



An  
Bord  
Pleanála

## Inspector's Report ABP-307419-20

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<b>Development</b>	Alterations to condition 2(c), 2(d) and 2(e) of previously permitted development ABP-304177-19.
<b>Location</b>	Former Ursuline Convent, Blackrock, Cork.
<b>Planning Authority</b>	Cork City Council.
<b>Applicant</b>	Glenveagh Homes Ltd.
<b>Type of Application</b>	Section 146B - Request to alter previously approved Strategic Housing Development.
<b>Inspector</b>	Una O'Neill

## 1.0 Introduction

- 1.1. An application has been made to alter the permission granted for a residential development at the Former Ursuline Convent, Blackrock, Cork under Section 146B of the Planning and Development Act, 2000, as amended.
- 1.2. Permission was granted on 18th July 2019 under reference ABP-304177-19 for a residential development under the provisions of the SHD legislation. A subsequent permission was granted, ref. ABP-305566-19, under S146B of the legislation to alter condition 2(a) of permission ABP-304177-19.
- 1.3. The applicant is making a request to An Bord Pleanála for alterations relating to condition 2(c), 2(d) and 2(e) of ABP-304177-19. The alterations involve the reinstatement of three apartments and the omission of a crèche.

## 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.  
  
(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.
- 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 application seeks for condition 2(c), 2(d) and 2(e) to be altered to allow the reinstatement of apartments 1A1, 2A1, 3A1 and 4A1. Revised internal layouts have been provided for these units to address issues raised in the Inspector’s Report. It is further noted that permission was granted in 2020 under Cork City Council Ref. 19/38979 for an increase in floor area of the previously permitted childcare facility on site, which permits a 514 sqm childcare facility which is stated can cater for the existing and future residents of the entire residential estate including the residents of the apartments permitted under Ref. No. ABP-304177-19.

3.2. Permission Condition 2(c), 2(d) and 2(e) states as follows:

2. The proposed development shall be amended as follows:

...

(c) Apartments 3A1 and 4A1 shall be amalgamated and the projecting ground level to apartment 3A1 shall be removed on the northern elevation so that the ground level elevation is flush with the units directly above and the remaining space shall be incorporated as a continuation of the proposed privacy strip.

(d) Apartments 1A1 and 2A1 shall be omitted and the space redesigned for use as a crèche, with an outdoor private amenity/play area provided for along the northern and western elevation to serve the crèche, with the omission of the pedestrian route and the 24 bicycle spaces along the northwest corner of the building.

(e) The ground level car park shall be amended as required to accommodate the requirements of the crèche facility.

3.3. In response to condition 2(c), the applicant in the submitted ‘Alterations Report’ states that the units can be reconfigured from the previously proposed one bed and three bed unit to a one bed and two bed unit, with the proposed 2 bedroom unit being a full dual aspect unit with windows facing both east and north, and the proposed one bedroom single aspect unit facing east. Both units are provided with

private amenity space on the eastern elevation where a privacy strip has been established. The proposed units are stated to comply with the Design Standards for New Apartments (2018).

