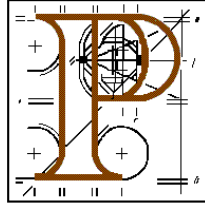


An Bord Pleanála



Inspector's Report

Proposed Development

Alterations to integrated harbour/marina mixed development at Rathdown Upper and Rathdown Lower, Greystones Harbour and North Beach, Greystones, County Wicklow

Applicant: Sispar Ltd.

Planning Authority: Wicklow County Council

Type of Application: Request to amend the terms of an approved development under section 146B of the Planning and Development Act, 2000, as amended

Inspector: Kevin Moore

1.0 INTRODUCTION

- 1.1 Sispar Ltd., responsible for the delivery of the marina village development at Greystones via a Public Private Partnership (PPP) arrangement with Wicklow County Council, requests that the Board exercises its powers under section 146B of the Planning and Development Act 2000, as amended, to alter the terms of approval for the development of an integrated harbour/marina mixed development at Rathdown Upper and Rathdown Lower, Greystones Harbour and North Beach, Greystones, County Wicklow.

2.0 LEGISLATIVE PROVISIONS

- 2.1 Section 146B (1) of the Planning and Development Act 2000, as amended, allows a person who intends to carry out a strategic infrastructure development to request the Board to alter the terms of that approved development. Under subsection 2 the Board must then decide, as soon as is practicable, whether to do so would constitute a material alteration in the terms of the development. If it decides that it would not be material, then under section 146B(3)(a) it must alter the approval accordingly. If the Board decides that it would constitute a material alteration of the terms of the development, then under 146B(4) it must determine whether the alteration would be likely to have significant effects on the environment. If the Board determines that the alteration would be likely to have significant effects on the environment then section 146C applies. If not, then under section 146B(3)(b) the Board may make the requested alteration, make a different but no more significant alteration, or refuse to make the alteration. However, under section 146B(8), it must ensure the information associated with the request is made available for inspection and ensure that appropriate persons are notified of the request and that submissions are sought from them.
- 2.2 Where section 146C applies the Board must require the person making the request to prepare an environmental impact statement and submit it to the Board

and the local authority, and to publish a notice stating that this statement has been submitted and that the submissions or observations upon it may be made to the Board within a specified period of not less than 4 weeks. After that period that Board may determine the matter under section 146B(3)(b) having regard to various matters set out in section 146C(6).

3.0 PLANNING HISTORY

3.1 An Bord Pleanála Ref. 27.JA0029

Wicklow County Council was granted approval by the Board in 2012 for the marina village development subject to 3 no. conditions. The development comprised:

Proposed alterations to previously approved plans of an integrated harbour/marina mixed development linked to a linear coastal public park providing leisure recreational, open space and marine facilities and mixed form residential, commercial, civic and social amenities centred around the harbour.

Revisions to Blocks D, E, F, G, H, I, J, (i.e. residential apartment/commercial buildings situated along the proposed Promenade/Boardwalk at the Marina) and the omission of Block L together with all necessary site infrastructure.

The revisions included the following: -

- An increase in the number of residential units within these blocks from 202 to 234 units,
- The introduction of a Primary Care Centre Health Facility into Block D of 3,449 square metres,
- The reduction of the commercial space within these blocks from 4,250 square metres to 1,206 square metres,
- Consequent changes to the elevational treatments to all blocks,

- The omission of the basement car park under Blocks E, F, G and the basement under Blocks H, I, J, generally replaced by undercroft and surface parking,
- Alterations to the surface parking and landscape treatment in the immediate vicinity of all blocks,
- Integrated substation and switchroom structures (two number).

Revisions to Housing Terraces 01-14 (inclusive), i.e. traditional housing terraces situated along the proposed access spine road.

The revisions included the following:-

- An increase in the number of residential units within these terraces from 139 to 141 houses and the introduction of semi-detached and detached house types in place of a number of terraced blocks,
- The extension northward of Terrace 12 to form western edge to southern area of Public Park,
- Consequent changes to the elevational treatments to amended terraces and house types,
- Alterations to the surface parking and landscape treatment in the immediate vicinity of terraces,
- Inclusion of communal external bin stores to each Terrace.

