



An
Bord
Pleanála

Inspector's Report

ABP-306404-20

Development

Alterations to previously permitted development ABP 304288-19.

Location

Clay Farm, Ballyogan Road, Dublin18.

Planning Authority

Dun Laoghaire Rathdown County Council.

Applicant

Viscount Securities.

Type of Application

Section 146B - Request to alter previously approved Strategic Housing Development.

Inspector

Karen Hamilton

1.0 Introduction

- 1.1. An application has been made to alter the permission granted for a residential development at Clay Farm, Ballyogan Road, Dublin 18 under Section 146B of the Planning and Development Act, 2000, as amended.
- 1.2. Permission was granted on 29th day of July 2019 under reference ABP-304288-19 for a residential development under the provisions of the SHD legislation. The applicant is making a request to An Bord Pleanála for alter this proposed development for the internal configuration of 42 no. units, configuration of the basement car parks, alterations to the substation location and reconfiguration of balconies to accommodate these works.

2.0 Legislation

- 2.1. Section 146B – 146B(1) Subject to subsections (2) to (8) and section 146C, the Board may, on the request of any person who is carrying out or intending to carry out a strategic infrastructure development, alter the terms of the development the subject of a planning permission, approval or other consent granted under this Act.

(2) (a) 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.
- 2.2. Alteration not a material alteration - Section 146B(3)(a) states that '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'.

3.0 Proposed Changes

- 3.1. The proposed changes to permitted development ABP 304288-19 comprise of the following:

- Alterations to Block G and Block E7 relating to the internal configuration of 42 no. units (35 in Block G and 6 in Block E7), associated amendments to the location of balconies and elevations of each block,
- Alterations to configuration of the basement car parks of both blocks;
- Omission of the permitted substation to the north of Block E7 and provision of a substation to the south of Block G and associated alteration to the adjacent apartments within Block G,
- Associated site layout changes, including provision of a drop-off area to the east of Block G, and all associated works.

3.2. The applicant considers that the amendments proposed are not material. It is stated that the proposed alterations do not constitute a project defined by Part 1 and Part 2, Schedule 5 of the 2001 Planning Regulations and would not warrant a sub-threshold EIA, nor a new Appropriate Assessment or an AA Screening of the proposed alterations.

4.0 **Assessment**

4.1. Parent permission ABP Ref PL06.246601 (Reg Ref D15A/0247) was granted for Phase 1 of the Clay Farm residential development. A subsequent SHD application (ABP 304288-19) was granted permission for a portion of the larger site to the west for 192 no. apartments in two blocks, superseding the previous permission for 56 no. apartments.

4.2. The alterations to Block G and Block E7 relate to the **internal configuration** of 42 no. units (36 in Block G and 6 in Block E7) and associated amendments to the locations of the balconies. The alterations omit the open plan layout in Type 2A units. Block E7 alterations relate to one unit per floor. The proposed units in Block G are as follows:

- Ground floor - 6 no. units,
- 1st floor - 7 no. units,
- 2nd floor - 7 no. units,

- 3rd floor - 7 no. units,
 - 4th floor- 6 no. units,
 - 5th floor- 3no. units,
- 4.3. The submitted documentation illustrates the internal alterations and amendments to the balcony locations which I consider are marginal to the permitted development. The alterations remain compliant with the 'Design Standards for New Apartments Guidelines for Planning Authorities', 2018 and both the percentage of dual aspect and mix of units are considered acceptable. The location of the balconies will have no significant impact on any residential amenity in the vicinity of the site.
- 4.4. Alterations to the configuration of the **basement carparks** are proposed in order to comply with Building Regulations and refine the waste management. These alterations led to the reduction of car parking spaces to 133 which is a net loss of 3 no. spaces. Alteration to disabled parking is proposed in both blocks and a disabled space has been relocated from a surface space Block G to accommodate alterations to the substation at Block E7. The basement access into Block G and E7 has been altered to accommodate segregated bicycle parking as required by Condition 3 (d) of ABP 304288-19. This reconfiguration will have no significant impact on the overall scheme and the site is located in close proximity to two Luas Stops and is therefore supported by sustainable transportation.
- 4.5. The **substation** location is proposed to be moved from the southern end of Block G to a location adjoining Block E7 on the opposite side of an internal road. The purpose of this is to cater for the development and meet ESB connection requirements. The new location of the ESB substation will have no significant visual impact. The proposal alterations to the foul drain and surface drain are minor in nature.
- 4.6. Amendments to the **drop off area** to the east of Block G relate to landscaping and emergency access as a consequence of other alterations. A fire door access is included to the north of Block G.
- 4.7. These amendments are not considered material, in that it affects only the internal layout of a small number of apartments with associated balcony alterations, relocation of substation and minor reconfiguration of the basements, which does not materially affect the external appearance of the building. Furthermore, the Board

