

**Reason:** In the interest of the proper planning and sustainable development of the area and in order to protect the amenities of the area.

- 9. External lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

10. Site development and building works shall be carried out only between the hours of 0700 to 1900 hours Mondays to Fridays inclusive, between 0800 hours 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 amenities of property in the vicinity.

11. 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 and in order to protect the amenities of the area.

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 and off-site disposal of construction/demolition waste.

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

13. 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.

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

14. 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.

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**Maria FitzGerald**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2020.**