Revisions to landscape treatment and public parking to southern area of Public Park in the immediate vicinity of the extended Terrace 12 and to the Civic Space.

The total number of residential units proposed within overall development being 375 units compared to 341 units previously approved by An Bord Pleanála.

Total quantum of commercial and health centre space proposed within the overall development being 6,245 square metres compared to 5,627 square

metres commercial space previously approved by An Bord Pleanála. The clubhouses and the Coast Guard building remaining as previously approved.

The Primary Care Centre was previously approved by Wicklow County Council pursuant to Part XI of the Planning and Development Act 2000, as amended.

Heights ranging from two to four storeys as previously approved.

An increase in car parking spaces from 953 to 1,002 for vehicles would be provided of which 316 are public spaces.

3.2 An Bord Pleanála Ref. 27.EF2016

Wicklow County Council was granted approval by the Board in 2007, subject to 13 no. conditions, for an integrated harbour/marina mixed development linked to a linear coastal public park, providing leisure, recreational, open space and marine facilities and mixed form residential, commercial, civic and social amenities centred around the harbour and marina.

4.0 THE PROPOSED ALTERATIONS

4.1 The alterations to the terms of the development requested are:

- The redesign of Block D similar to the original 2007 scheme, where massing is broken down into four repeating forms with a penthouse level set back with a profiled roof. The redesign would:
 - Omit the medical centre;
 - Increase the number of apartments previously approved from 11 to 33;and

- Increase the commercial component from an approved floor area of 366 sqm to 1,351 sqm. The commercial component would include a café/restaurant.
- 4.2 Changes would also be made to the ancillary/circulation space. The gross floor area of Block D would reduce from the previously approved 5,508 square metres to 4,934 square metres.
- 4.3 The proposed changes would also include amendments to the courtyard areas to provide for fire access, linkages to the boardwalk and rationalisation of spaces in the overall development. Car parking spaces would be increased in Courtyard 1 by 23 spaces (from previously approved 35 spaces to 58 spaces) and in Courtyard 2 by 10 spaces (from previously approved 42 spaces to 52 spaces).

5.0 APPLICANT'S SUBMISSION

- 5.1 The applicant considers that the relevant legislative provision associated with this proposal is Section 146(B)(3)(b). The applicant has submitted a Planning Report and EIA Screening Assessment and an Appropriate Assessment Screening Report with its application. The former has concluded that the proposed development represents alterations of an approved development that broadly are within the footprint of that approved and, as the uses are similar in impact to that approved, an EIAR is not warranted. The latter has concluded the proposed Block D amendment, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any Natura 2000 site and a Stage 2 Appropriate Assessment is not required.
- 5.2 Other details submitted in support of the application include a Design Statement, a Landscape Design Report, a Daylight and Sunlight Assessment Report, and a schedule of drawings.

6.0 ASSESSMENT

6.1 Materiality of the Proposed Alterations

6.1.1 The proposed alterations comprise the redesign of Block D to include a mixed use consisting of 33 residential units (up from 11), the omission of a medical centre, provision of 1,351 square metres of commercial space, amendments to courtyard areas, and increasing car parking in Courtyard 1 from the previously approved 35 spaces to 58 spaces and in Courtyard 2 from the previously approved 42 spaces to 52 spaces.

6.1.2 From the above it is noted that the proposed changes primarily relate to a change of the approved uses within Block D. It is acknowledged that the footprint for this block is similar to that previously approved and that there are no changes to the road layout, drainage or watermain infrastructure previously granted approval by the Board for the overall scheme.

6.1.3 Having regard to:

- the nature and extent of the development permitted under the application 27.JA0029,
- the material change of use from medical to commercial uses,
- the increase in the number of residential units,
- the physical layout changes to courtyards and circulation, and
- the increase in parking provision,

it is considered the proposed alterations should be determined by the Board to be material within the meaning of section 146B(2)(a) of the Planning and Development Act 2000, as amended. The Board should, therefore, make its determination in accordance with section 146B(3)(b).

6.2 **Likelihood of Significant Effects on the Environment**

6.2.1 ***Introduction***

Before it can make a decision under section 146(3)(b), the Board is required, under section 146B(4), to determine whether the extent and character of the alterations are likely to have significant effects on the environment.

