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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Dun Laoghaire Rathdown County Council**

**Planning Register Reference Number: D19A/0927**

**Appeal** by Midgard Construction Limited care of Pames Developments Limited of 1<sup>st</sup> Floor, 60 Amiens Street, Dublin against the decision made on the 31<sup>st</sup> day of January, 2020 by Dun Laoghaire Rathdown County Council to refuse a permission for the proposed development:

**Proposed Development:** Permission for the demolition of the residential dwelling (including ancillary garage and sheds) and for amendments to previously approved residential development at 36 and 36A Church Road, (planning register reference number D18/0313, An Bord Pleanála appeal reference ABP-301940-18). This application seeks to extend the previously approved development northwards along Church Road on the site of the adjoining house 'Keem', 37 Church Road. The site area of 'Keem' is 506 square metres. The proposed development will add 12 apartments (increasing the overall number of apartments from 20 to 32) with three number two-bedroom apartments at upper ground floor, first floor and second floor and two number two-bedroom apartments and one number one-bedroom apartment at third floor; with balconies provided to the units at first and second floors and roof terraces to units at third floor level. Permission is sought for the following amendments to the previously approved scheme - (i) revisions to lower

ground floor to extend the permitted undercroft car park to provide an additional 11 car parking spaces (overall total now 34). The number of bicycle parking bays will increase by 15 (overall total now 60), (ii) the inclusion of a smoke lobby to the main stair and lift core, (iii) relocation of the entrance doors in Apartments 3 and 4 on lower ground floor level and consequential minor amendments to ground floor elevations onto Mountain Villas, (iv) removal of the previously approved voids outside Apartment 9 at ground floor level, (v) relocation of external stairs from upper ground floor to third floor, (vi) addition of external walkways at the rear to provide walkways at each floor level, (vii) amendments to increase the area of Apartment 19 at second floor and extend the gable wall northwards, (viii) amendments to Apartment 20 at 3rd floor level to change from a three bedroom apartment to a two bedroom apartment including minor amendments to the roof top private terrace, (ix) introduction of a new two-bedroom apartment on the corner of Church Road and the laneway, (x) amendments to the upper ground floor landscaped courtyard to incorporate the adjoining site and all associated site works on a site extending 2,534 square metres, all at 36, 36A and 'Keem' 37 Church Road, Killiney and 7 Mountain Villa, Ballybrack, 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.**

## **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 Dún Laoghaire-Rathdown County Development Plan 2016–2022, and in particular the objectives of this Plan that seek to promote infill residential development and increased residential densities, and having regard to the pattern of existing development in the area and the design, scale and layout of the proposed development, as modified, 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 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.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted the planning history on the site, location of the proposed development in relation to the village of Ballybrack, proximity to public transport, distance from the closest dwelling within the Killiney Gate development and the intervening green space and public road, and the quantum of communal and private open space within the proposed development, and considered that the proposed development would not have an overbearing impact, would not seriously injure the amenities of adjacent properties to the north and east of the site, would not appear visually dominant in relation to Ballybrack village, would not result in overdevelopment of the site, and would be acceptable in terms of impact on the character and visual amenity of the streetscape. 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 27<sup>th</sup> day of February, 2020, 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 proposed development shall be amended as follows:
  - (a) Apartment number 30 on the second floor as shown on drawing number 17020/PA2-004/Rev B shall be omitted, and
  - (b) this permission allows for 31 apartment units only.

Revised drawings showing compliance with the above requirement 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.

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.

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

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

5. The site access arrangements and the internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the basement car park shall be in accordance with the detailed requirements of the planning authority for such works.

**Reason:** In the interests of amenity and of pedestrian and traffic safety.

6. A minimum of 10% of all car parking spaces shall be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces to facilitate 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, the development shall submit 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.

7. 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.

8. Details of all boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development (including any demolition works) on the site.

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

9. Prior to commencement of development, the developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works and shall notify the planning authority of that appointment in writing prior to commencement of development. A Practical Completion Certificate shall be signed off by the Landscape Architect when all landscape works are fully completed to the satisfaction of the planning authority and in accordance with the permitted landscape proposals.

**Reason:** To ensure full and verifiable implementation of the approved landscape design in the interest of visual amenity.

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. All existing over ground cables crossing or bounding the site shall be relocated underground as part of the site development works, at the developer's expense.

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

11. Proposals for an estate/development name and 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 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 interests of urban legibility, and to ensure the use of locally appropriate place names for new residential areas.

12. Prior to the opening/occupation of the development, a Mobility Management Strategy (including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns) shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. Details may include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The interim or temporary strategy, where applicable, should reflect the requirements of DMURS Interim Advice Note – Covid Pandemic Response (May, 2020). The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

13. Site development and building works shall be carried only out between the hours of 0800 to 1900 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.

14. 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, noise management measures and off-site disposal of construction/demolition waste.

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

15. A 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 (which shall not be within the areas designated for tree protection) and for storage of deliveries to the site.

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



16. 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 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.

17. 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 unit.

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

18. 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 this development in the interest of residential amenity.

19. 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.

20. 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.

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

**Dated this            day of            2020.**