



An
Bord
Pleanála

Board Order ABP-316294-23

Planning and Development Acts 2000 to 2022

Planning Authority: Fingal County Council

Planning Register Reference Number: F22A/0477

Appeal by Howth Sutton Community Council care of Andrew Hersey Planning of 3 Atlantic View, West End, Kilkee, County Clare against the decision made on the 22nd day of March, 2023 by Fingal County Council to grant subject to conditions a permission to JM Dunluce Limited care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of the existing single storey function room currently in office use (376 square metres) to the rear of the site. Development of a residential scheme totalling 36 number residential units (comprising 14 number one-bed units and 22 number two-bed units). The scheme will consist of: the construction of a three to four-storey (over basement) building, consisting of 32 number residential apartments, comprising 12 number one-bed units and 20 number two-bed units. Each unit will be provided with private open space in the form of a balcony or terrace. The structure will be provided with solar panels at rooftop level. The change of use of the existing two storey office building fronting onto Main Street to residential use consisting of two number one-bed apartments and two number two-bed apartments. The development will be served by a total of 68 number bicycle parking spaces, consisting of 56 number internal bicycle parking spaces to be provided at basement level and 12 number bicycle parking spaces to be provided at

surface level. The development will provide for a total of 37 number car parking spaces (including two number mobility impaired user parking spaces). A communal landscaped area for all apartments at ground floor level. Associated site and infrastructural works are also proposed, which include: foul and surface water drainage, landscaping, boundary treatments and all associated site development works necessary to facilitate the development, all at 60 Main Street, Howth, 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.

Reasons and Considerations

Having regard to:

- (a) national and local policy objectives which support the development of infill sites in achieving compact growth,
- (b) Section 28 Ministerial Guidelines on Sustainable Residential Development and Compact Settlements (2024) and Design Standards for New Apartments (2023),
- (c) the 'TC - Town and District Centre' zoning objective pertaining to the site, as set out in the Fingal County Development Plan 2023-2029, where residential is listed as a use that is permitted in principle,
- (d) the location of the site in the centre of Howth and in proximity to public transport,
- (e) the nature, scale and design of the proposed development which is consistent with the provisions of the Fingal County Development Plan 2023-2029, and
- (f) the pattern of existing and permitted development in the area,

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 not detract from the character of the Howth Historic Core Architectural Conservation Area, would be acceptable in terms of urban design, height and quantum of development, 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 proposed 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 received by the planning authority on the 24th day of February, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

- (a) The windows serving bedrooms on the northern elevation of the apartment block shall be replaced with high-level clerestory-style windows with an internal cill level of not less than 1.7 metres above the floor level.
- (b) All windows serving bathrooms, en-suite and, as otherwise indicated, shall be fitted and permanently maintained with obscure glass.
- (c) Privacy screens with a height of circa 1.8 metres shall be provided to the southern side of the balconies at first and second floor level of the apartment block and converted structure.

Reason: In the interest of residential amenity.

3. (a) Details of the materials, colours and textures of all the external finishes to the proposed buildings, including privacy screens to balconies, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) The treatment of the front (west) elevation shall include two colours of selected brick and brick detailing, as detailed on drawing number 2020-34-P-107 submitted with the application on the 8th day of September 2022. A revised front (west) elevation detailing compliance with the requirements of this condition along with samples of the proposed brick shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of visual amenity.

4. Before any other development commences, the recommendations of the Basement Impact Assessment shall be implemented in full and to the satisfaction of the planning authority.

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

5. All works to ensure the stability of the slope shall be designed, supervised and certified by a suitably qualified engineer with adequate professional indemnity. Any damage resulting from work to the slope by the developer shall be remediated at the developer's expense.

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

6. 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. Details of the disposal of surface water shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of public health and surface water management.

7. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann.

Reason: In the interest of public health.

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.

Reason: In the interest of visual and residential amenity.

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

Reason: In the interest of amenity and public safety.

10. Any alterations to the public road or footpath shall be carried out in accordance with the requirements of the planning authority and, where required, all repairs to the public road and/or footpath shall be carried out at the developer's own expense and to the satisfaction of the planning authority.

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

11. The internal road and pedestrian network serving the proposed development and the underground car park shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS).

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

12. A minimum of 10% of all car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to, 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.

13. (a) 80 number safe and secure bicycle parking spaces shall be provided within the site. Provision shall be made for a mix of bicycle types, including cargo bicycles and individual lockers. Details of the design layout and marking demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Details of the operation and maintenance of the cycle storage facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) Electric charging points shall be provided at an accessible location for charging cycles/scooters/mobility scooters. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

14. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
- (i) The species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species.
 - (ii) Hard landscaping works, specifying surfacing materials, furniture and finished levels.

- (b) A timescale for implementation, including details of phasing. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

- 15. An ecologist shall be engaged to monitor the impact of site works on wildlife, including checking vegetation and structures proposed to be removed for wildlife such as bats, nesting birds and mammals. Any wildlife present shall be managed to best practice standards and where necessary notification shall be made to the National Parks and Wildlife Service of the presence of any protected species.

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

- 16. The construction of the proposed 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 proposed development, including:
 - (a) The location of the site and materials compound(s), including area(s) identified for the storage of construction refuse.
 - (b) The location of areas for construction site offices and staff facilities.
 - (c) Details of site security fencing and hoardings.
 - (d) Details of on-site car parking facilities for site workers during the course of construction.

- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- (f) Measures to obviate queuing of construction traffic on the adjoining road network.
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be made available for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety and environmental protection.

17. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday, inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

18. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling.

19. 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 for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained, and 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.

20. Proposals for an estate/street name, 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 apartment 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 name of the development 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 placenames for new residential areas.

21. 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.

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

22. 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.

23. 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 planning 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.

Reason: To ensure the satisfactory completion of the development.

24. 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.

25. In addition to condition number 24 above, the developer shall pay to the planning authority a financial contribution in lieu of the shortfall in public open space provision required to serve the development, 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 considered reasonable to apply a financial contribution in lieu of the shortfall in public open space provision required to serve the proposed development; such a contribution is provided for in the Development Contribution Scheme made under section 48 of the Act.



Tom Rabbette

Member of An Bord Pleanála

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

Dated this 9th day of August 2024.