



An
Bord
Pleanála

Inspector's Report ABP-306218-19

Development	Amendments to previously approved development ABP-301614-18
Location	Brennanstown Road, Dublin 18
Planning Authority	Dun Laoghaire Rathdown County Council
Applicant	Viscount Securities
Type of Application	Section 146B - Request to alter previously approved Strategic Housing Development
Inspector	Sarah Moran

1.0 Introduction

- 1.1. The requester was granted planning permission under ABP-301614-18 for a residential development comprising of 136 residential units. This parent permission was subsequently amended under section 146B of the Planning and Development Act 2000 (as amended), ref. ABP-304726-19. The requester is now submitting a new request to An Bord Pleanála, pursuant to section 146B for further alterations to the terms of this permission.

2.0 Planning History

2.1. Parent Permission SHD ABP-301614-18

- 2.1.1. The Board originally granted permission subject to 25 conditions on 31st August 2018 under ABP-301614-18, which comprised:

- 136 no. residential units, comprising of 98 no. apartments and 38 no. houses, to be provided as follows:
 - Apartment Block 1 containing 44 no. apartments, including 3 no. 1 beds, 27 no. 2 beds and 14 no. 3 beds, in a four storey building over basement;
 - Apartment Block 2 containing 44 no. apartments, including 3 no. 1 beds, 33 no. 2 beds and 8 no. 3 beds, in a four-storey building over basement;
 - Apartment Block 3 containing 10 no. apartments, including 2 no. 1 beds and 8 no. 2 beds, in a two storey building;
 - 7 no. 5 bed houses (type A1 and A2), 23 no. 4 bed houses (type B1, B2 and E2) and 8 no. 3 bed houses (type D1, D2, D3 and E1), of two and three storeys in height.
- Childcare facility (195 sq.m.) and play area located on the lower ground level of Block 1;
- 227 no, car parking spaces at basement / lower ground floor and surface level, also cycle and motorcycle parking spaces;
- Ancillary works including bin storage, public open space, landscaping, boundary walls and fences, internal roads, cycle paths and footpaths and 1 no. electricity

substation. The associated site and infrastructural works include the removal of two existing structures in ruin, the provision of foul and surface water drainage, including attenuation tanks, and all associated services infrastructure;

- The development incorporates works to Brennanstown Road including a roundabout at the proposed new site entrance, road and footpath widening, raised tables / ramps for the purposes of traffic calming and enhancements to the Brennanstown Road / Glenamuck Road North (R842) / Brighton Road / Claremont road junction;
- The development also includes the provision of a new pedestrian connection to and through Cabinteely Park including works to Cabinteely Park. The proposed connection will utilise a pre-existing opening in the boundary wall in the northeast corner of the proposed site, connecting to Cabinteely Park via a section of open space to be delineated by proposed railings within the adjacent Carrickmines Wood development. The proposed works include the provision of a new entrance gate to Cabinteely park and new pathways within Cabinteely Park connecting to the existing footpath network within Cabinteely Park.

2.1.2. The following condition of ABP-301614-18 is noted:

2. The developer shall submit revised drawings and documentation showing compliance with the following requirements:

- (a) Revised site layout plan which indicates Unit number 22 as house type D2 and Unit number 25 as house type D3.
- (b) Revised plans and elevations for Unit number 23 which shall be referred to as house type D4, a mirror of the D1 layout.
- (c) Provision of privacy screens at either end of all balconies.
- (d) Provision of 1.8-metre-high block walls, capped and rendered on both sides to the rear gardens of the housing units.
- (e) Provision of a pedestrian gate to the south-west corner of the boundary wall along Brennanstown Road.
- (f) Provision of a revised location for the playground.
- (g) Full details of proposed green roofs.

- (h) Provision of adequate cycle storage facilities.
- (i) Details to ensure all basement and surface parking are constructed so as to accommodate future electric charging points for electrically operated vehicles.

