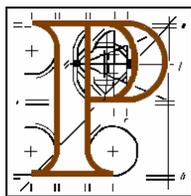


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2010

## Dun Laoghaire-Rathdown County

**Planning Register Reference Number: D10A/0570**

An Bord Pleanála Reference Number: PL 06D.238281

**APPEAL** by Derek Haughton of Keem, Church Road, Ballybrack, County Dublin against the decision made on the 8<sup>th</sup> day of December, 2010 by Dun Laoghaire-Rathdown County Council to grant subject to conditions a permission to The Anglesea Partnership care of McCabe Delaney of 20 Harcourt Street, Dublin in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Permission is sought for revisions to the previously granted residential development by An Bord Pleanála (PL 06D.224213). The development for which permission was previously granted by An Bord Pleanála (PL 06D.224213) entailed: (A) The demolition of all existing buildings on site which include number 36 Church Road (a single storey dwelling), and number 7 Mountain Villa (a two-storey dwelling); (B) the construction of a part two-storey and part three-storey residential block with associated shared garden, all to be provided over single level basement. The scheme will comprise of: 18 number residential units (consisting of one number one bedroom apartments; 12 number two bedroom apartments, two number three bedroom apartments, two number two bedroom duplex units and one number three bedroom duplex unit) to be provided from ground to second floor level. (all apartment units will have balconies/terraces). 23 number car parking spaces (of which 18 number will be provided at basement level and five number will be provided at surface level) to service the proposed scheme; (C) the provision of a single lane vehicular ramp (operated by a traffic light system) to serve the new basement car park, which will be accessed from the laneway via the proposed new surface car parking area at the southern side of the site; (D) refuse storage, residential storage lock-ups, switch room and pump room within the basement area; and (E) associated boundary, landscaping and site development works including the widening of existing laneway between its junction with Church Road and the proposed new vehicular access point to the scheme for a distance of approximately 34 metres such that the laneway will now be six to seven metres wide. The total gross floor area of the proposed development is 1,742 square metres plus basement car park at 1,073 square metres. The overall height of the proposed development is 9.5 metres.

It is proposed to revise the development to comprise a mixed residential and commercial development as follows: (A) The construction of a part two-storey, part three-storey residential and commercial blocks, with 13 of the residential units over a single basement level with a shared garden and one number residential over two floors of Commercial; (B) the revised scheme shall comprise of 14 number residential units (one number one bedroom apartment, nine number two bedroom apartments, two number two bedroom duplex units, one number three bedroom duplex unit, and one number three bedroom apartment) to be provided from ground to second floor level (and all having balconies/terraces); (C) four individual office suites in a self-contained building consisting of the following floor areas: Office 1 at ground floor level – 49 square metres, Office 2 at ground floor level – 48 square metres, Office 3 at first floor level – 57 square metres, and Office 4 at first floor level – 45 square metres and associated ancillary area. Fronting onto Church Road replacing apartments 7, 8, 13 and 14 from the original scheme granted permission by An Bord Pleanála by PL 06D.224213; (D) 25 number car parking spaces (of which 17 number were provided at basement level and eight number at surface level to service the scheme); (E) the provision of a duel lane vehicular ramp to serve the new basement car park, to be accessed from the laneway via the proposed new surface car parking area at the southern sided of the site; (F) refuse storage, residential storage lock-ups and pump room within the basement area. Bicycle parking area and switch room at ground level; (G) associated boundary, landscaping and site development works including the widening of existing laneway between it's junction with Church Road and the proposed new vehicular access point to the scheme for a distance of approximately 34 metres such that the laneway will now be six to seven metres wide. The total gross floor area of the proposed development is 1,742 square metres plus basement car park at 975 square metres. The overall height of the proposed development is 9.5 metres which equals the original height; and (H) alterations to the elevations including elimination of balconies and relocation and resizing of window positions in the office area and minor alterations to apartments 17, 18 and 19, including new access stairs to apartments 18 and 19 at second floor level. The new stairs to apartment number 19 has a new separate access off the laneway to the south-east. Development all on a 0.19 hectares site at Church Road, Ballybrack, County Dublin; bounded by Church Road to the north- east, a laneway (of no name which links Church Road to the Mountain Villa housing estate) to the south-east, number 6 Mountain Villa to the south-west, and the boundaries of the residential properties of “Vevey” (a protected structure) and “Keem” to the north-west.

