



An
Bord
Pleanála

Inspector's Report

ABP-307039-20

Development

Alteration to condition 2 of previously permitted development ABP 301693-18.

Location

Former Westwood Hotel, Dangan, Upper Newcastle, Galway City.

Planning Authority

Galway City Council.

Applicant

NTM ROI Seed Capital LP.

Type of Application

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

Inspector

Rachel Gleave O'Connor

1.0 Introduction

- 1.1. An application has been made to alter the permission granted for a student accommodation development at Dangan, Upper Newcastle, Galway City under Section 146B of the Planning and Development Act, 2000, as amended.
- 1.2. Permission was granted on 4th day of September 2018 under reference ABP-301693-18 for a student accommodation development under the provisions of the SHD legislation. The applicant is making a request to An Bord Pleanála in relation to the development currently under construction, to allow the temporary alteration of condition 2 to permit partial occupation of the permitted student accommodation for tourist and visitor use in the academic year from 1st September 2020 to 31st May 2021.

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 301693-18 comprise of the following:

- Temporary alteration of Condition 2 to permit partial occupation of the permitted student accommodation for tourist and visitor use in the academic year from 1st September 2020 to 31st May 2021. After such times, the original condition 2 will be applicable. No physical alterations are proposed to the development as permitted.
- The applicant states that during the period specified above, the development will cater partially for students and partially for tourists / visitors, as well as other non-student residents such as business travellers, short term key workers and other professionals.

3.2. The applicant considers that the amendments proposed are not material. However, in the event that the Board considers the proposed alteration to be material, EIAR and AA Screening Reports have been provided.

4.0 **Assessment**

4.1. A SHD application (Ref.301693-20) was granted permission on 14th September 2018 for the demolition of the existing Westwood Hotel site and the construction of new student accommodation, comprising 63 apartments with 394 bedrooms, with ancillary facilities, car parking, cycle parking and landscape / vehicular access works.

4.2. The order to grant permission included condition 2 which states the following:

- 2. The proposed development hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided under section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, and shall not be used for any other purpose without a prior grant of planning permission for change of use.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

4.3. Section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016 was deleted under s.56, however a definition of student accommodation was reinserted into s.3 of the Planning and Development (Amendment) Act 2016. The definition of 'student accommodation' –

(a) means a building or part thereof used or to be used to accommodate students whether or not provided by a relevant provider (within the meaning of Qualifications and Quality Assurance (Education and Training) Act 2012), and that is not for use –

- (i) as permanent residential accommodation, or
- (ii) subject to paragraph (b), as a hotel, hostel, apart-hotel or similar type accommodation,

and

(b) includes residential accommodation that is used as tourist or visitor accommodation but only if it is so used outside of academic term times.

- 4.4. The proposal is to remove the restriction under condition 2 and temporarily allow occupation of the development for tourist and visitor use during the academic year, from 1st September 2020 to 31st May 2021.
- 4.5. The applicant states that the proposal has been brought forward due to the current health pandemic and its potential impact upon the progression of construction of the permitted development (under 301693-18). The applicant states that this possible delay to the construction programme, may result in the accommodation not being completed in time for student intake for the 2020/2021 academic year, as well as the potential for student numbers to be reduced due to travel bans.
- 4.6. The applicant also states that it is not possible to accurately forecast student demand for the 2020/2021 academic year as a result of the uncertainties arising from the current health pandemic. Therefore, the applicant proposes that in the event that the development achieves 60% occupancy by students, the partial use of the development for non-student use will not be implemented.
- 4.7. I note that as part of the assessment of the original application for student accommodation use, consideration was given to the use of the development for tourist accommodation during the summer months. This was in accordance with the limitations under the definition in section 3 of the 2016 Act and as included in condition 2. The use of the development for tourist accommodation during the summer months was found to be acceptable, particularly in light of the loss of the existing hotel use on the site.