Revised drawings and documentation shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area

2.2. **S146B ABP-304726-19**

2.2.1. Permission was subsequently sought under ABP-304726-19 to amend the development permitted under ABP-301614-18 as follows:

- Replacement of apartment Block 3 containing 10 no. apartments, including 2 no. 1 beds and 8 no. 2 beds, in a two storey building, with 5 no. 2 storey houses (type E2, nos. 39-43 on the site plan) and associated car parking alterations;
- Replacement of 1 no. type E1 house with 1 no. type E2 house (no. 20);
- Replacement of 2 no. type D2 houses (nos. 21 and 22) with 1 no type D1 house (no. 22) and 1 no. type D4 house (no. 21);
- Amendments to the basement layout of Block 1 relating to alterations and reconfiguration of the bin storage, plant and cycle storage areas and including the omission of 6 no. car parking spaces;
- Provision of 2 no. additional surface car parking spaces on the internal access road;
- Amendments to house types A1, A2, B1, B2, D1, D3, D4 and E2 relating to the omission / alterations to chimneys, amendments to materials, addition of velux rooflights and alterations to canopies and fenestration;
- Replacement of side boundary walls in rear gardens with concrete post and panel fencing and minor changes to other boundaries;
- All associated site works, including landscaping alterations and minor changes to finished floor levels and road levels.

- 2.2.2. The Board determined on 26th August 2019 that the proposed alterations would not be likely to have significant effects on the environment or any European Site and that they would not be material. The parent permission was altered accordingly.

3.0 Legislative Basis

- 3.1. Section 146B of the Planning and Development Act 2000 (as amended) provides for a person carrying out or intending to carry out a Strategic Housing Development to make a request to alter the terms of a development, the subject of a planning permission under the Act. Section 146B(2)(a) provides that:

As soon as practicable after the making of such a request, the Board shall make a decision as to whether the making of the alteration to which the request relates would constitute the making of a material alteration of the terms of the development concerned.

Section 146B(2)(b):

Before making a decision under this subsection, the Board may invite submissions in relation to the matter to be made to it by such person or class of person as the Board considers appropriate (which class may comprise the public if, in the particular case, the Board determines that it shall do so); the Board shall have regard to any submissions made to it on foot of that invitation.

Section 146B(3)(a):

If the Board decides that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned, it shall alter the planning permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration.

The provisions of section 146B(3)(b) to section 146B(9) set out the procedures where the Board decide that the making of the alteration would constitute a material alteration, including section 146B(3)(b) which allows the Board to require the requester to submit the information specified in Schedule 7A of the Planning and Development Regulations 2001 and section 146B(8) which requires that the request shall be made available for inspection and that the requester shall notify certain

persons or the public that the information is so available and invite submissions or observations to be made within the specified period.

4.0 **Proposal**

4.1. The proposal is seeking to make the following further amendments to the permitted development:

- Amendments to the penthouse levels of apartment Block 1 and Block 2 to provide 6 no. apartments in place of 8 no. apartments to each block, resulting in an overall reduction of 4 no. units, with amended internal layouts and external private amenity spaces;
- Amendments to the basement level of Block 1 comprising the provision of 2 no. additional basement parking spaces, provision of an additional escape stair / emergency egress, relocation of the entrance to the car park and reconfiguration of basement ventilation;
- Amendments to the basement layout of Block 2 relating to alterations and reconfiguration of the bin storage, plant and cycle storage areas, omission of 4 no. car parking spaces, provision of 2 escape stairs, reconfiguration of basement ventilation;
- Relocation of 1 no. ESB substation adjacent to Block 1 and the provision of an additional ESB substation to the north of Block 2;
- Replacement of 7 no. 4 bed type E2 houses with 7 no. 3 bed type D5 houses;
- All associated development and ancillary works.
- The proposed alterations, in addition to those permitted under ABP-304726-19 will result in a reduction in the overall no. of residential units from 136 to 127 no. units.

4.2. The applicant submits a rationale for the proposed amendments. The following points of same are noted:

- The proposed amendments have arisen following further detailed design development and result from energy and services requirements.