would not have considered the relevant planning issues differently to any material extent with the layout as now proposed, and it is considered that no other planning issues would arise, had the layout as now proposed formed part of the plans at application stage.

- 4.8. I consider, therefore, that the Board can determine under Section 146B(3)(a) that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned and, in that, 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.
- 4.9. I have considered the provisions of Section 146B(2)(b) which provides for, at the Board's discretion, the inviting of submissions from persons, including the public. Having considered the nature, scale and extent of the alterations and the nature, scale and extent of the development granted under ABP-304288-19, I am of the opinion that the inviting of submissions from the public in this instance is not necessary and is not required for the purposes of the Board determining the matter.
- 4.10. Environmental Impact Assessment: As I outlined above, I consider that the proposed alterations do not constitute the making of a material alteration of the development concerned and in this regard the provisions of Section 146B(3)(a) apply.
- 4.11. Appropriate Assessment: A screening report was submitted with the application under ABP-304288-19 and it was concluded that that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Dublin Bay SAC (site code 000210), Wicklow Mountains SAC (site code 002122), Wicklow Mountain SPA (site code 004040), Rockabill to Dalkey SAC (site code 003000) or the Dalkey Islands SPA (site code 004172), or any other European site, in view of the sites conservation Objectives, and a Stage 2 Appropriate Assessment was not therefore required.
- 4.12. Having considered the Board's determination on Appropriate Assessment on ABP-304288-19 and section 10.49 – section 10.51 of the Inspector's Report on ABP-304288-19, in addition to the minor nature, scale and extent of the alterations relative to the development, 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 any European sites, in view of the sites' conservation objectives.

5.0 Recommendation

- 5.1. 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 to the terms of the development as granted permission under ABP- 304288-19 and that the permitted development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on 15th of January 2020.

DRAFT ORDER

REQUEST received by An Bord Pleanála on the 15th of January 2020 from John Spain Associates on behalf of Viscount Securities under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Strategic Housing Development at Clay Farm, Ballyogan Road, Dublin 18, which is the subject of a permission under An Bord Pleanála reference number ABP-304288-19.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 29th day of July 2019,

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

AND WHEREAS the proposed alteration is described as follows:

- Alterations to Block G and Block E7 relating to the internal configuration of 42 no. units (35 in Block G and 6 in Block E7), associated amendments to the location of balconies and elevations of each block,
- Alterations to configuration of the basement carparks of both blocks;
- Omission of the permitted substation to the north of Block E7 and provision of a substation to the south of Block G and associated alteration to the adjacent apartments within Block G,

- Associated site layout changes, including provision of a drop-off area to the east of Block G, and all associated works.

as shown on the drawings submitted with the request,

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 alteration would not result in a material alteration 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 alteration 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-304288-19 for this site,
- (ii) the screening for appropriate assessment carried out in the course of that application,
- (iii) the limited nature and scale of the alterations, and
- (iv) the absence of any significant new or additional environmental effects (including those in relation to Natura 2000 sites) arising as a result of the proposed alterations, and
- (v) the absence of any new or significant issues relating to the proper planning and sustainable development of the area arising from the proposed alterations,

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.

Karen Hamilton
Senior Planning Inspector
08th of April 2020