It is first noted that Environmental Impact Assessments (EIAs) were undertaken by the Board further to the submission of Environmental Impact Statements (EISs) relating to the proposed developments under ABP Refs. 27.EF2016 and 27.JA0029. The Board concluded in each instance that the proposed developments would not have significant adverse effects on the environment. As a consequence, it is reasonable to determine that the development of Block D at the location proposed and the provisions of parking within courtyard areas have been deemed to not give rise to significant adverse impacts on the environment.

The previous applications addressed a scale of development and characteristics of a development to which the proposed amendments now directly relate. The proposed amendments now requesting approval from the Board would be of a nature that have been envisaged in the overall development of such a scheme. It is acknowledged that the EISs with the previously approved applications did not identify any significant effects on the environment arising from the proposed development and it is reasonable to ascertain that the Board came to a similar conclusion in undertaking EIA. It is considered that the potential for significant effects on the environment arising from the substantive composition of the proposed development were identified in the previous EISs and were accordingly considered in the EIAs undertaken by the Board.

It is acknowledged that there has been no notable change in the material circumstances applying to the locations in which the proposed alterations are sought. Furthermore, there is no identifiable conflict arising with the Wicklow

County Development Plan, the Greystones-Delgany and Kilcoole Local Area Plan, or relevant national and regional policies and objectives.

6.2.2 ***Environmental Impact Assessment Screening***

Introduction

The applicant's EIA Screening Report has concluded that there is no real likelihood of significant effects on the environment arising from the proposed development and that an EIAR is not required.

Mandatory EIA – Schedule 5 Part 1

The classes of development which require a mandatory EIA are defined in Article 93 and Schedule 5 of the Planning and Development Regulations. The proposed alterations do not fall within the classes of development which require a mandatory EIA.

Sub-Threshold EIA – Schedule 5 Part 2

The following development class is noted from Schedule 5 Part 2:

Class 10(b)

- (i) Construction of more than 500 dwelling units.*
- (ii) Construction of a car park providing more than 400 spaces, other than a car park provided as part of, and incidental to, the primary purpose of a development.*
- (iii) Construction of a shopping centre with a gross floor space exceeding 10,000 square metres.*

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

It is reasonable to determine that the provision of 33 residential units, 1,351 square metres of commercial floor space, and 33 additional car parking spaces would constitute sub-threshold development in the context of the above Class.

Assessment of Environmental Significance

Characteristics of the Proposed Development

- The proposed amendments form minor changes in the footprint of previously approved development. They mainly comprise changes to the use of Block D and the reconfiguration of two previously approved courtyards.
- The proposed amendments would not result in development which is increased in size over that previously approved.
- The proposal would result in differences in the design of Block D and in the use of materials.
- The change in use of a medical centre to commercial/residential use would not likely result in significant environmental impacts in the context of the overall mixed-use scheme, the nature of the activities, employment and occupancy, visitors, waste arising, etc.
- The additional 22 residential units within Block D would not be likely to result in significant environmental impacts in the context of the overall mixed-use scheme, the balance of uses, provision of services, etc.
- The proposed amendments would not result in changes to the cumulative impacts with the development already approved at this location.
- The proposed alterations do not include any proposed demolition works.

- The proposed alterations would not change the impact on the use of natural resources as a result of the location on hardstanding, the building footprint and floor area of the proposed alterations, together with the intended uses being compatible with the approved mixed-use development.
- The production of waste would likely be similar to that which was previously approved and could potentially be reduced in light of the omission of the medical centre use. A Construction and Waste Management Plan is in force at the site and an operational waste management plan is to be provided for residential waste.
- There would be no known changes to pollution and nuisances arising over the construction and operation of the development previously approved by the Board. Waste management, surface water disposal and wastewater treatment would be consistent with previously approved construction and operational stages of development.
- There is no likelihood of any risk to human health arising from the proposed alterations, being compatible in form and scale with the previously approved development.

Location of the Proposed Development

- The location for the proposed alterations forms part of a harbour/marina mixed use development where substantial development has been completed.
- The proposed alterations would be provided where there is an approved mixed-use development on lands where the proposed uses are permissible.
- The coastal zone and marine waters are the area's principal natural resources. The proposed alterations would occur at a location that has

been modified by development which has previously been approved by the Board. The alterations would not impact in a significant manner on the regenerative capacity of the natural resources of this area, forming modifications to an approved mixed-use scheme.