- The alterations relating to the penthouse units are sought following a review of the apartment types at penthouse level and the designs proposed which identified opportunities for improvement and enhancements in the residential units and potential for greater coherence and residential amenity.
- The amendments will result in a reduction of 8 no. 2 bed units and their replacement with 4 no. 3 bed units, i.e. a net reduction of 4 no. units.
- The replacement of 7 no 4 bed houses with 7 no. 3 bed houses is sought to provide a greater variety in unit type within the development following further consideration of market demand and offer in the area.
- The amendments are also sought in order to implement design efficiencies and to respond to market demand and expectation for outstanding design quality in new residential development.
- The applicant submits that the proposed alterations are appropriate and minor and do not materially alter the permitted development (as previously altered).
- It is submitted that the amendments will not result in any material change in the urban form or density of the development.
- It is submitted that the revised housing mix is appropriate and will better respond to market demand in the area, providing additional generously proportioned 3 bed apartments that are attractive family homes. The revised housing mix will not result in any change in the nature or functioning of the development.
- The amendments will not impact on the permitted footprint of Blocks 1 and 2. External changes include minor adjustments to fenestration, access doors to roof terraces and are not material. The amendments include the provision of external private open space in the form of roof terraces for the penthouse units, which will enhance the amenity of these units.
- The proposed replacement of 7 no. 4 bed houses with 7 no. 3 bed units result from the omission of a bedroom at dormer level and the revised house type is similar in design, dimensions and layout. The revised design will provide an equivalent level of residential amenity.

- The alterations at basement level will not materially impact on the external appearance of Block 1 or Block 2 and the footprints of the basements will not change materially.
- The proposed relocation of a permitted ESB substation results from operational and servicing requirements of the ESB.
- It is submitted that the proposed amendments are not likely to have significant effects on the environment, given the limited size and scale of alterations, the minor nature of the elevation changes proposed, the minor nature of the basement / car parking reconfiguration, the suitability of the proposed alterations with the land use zoning and permitted residential use and the negligible and immaterial impact on adjoining landowners or residents.

5.0 Board Correspondence

- 5.1. The Board informed Dun Laoghaire Rathdown County Council on 26th January 2020 of the request received and enclosed a copy of the request which, it was advised, may be made available for public inspection. The planning authority was not invited to make any submission at this stage.

6.0 Assessment

6.1. Consideration of Materiality

- 6.1.1. The first consideration in relation to this request to alter the terms of ABP-301614-18 (as amended by ABP-304726-19) is to determine if the making of the alterations would constitute the making of a material alteration of the terms of the Strategic Housing Development as granted. I consider that the principal potential impacts relating to the proposed amendments are issues relating to the quantum of development and housing mix; impacts on visual and residential amenities; surface water drainage and site services and traffic and transportation. These matters may be considered separately as follows, along with the applicant's rationale for the proposed amendments as summarised in section 4.2 above.

6.1.2. Quantum of Residential Accommodation and Housing Mix

The quantum of accommodation and housing mix as originally permitted under ABP-301614-18, as subsequently amended under ABP-304726-19 and as currently proposed may be compared as follows:

Unit Type	ABP-301614-18		ABP-304726-19		Current Proposal	
Apartments						
1 bed apt	8	6%	6	5%	6	5%
2 bed apt	68	50%	60	45%	52	40%
3 bed apt	22	16%	22	17%	26	20%
Total Apts	98		90		86	
Houses						
2 bed house	0		5	4%	5	4%
3 bed house	8	6%	7	5.5%	14	12%
4 bed house	23	17%	24	18%	17	13%
5 bed house	7	5%	7	5.5%	7	6%
Total Houses	38		43		43	
Total Units	136		133		129	

The development permitted under ABP-301614-18 had an estimated residential density of 48.5 units / ha, based on a net developable area of 2.8 ha, ref. section 10.3.3 of the Inspector's Report for that case. The current proposal would result in a net density of c. 46 units / ha, which is considered to be a minor reduction overall. The amendments to the permitted housing mix are also considered minor in the context of the overall permitted development. Both the original and revised housing mix are in accordance with SPPR 1 of the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities, with other national planning policies and with policy RES 7 of the Dun Laoghaire Rathdown County Development Plan 2016-2022. The Board is referred to section 12.3.5 of the Inspector's Report of ABP-303891-19 in this regard.

6.1.3. Quality of Residential Accommodation

I am satisfied that the proposed apartments are generally consistent with the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, with regard to the submitted Design Report and Housing Quality Assessment and that the proposed house type D5 is in accordance with the standards of the Quality Housing for Sustainable Communities DOEHLG guidance. I consider that the proposed amendments would not result in any significant change / reduction in the quality of residential development such as would be considered material.

