



An
Bord
Pleanála

Inspector's Report ABP-306503-20

Development

Request to make alterations to
previously permitted development
ABP-303891-19

Location

Inner Relief Road (R125) and Dublin
Road (R132), Dundalk, Co. Louth

Planning Authority

Louth County Council

Applicant

Jan C. Van Dijk

Type of Application

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

Inspector

Sarah Moran

1.0 Introduction

1.1. The request is to alter a project which the Board granted permission subject to 16 conditions on the 24th June 2019 (ref. no. ABP-303891-19) under the Strategic Housing Development provisions comprising:

- 142 no. apartments as follows:

Unit Type	No. of Units	%
1 bed	58	41%
2 bed	64	45%
3 bed	20	14%
Total	142	

- The permitted development comprises five buildings (Blocks 1 – 5) of 2-5 storeys height. It has a stated net residential density of 93 units / ha.
- Childcare facility (122 sq.m.). Stated potential capacity for 20 children and 4 staff.
- Community room (122 sq.m.)
- Vehicular access to the R215 as permitted under PL.15.247927
- 160 no. car parking spaces and 284 no. cycle parking spaces, all at surface level
- Part V proposals comprising the transfer of 14 no. apartments at the site to the planning authority.
- The application was accompanied by an AA Screening Report.

1.2. The proposed development comprised two phases as follows:

- **Phase I** Blocks 1, 3 and 4 at the northern end of the site (79 no. units). Also new access to the R215.
- **Phase II** Blocks 2 and 5 at the southern end of the site (63 no. units)

1.3. The following conditions of permission are considered relevant to the subject S146B application:

2. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services, and the provision of the new junction and access from the R215, for the benefit of the occupants of the proposed units.

4. The materials, colours and finishes of the authorised buildings, the treatment of boundaries within the development and the landscaping of the site shall generally be in accordance with the details submitted with the application, subject to the following amendments:

(a) The proposed wood cladding finishes to the apartment blocks shall be replaced by more durable finishes.

(b) Details of all boundaries shared with adjoining residential properties shall be agreed with the planning authority.

Details showing the required amendments shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of visual and residential amenity.

2.0 Legislative Basis

2.1. 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.

3.0 **Proposal**

3.1. The proposal is seeking to make the following amendments to the development permitted under ABP-303891-19:

- Revised housing mix in Building Type A (i.e. Blocks 1 and 2) as follows:

Unit Type	Permitted	Proposed
1 bed	23	18
2 bed	23	26
3 bed	1	3
Total	47	47

- Increased footprint of Building Type A of 16.7 sq.m. (1.8% larger than permitted). The overall increase in GFA amounts to 165.6 sq.m. in each building (331.2 sq.m. in total). This equates to a 5% increase in GFA from that permitted.
- Changes to 4th floor level of Building Type A comprising an increase in GFA of 98 sq.m. and reduced balcony depth along the western elevation. Balcony areas will still exceed the minimum recommended in Appendix 1 of the Design Guidelines for New Apartments.
- A revised Housing Quality Assessment and Schedule of Accommodation are submitted.

4.0 **Board Correspondence**

- 4.1. The Board informed Louth County Council on 28th 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.

5.0 **Assessment**

5.1. **Consideration of Materiality**

- 5.1.1. The first consideration in relation to this request to alter the terms of ABP-303891-19 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.

- 5.1.2. I consider that the principal potential impacts relating to the proposed amendments are the applicant's rationale, housing mix, quality of residential accommodation, impacts on visual and residential amenities and environmental impacts. These matters may be considered separately as follows.

5.1.3. Rationale of Applicant

The applicant submits that the proposed amendments are not material and makes the following points in support of this statement:

- The amendments will not change the total no. of apartments or residential units in the overall development.

- The nature and intensity of the permitted land use will not increase.
- The permitted layout is unchanged.
- The proposed amendments to the western elevations of Blocks 1 and 2 will not result in any material alteration to the streetscape or building form.
- There will be no change to the permitted no. of storeys or overall height of Blocks 1 and 2.
- The amendments will not result in any changes to the amenities of residents of the permitted development.
- The amendments have no implications for permitted drainage or traffic arrangements.

5.1.4. Housing Mix and Quality of Residential Accommodation

The proposed amendments may be compared to the permitted housing mix as follows:

Unit Type	Permitted		Proposed	
1 bed apt	58	41%	48	34%
2 bed apt	64	45%	70	49%
3 bed apt	20	14%	24	17%
Total	142		142	

The amendments will not result in any change to the permitted residential density of 93 units/ ha. The amendments to the permitted housing mix are 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. I note that the originally proposed housing mix was supported by the planning authority as it was considered that the development would support the accommodation needs of nearby employment centres in the context of the Mullagharlin Framework Plan and the Dundalk and Environs Development Plan 2009 (as extended), and I consider that the revised housing mix would not have any significant impact on the achievement of

this objective. The Board is referred to section 12.3.5 of the Inspector's Report of ABP-303891-19 in this regard.