- 3.4. With regard to conditions 2(d) and (e), the applicant notes that a crèche was provided as part of the wider development of 141 units for a 33 no. childcare crèche and that the additional demand that the development would generate for 25 children would not be commercially viable as a separate crèche within this development. To address this issue, permission was sought and granted by Cork City Council under reg. ref. 19/38979, for an increase in floor area of the previously permitted childcare facility on site (within the Eden development, in a separate block southeast of the application site, proximate to the neighbourhood centre). The permitted childcare facility was increased from part of the ground floor of a small apartment block to the entire ground floor level, with an overall floor area of 514 sqm, providing for 83 no. spaces for children (33 spaces previously permitted) to cater for the existing and future residents of the entire development, including the residents of the apartments permitted under Ref. No. ABP-304177-19. As permission has been granted for an increase in the size of the childcare facility within the Eden development, the applicant contends that the childcare facility required by condition 2(d) and changes required under condition 2(e) are no longer required. In addressing the concerns raised in the Inspector's Report in relation to the original layout of apartments 1A1 and 2A1, the applicant has revised the original layout of these two apartments from two x two-bed units to one x two-bed unit and one x one bed-unit, with the units and the proposed bicycle store room re-orientated. Both apartment units will be west facing with their private amenity space facing towards the communal amenity space. It is stated that a planted privacy strip is provided as part of the permitted layout.
- 3.5. The applicant considers that the amendments proposed are not material. It is stated that there are no changes to the permitted layout and the changes are minor in the context of the scale of the permitted development, with the changes having no material or significant planning consequences.
- 3.6. The applicant submits 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. The proposed amendments to the layout of apartments 3A1 and 4A1, as indicated on Drawing No. 1603B-OMP-BLA-00-SK-A-0004, are noted and I consider the revised layout relating to the internal design and arrangement is an improvement on what was originally submitted as part of ABP-304177-19. I consider the applicant through the revised design has overcome issues previously raised in the Inspector's Report, therefore condition 2(c) is no longer required. The apartments as proposed are in compliance with the Section 28 Design Standards for New Apartments, 2018. I note that a landscaping strip along the northern boundary of apartment 3A1 is required in the interests of residential amenity, this is not indicated on the drawings or provided for on the original site plan and can be addressed by way of amended condition.
- 4.2. The retention of units 1A1 and 2A1 and the omission of the requirement for a childcare facility is in my opinion acceptable given the recent permission for an increased size childcare facility within the Eden development. The apartments as originally submitted under ABP-304177-19 have been redesigned to overcome problems identified in the Inspector's Report relating to that application. The revisions involve a reorganisation of the northeast corner including these apartments and bicycle store. Both apartments now face onto the communal open space to the west and the bicycle store has been split into two stores. I note the access to these apartments remains from the entrance to the car park, due to the isolated location of these apartments from the core serving the apartments above, however, the bedroom in apartment 2A1 no longer faces into the car park entrance and this apartment is now west-facing instead of north-facing. Overall, the apartments meet the requirements of the Section 28 Design Standards for New Apartments, 2018 and the standard of amenity of the reconfigured apartments has been improved. Condition 2(e) is no longer required due to the omission of the childcare facility.
- 4.3. The amendments proposed are largely within the footprint of the permitted building, with one projecting ground floor element omitted. The alterations are primarily to the internal layout. The apartments remain in compliance with all standards as per the document 'Design Standards for New Apartments Guidelines for Planning Authorities', 2018. The amendments as proposed do not necessitate the omission of

apartments, as was required by condition 2(c) and (d), and the revision to the parking layout as per 2(e) is therefore no longer required. The apartments referenced in conditions 2(c) and (d) can be reintroduced, as per the revised design submitted.

- 4.4. The amendments are not, in my opinion, material, in that they affect only the internal layout, do not affect the external appearance of the building to any significant extent, with the changes required to the layout of the apartments not significantly impacting on the building as a whole or on other permitted apartments. 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.
- 4.5. 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.
- 4.6. 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-304177-19, 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.
- 4.7. Environmental Impact Assessment: 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.
- 4.8. Appropriate Assessment: A screening report was submitted with the application under ABP-304177-19 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 004030 (Cork Harbour SPA), 001058 (Great Island Channel

SAC), or any other European site, in view of the sites conservation Objectives, and a Stage 2 Appropriate Assessment was not therefore required.

- 4.9. Having considered the Board's determination on Appropriate Assessment on ABP-304177-19 and section 11.11 of the Inspector's Report on ABP-304177-19, 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-304177-19 and that the permitted development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on 22<sup>nd</sup> June 2020.

### DRAFT ORDER

**REQUEST** received by An Bord Pleanála on the 22<sup>nd</sup> day of October 2020 from McCutcheon Halley on behalf of Glenveagh Homes Limited under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Strategic Housing Development at the Former Ursuline Convent, Blackrock, Co. Cork, which is the subject of a permission under An Bord Pleanála reference number ABP-304177-19.

**WHEREAS** the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 18th 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 condition 2(c), 2(d) and 2(e) of previously permitted development ABP-304177-19 to allow the reinstatement of apartments 1A1, 2A1, 3A1 and 4A1, with revised internal layouts.

**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 condition 2(c) and omits condition 2(d) and 2(e) of the above-mentioned decision so that the permitted development shall be altered, in accordance with the plans and particulars received by the Board on the 22<sup>nd</sup> June 2020, subject to the following:

Condition 2 (c)

A landscaped privacy strip shall be provided along the northern boundary of Apartment 3A1.

### **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.

### **REASONS AND CONSIDERATIONS**

Having regard to:



- (i) the nature and scale of the Strategic Housing Development permitted under An Bord Pleanála Reference Number ABP-304177-19 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,
- (vi) the report of the Board's Inspector

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.

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Una O'Neill

Senior Planning Inspector

24<sup>th</sup> September 2020