6.1.4. Impacts on Visual and Residential Amenities

The proposed amendments involve minor changes to the elevations of apartment Blocks 1 and 2 at roof level and at basement / lower ground floor level. The proposed amended house type D4 omits a dormer window from the permitted house type E2. I am satisfied that the proposed amendments will not result in any significant change in visual impacts from the permitted development. I therefore do not consider that there is a material change in terms of visual impact. The amendments will not result in any impacts on residential amenities.

6.1.5. Surface Water Drainage and Site Services

As per the submitted Infrastructure Report, the proposed amendments will not result in any increased surface water discharge or changes to the foul drainage or water supply. The building footprints are largely unchanged and the proposed green roof allowance will increase slightly to 266 sq.m. The proposed reduction in the no. of apartments has no impact on the previously approved surface water design, arrangements, layouts or details. The details of the Site Specific Flood Risk Assessment are unchanged. The amendments will result in a small decrease in foul drainage runoff. This decrease is minor and results in no impact or changes to the previously approved foul drainage design, arrangements, layouts or details. The proposed reduction in the no. of apartments results in a small decrease in water supply demand. This decrease is minor and results in no impacts or changes to the previously approved design, arrangements, layouts or details of the water supply provisions. I am therefore satisfied that the amendments will not result in any

significant change in impacts from the permitted development in relation to surface water drainage and site services.

6.1.6. Traffic and Transportation Issues

The only amendment to the permitted roads layout is to provide access to the ESB substations in accordance with ESB specifications. This is not considered material.

The proposed amendments result in a reduced overall car parking provision with a net loss of 2 no. basement car parking spaces. This will not result in any significant change to traffic or transportation impacts from the permitted development (as amended).

Based on the vehicle trip rates in the Traffic and Transport Assessment of the permitted development, the proposed reduction in 4 no. apartments is predicted to result in 1 no. fewer trips during the AM peak hour and 2 no. fewer two-way vehicle trips in the PM peak hour. Thus there will not be any material increase in external traffic impact on the surrounding road and street network.

I am therefore satisfied that the proposed amendments will not result in any significant change to traffic and transportation impacts from the permitted development.

6.1.7. Assessment of Materiality Conclusion

I am of the opinion, having fully considered the proposed alterations and the development as granted under ABP-301614-18 as amended under ABP-304726-19, that the Board would not have determined the proposal differently had the proposed amendments formed part of the said application. In that regard, I consider it reasonable to conclude that the proposal subject of this request does not constitute the making of a material alteration of the development as granted under ABP-301614-18 as amended under ABP-304726-19.

I have considered the provisions of section 146B(2)(b) which provides for, at the Board's discretion, the invitation of submissions from persons, including the public. Having considered the nature, scale and extent of the alteration, the information on file and the nature, scale and extent of the development granted under ABP-301614-18 as amended under ABP-304726-19, I am of the opinion that the proposed amendments would not result in any substantive change to impacts on visual or

residential amenities and that the inviting of submissions from the public in this instance is not necessary and is not required for the purposes of the Board in determining the matter.

6.2. Environmental Impact Assessment

- 6.2.1. The development as originally permitted under ABP-301614-18 was sub-threshold for mandatory EIA as per item 10 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended). As outlined above, I consider that the proposed alterations do not constitute the making of a material alteration of the development proposed and in this regard the provisions of Section 146B(3)(a) apply. However, if the Board are of the opinion that the proposed alterations would constitute material alterations, the provisions of Section 146B(3)(b) apply, which require the applicant requester submit to the Board the information specified in Schedule 7A of the Planning and Development Regulations 2001 as amended unless the information has already been provided. In this regard, a Planning and Environmental Report, an Environmental Assessment and a Landscape and Biodiversity Statement have been submitted with the request and outline the characteristics of the proposed alterations, the location of same, and the characteristics of potential impacts of the alterations. It is concluded that the proposed alterations would not have any significant effects on the environment. I would concur with this opinion. I consider the review of the potential impact arising from the alterations proposed to be reasonable and robust.
- 6.2.2. I therefore conclude that no new considerations arise in relation to impacts on the environment which were not considered in the assessment of impacts for ABP-301230-18 as amended under ABP-304726-19.