- 4.8. I also note that there are no physical alterations to the development, or to the permitted site access arrangements or strategies proposed as part of the requested temporary alteration to condition 2.
- 4.9. A Management Plan has been submitted with the current application which reflects the management arrangements described under the permitted application. The Management Plan describes the in-house team that will manage and operate the development 24 hours a day, 7 days a week.
- 4.10. I accept that a delay to the construction programme for the development will have implications for occupation of the building by students, who will require certainty around their lodging in advance of the start of the academic year. As a result, the proposed temporary alteration to condition 2 will ensure the utilisation of the development, which might otherwise lie idle.
- 4.11. I do not consider the proposed temporary relaxation of condition 2 to constitute a material alteration to the development as permitted. This is in consideration of the previous use of the site as a hotel, the acceptance of tourist occupation of the building during the summer months as part of the permitted development and the temporary nature of the proposal, which has been triggered by potential construction delays.
- 4.12. 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. As such there is no requirement for EIAR Screening, as there is no material alteration to the scheme and as a result its impact upon the surrounding environment remain unchanged. The Applicant has however included an Environmental Impact Screening Assessment Report, to be relied upon in the event that the Board determines the proposed alteration to be material. This concludes that the proposal would not be likely to have significant effects on the environment and therefore submission of an Environmental Impact Assessment Report is not required.
- 4.13. Appropriate Assessment: A screening report was submitted with the application under ABP-301693-18 and it was concluded that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any Natura 2000 sites.

4.14. The proposed alteration to condition 2 will not materially alter the development or any of its associated impacts. As a result, a revised AA Screening Assessment is not required. However, the applicant has included an Appropriate Assessment Screening Report to be relied upon in the event that the Board determines the proposed alteration to be material. This identifies that the site is not located in close proximity to any Natura 2000 sites. There are a number of Natura 2000 sites within 15km of the site as listed below:

- SAC's

Lough Corrib SAC (site code – 000297 - 0.5km east/northeast)

Galway Bay Complex SAC (000268 - 2.4km south)

Connemara Bog Complex SAC (site code 002034 – 11.1km west)

Gortnandarragh Limestone Pavement SAC (site code 001271- 14.8km northwest)

Ross Lake and and Woods SAC (site code 001312 – 11.7km northwest)

- SPA's

Lough Corrib SPA (site code 004042 – 1.3km north)

Inner Galway Bay SPA (site code 004031 – 2.7km south)

Cregganna Marsh SPA (site code 004142 – 10km southeast)

4.15. The special conservation characteristics of these sites have also been identified. The proposed alteration, individually or in combination with other plans and projects, will not have a significant effect on any Natura 2000 site.

5.0 Recommendation

5.1. I recommend that the Board decides that the making of the alteration subject of this request does not constitute the making of a material alteration to the terms of the development as granted permission under ABP- 301693-18 and that the permitted development shall be temporarily altered in accordance with the plans and particulars received by An Bord Pleanála on 31st March 2020.

DRAFT ORDER

REQUEST received by An Bord Pleanála on the 31st March 2020 from MKO, Tuam Road, Galway, under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Strategic Housing Development at Former Westwood Hotel, Dangan, Upper Newcastle, Galway City, which is the subject of a permission under An Bord Pleanála reference number ABP-301693-18.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 4th day of September 2018,

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

AND WHEREAS the proposed alteration is described as follows:

- Temporary alteration of Condition 2 to permit partial occupation of the permitted student accommodation for tourist and visitor use in the academic year from 1st September 2020 to 31st May 2021. After 31st May 2021, the original condition 2 will be applicable,
- In the event that the development achieves 60% occupancy by students, the partial use of the development for non-student use during the period 1st September 2020 to 31st May 2021 will not be implemented,

as detailed in the documents 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-301693-18 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 alteration, 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 alteration, 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 alteration,

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.

Rachel Gleave O'Connor

Planning Inspector

2nd June 2020