The 5 % increase in the permitted gross floor area of Blocks 1 and 2 is minor. The revised apartment layouts generally comply with the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities. The amendments will therefore not result in any significant alteration / reduction in the overall quality of residential development from that permitted under ABP-303891-19. In addition, as submitted by the applicant, the amendments will not result in any changes to site services or traffic arrangements.

5.1.5. Impacts on Visual and Residential Amenities

There is no change to the overall height of the permitted Blocks 1 and 2. The amendments involve the following changes to the external elevations of Blocks 1 and 2:

- Minor amendments to the fenestration and balconies on the eastern and western elevations of Blocks 1 and 2.
- The introduction of a projecting element to the southern elevation of Block 1 and the northern elevation of Block 2, to provide east / west facing windows to light habitable rooms.
- Minor amendments at 5th floor level to the northern elevation of Block 1 and the southern elevation of Block 2, to reflect changes to the internal layout.

I am satisfied that the proposed external amendments will not result in any substantive change to impacts on residential or visual amenities from those of the permitted development.

5.1.6. Environmental Impacts

The permitted development is sub-threshold with regard to the criteria for mandatory EIA as set out in item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001, i.e.:

Construction of more than 500 dwelling units

Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

(In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

The proposed amendments do not involve any change to the total no. of residential units, i.e. 142 no. apartments on a site extending to 2.16 ha. It is therefore considered that the amendments do not require mandatory EIA. Section 10.1 of the Inspector’s Report of ABP-303891-19 comprises a preliminary examination of the permitted development as per section 172(1)(b) of the Planning and Development Act 2000 (as amended), which concludes that, based on the nature, size and location of the development, there is no real likelihood of significant effects on the environment. The need for EIA was therefore precluded and a screening determination was not required for the permitted development. Having regard to the EIA Preliminary Screening document submitted, I do not consider that the proposed amendments would result in any significant changes to environmental impacts from those permitted under ABP-303891-19. I therefore submit that no new considerations arise in relation to impacts on the environment which were not considered in the assessment of impacts for ABP-303891-19.

5.1.7. Assessment of Materiality

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-303891-19, 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.

I am of the opinion, having fully considered the proposed alterations and the development as granted under ABP-303891-19, that the Board would not have determined the proposal differently had the proposed revised housing mix and

internal and external amendments to Building Type A 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-303981-19.

5.2. Appropriate Assessment

5.2.1. An AA Screening Report was submitted with ABP-303891-19. The Board completed AA Screening in relation to the potential effects of the permitted development on designated European Sites, taking into account the nature, scale and location of the development (being a redevelopment of land within a zoned and serviced urban area), the AA Screening Report submitted with the application and the Inspector's report and submissions on file. The Board concluded that, by itself or in combination with other development in the vicinity, the development would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment was not, therefore, required.

5.2.2. Section 11.0 of the Inspector's Report of ABP-303891-19 considers AA Screening. The development site is not located within any European site. It does not contain any habitats listed under Annex I of the Habitats Directive. The site is not immediately connected to any habitats within European sites and there are no known indirect connections to European Sites. There are four European Sites within 15km of the development, i.e. Dundalk Bay cSAC (0455), Dundalk Bay SPA (4026), Carlingford Mountain (0453) and Stabannan – Braganstown SPA (4091). The AA Screening Report submitted with ABP-303891-19 identifies the following likely effects on designated sites:

- Locally the development will result in a complete change of land use in the area.
- The development will add a measure of ecological diversity as a flat arable field will be replaced by some garden planting, which will produce a greater area of habitat for local birds and insects than at present.
- The screening report is based on field visits in August 2016 and February 2019. The development site does not hold habitats or species for which the Natura sites are designated so there can be no direct effect from the development.

- Any indirect effects from the construction stage of the development would have to be mediated through water. This is exceedingly unlikely since there is no watercourse linking the development site to the designated sites with the only potential pathway being via storm drains.
- The AA screening report does not identify any plans or projects that could lead to in-combination effects with the proposed development in view of the Conservation Objectives of the relevant European sites. This conclusion is accepted.

Having considered the Board's determination on Appropriate Assessment on ABP-303891-19, section 11 of the Inspector's Report on ABP-303891-19, the nature, scale and extent of the proposed alterations relative to the development subject of and approved under ABP-303891-19, and the information on file in relation to the proposed amendments, 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.

6.0 Recommendation

- 6.1. 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-303891-19.

DRAFT ORDER

REQUEST received by An Bord Pleanála on the 24th day of January 2020 from Jan C. Van Dijk under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Strategic Housing Development the subject of a permission under An Bord Pleanála reference number ABP-303891-20.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 24th day of June 2019,

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:

Alterations to previously permitted development ABP-303891-19

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 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 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-303891-19 for this site, which includes 142 no. apartments and associated site works,
- (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
25th March 2020