6.3. Appropriate Assessment

- 6.3.1. An AA Screening Report was submitted with ABP-301614-18 and the Board is referred to section 10.9 of the Inspector's Report of that case for a summary of same. This identified relevant Natura 2000 sites generally within 15 kms of the development and considered potential hydrological linkages to designated sites. The Carrickmines Stream, is located approximately 400m south of the site and eventually meets the Shanganagh River in Loughlinstown and enters the sea at Ballybrack. The Shanganagh river does not drain directly into any European sites. The report of ABP-

301614-18 concludes that, having regard to the dilution and treatment of waste waters prior to ultimate discharge and lack of a direct entry point for waters from the development site to any of the Natura 2000 sites the proposal either individually or in-combination with other plans or projects (including the most recent SHD permission for 115 units at Doyle's Nursery) could not be considered to have likely significant effects in view of the sites' conservation objectives and that a Stage 2 Appropriate Assessment was not, therefore, required. The Board concluded that the proposed development, by itself, or in combination with other plans or projects, would not be likely to adversely affect the integrity of these European Sites in view of the sites' conservation objectives and a Stage 2 Appropriate Assessment was not therefore required.

- 6.3.2. The submitted Environmental Assessment includes a supplementary AA Screening assessment in respect of the proposed amendments. Having considered the Board's determination on Appropriate Assessment on ABP-301614-18, section 10.9 of the Inspector's Report of ABP-301614-18, the amendments deemed not to be material under ABP-304726-19, the nature, scale and extent of the proposed alteration relative to the development subject of and approved, and the information on file, which I consider adequate to carry out AA Screening, I consider it reasonable to conclude that the alterations proposed, individually or in combination with other plans or projects, would not be likely to have a significant effect on the European sites in view of the sites' conservation objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.0 Recommendation

- 7.1. I recommend that the Board decides that the making of the alterations subject of this request do not constitute the making of a material alteration of the terms of the development as granted permission under ABP-301614-18 as amended by ABP-304726-19.

DRAFT ORDER

REQUEST received by An Bord Pleanála on the 19th day of December 2019 from Viscount Securities under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Brennanstown Road Strategic Housing Development the subject of a permission under An Bord Pleanála reference number ABP-301614-18 as amended by An Bord Pleanála reference number ABP-304726-19.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 31st day of August 2018,

AND WHEREAS the Board has received a request to alter the terms of the development, the subject of the permission,

AND WHEREAS the proposed alteration is described as follows:

Amendments to previous approved development ABP-301614-18 as amended by ABP-304726-19

AND WHEREAS the Board decided, in accordance with section 146B(2)(b) of the Planning and Development Act 2000, as amended, not to invite submissions or observations from the public in relation to whether the proposed alteration would constitute the making of a material alteration to the terms of the development concerned,

AND WHEREAS the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alterations would not result in any material alterations to the terms of the development, the subject of the permission,

AND WHEREAS having considered all of the documents on file and the Inspector's report, the Board considered that the making of the proposed alterations would not be likely to have significant effects on the environment or on any European Site,

NOW THEREFORE in accordance with section 146B(3)(a) of the Planning and Development Act, 2000, as amended, the Board hereby alters the above mentioned decision so that the permitted development shall be altered in accordance with the plans and particulars

REASONS AND CONSIDERATIONS

Having regard to:

- (i) the nature and scale of the Strategic Housing Development permitted under An Bord Pleanála Reference Number ABP-301614-18 for this site, which includes 136 no. residential units (98 no. apartments and 38 no. houses), crèche facility, works to Brennanstown Road, alterations to the Brennanstown Road/Glenamuck Road North/Brighton Road/Claremont junction, connections to and through Cabinteely Park and associated site works, as amended under section 146B of the Planning and Development Act by ABP-304726-19;
- (ii) the examination of the environmental impact, including in relation to Natura 2000 sites, carried out in the course of that application,
- (iii) the limited nature and scale of the alterations,
- (iv) the absence of any significant new or additional environmental concerns (including in relation to Natura 2000 sites) arising as a result of the proposed alterations, and
- (v) the report of the Board's inspector, which is adopted,

It is considered that the proposed alterations would not be material. In accordance with section 146B(3)(a) of the Planning & Development Act, as amended, the Board hereby makes the said alterations.

Sarah Moran

Senior Planning Inspector

7th April 2020