## **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 of the site in close proximity to the village of Ballybrack, in close proximity to lands zoned as neighbourhood centre in the current development plan for the area,
- the limited scale of the proposed commercial activity (as further reduced in the course of the planning appeal) and the fact that small scale offices are 'open for consideration' on residentially zoned land, and
- the planning history of the site which includes permission for a building of similar scale on the subject site

it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety, parking and convenience of road users and would not be prejudicial to public health. 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 received by An Bord Pleanála on the 16<sup>th</sup> day of June, 2011, 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. The height of the block shall not exceed the heights permitted under appeal reference number PL 06D.224213 (planning register reference number D07A/0169). Specifically, the maximum height of the front block facing the street shall not exceed 111.90 metres OD (and 108.90 metres OD on the lower element on the northern side adjacent to 'Keem'), and the height of the rear block shall not exceed 109.90 metres OD. Revised drawings showing compliance with this condition shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual and residential amenity, and taking into account the content of the public notices.

3. The proposed bin store serving the office units shall be enclosed with a roof and access door. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

4. Each apartment shall be used as a single dwelling unit.

**Reason:** To prevent unauthorised development.

5. The three office units shall remain as separate units and shall not be amalgamated into one office unit.

**Reason:** So as to integrate successfully with the neighbourhood centre function of adjoining land and having regard to the land-use zoning of the site.

6. Details of all external shopfronts and signage shall be the subject of a separate planning application.

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

7. 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 amenities of property in the vicinity and the visual amenities of the area.

8. 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.

9. 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 interests of visual and residential amenity.

10. Details, including samples, 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 the visual amenities of the area.

11. Proposals for a name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and apartment numbers, shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

12. Public 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. Such lighting shall be provided prior to the making available for occupation of any house.

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

13. The developer shall arrange at his own expense for the construction of the proposed works on Church Road as previously permitted under appeal reference number PL 06D.224213 (planning register reference number D07A/0169) in accordance with 'option B', of drawing number 51185\_P\_103, received as additional information by the planning authority on the 17<sup>th</sup> day of May, 2007. All works on Church Road shall be completed to the satisfaction of the planning authority, before first occupation of any residential/commercial units within the proposed development.

**Reason:** In the interest of traffic safety at the junction of the laneway and Church Road.

14. The proposed new footpath along the side of the development on the shared laneway off Church Road shall have a minimum clear width of 1.5 metres.

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

15. The material finishes to the proposed pavement and road surfaces in the scheme shall match those of the Ballybrack Village Improvement Scheme in terms of colour, texture, dimensions and quality.

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

16. All residential car parking spaces in the basement shall be constructed so as to be capable of accommodating a future charging point for electric vehicles.

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

17. (a) The developer shall at his own expense resurface the shared laneway off Church Road and provide double yellow lines along both sides to the satisfaction of the planning authority.
- (b) The developer shall at his own expense upgrade the public lighting on the shared laneway off Church Road. Detailed plans and specification for the public lighting shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The specification and layout shall comply with the planning authority's standards for such works. Public lighting shall be available and operational as each apartment is occupied.

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

18. 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 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.

19. Each apartment unit shall have a dedicated 'lock-up' store at basement level, which shall not be sold or let separate from the relevant apartment unit.

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

20. 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 interest of public safety and residential amenity.

21. Site development and building works shall be carried only out between the hours of 08.00 to 18.00 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 residential amenities of property in the vicinity.

22. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the residential or commercial units are made available for occupation.

**Reason:** To provide for the future maintenance of this development in the interest of residential amenity and orderly development.

23. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, including paving and hard landscaping, details of which, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

24. 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 social and affordable housing in accordance with the requirements of section 96 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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 for the area.

25. 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 local 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.

26. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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            2011.**