- The proposed alterations would not affect the absorption capacity of any wetlands, mountain and forest areas, or nature reserves or parks.
- The proposed alterations would be adjacent to a coastal zone. However, they would be within a mixed-use harbour development and would not be of a scale such that it would adversely impact on the absorption capacity of this coastal zone for which development of a similar nature and scale has been previously approved.
- An Appropriate Assessment has been undertaken and it is concluded that the proposed alterations, individually or in combination with other plans or projects, would not be likely to have a significant effect on any designated European Site. It is noted that the redesigned Block D would be at the previously approved location for this block.
- Areas in which the environmental quality standards laid down in legislation of the EU have already been exceeded do not apply in this instance.
- The proposed alterations would form part of the expansion of Greystones which has been planned for. They would not be inconsistent with the density of development in this area. The alterations would, therefore, not adversely impact on the absorption capacity of the settlement of Greystones.
- The proposed alterations would not have any impact on landscapes and sites of historical, cultural or archaeological significance.

Characteristics of the Potential Impacts

- The proposed alterations would culminate in a redesign of a previously approved Block D and the reconfiguration of two courtyards. The spatial extent of the proposed changes is confined to areas previously approved for structural development of a similar scale and nature.
- The proposed development would build out the existing undeveloped areas forming part of the previously approved scheme and would form an integral part of the overall scheme in terms of its siting, visual connectivity, scale, and intended uses.
- The proposed alterations would provide for increased residential units and would contribute to planned provisions to meet housing needs.
- There would be no transboundary impacts arising from the proposed alteration.
- There would be no potential significant effects from the proposed alterations having regard to the magnitude and complexity of the impact of the proposed alterations over that previously permitted as part of the overall mixed-use development.
- There would be no potential significant effects from the proposed alterations having regard to the probability of the impact of those alterations over that previously approved.
- Having regard to the expected onset, duration, frequency and reversibility of the environmental effects of the proposed alterations, the development would be understood to be permanent in its effects.
- The proposed alterations would be consistent with the pattern, form, scale and nature of development permitted at this location.

Conclusion

Overall, it may reasonably be concluded that the proposed alterations do not exceed the thresholds of development as defined in Schedule 5 of the Planning and Development Regulations. Having regard to the consideration of the likely environmental significance of the proposed alterations, it may reasonably be concluded that the characteristics of the alterations, their location, and the type and characteristics of the potential impacts arising from the construction and operation of the development forming the proposed alterations would not result in a significant environmental impact. It is, thus, reasonably determined that Environmental Impact Assessment is not required and the requirement to submit an Environmental Impact Assessment Report does not arise.

Arising from the above, the Board is advised to make a determination under section 146B(5) that the making of the requested alterations would not be likely to have significant effects on the environment and to proceed to determine the request under section 146B(3)(b).

6.3 **Appropriate Assessment - Screening**

6.3.1 ***Background***

The applicant has submitted a screening report for Appropriate Assessment as part of the application to the Board. This Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. The applicant's AA Screening Report concluded:

“On the basis of the findings of this screening report, it is concluded that the project:

- (i) is not directly connected with or necessary to the management of a Natura 2000 site, and*

(ii) significant impacts on the Natura 2000 network are not foreseen.

Based on this information, and beyond reasonable scientific doubt, we have demonstrated that the proposed Block D amendment, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any Natura 2000 site. Therefore, in accordance with Article 6(3) of the Habitats Directive it is considered that a Stage 2 Appropriate Assessment is not required.”

Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone or in combination with other plans and projects, on European sites.

6.3.2 Description of Development

The applicant provides a description of the project on pages 7 and 8 of the AA Screening Report. In summary, the development comprises:

- An amendment to Block D, including:
 - a redesign of the building,
 - the omission of the approved primary care centre,
 - the provision of commercial floor space (1,351 sqm) at ground floor level, and
 - the provision of 33 apartments.
- Alterations to approved courtyards between the blocks and revision of car parking layout and numbers.

Block D is intended to connect to the existing surface water sewer network previously approved by the Board. All connections from the commercial units and the apartments would be constructed in accordance with the recommendations of

the Greater Dublin Strategic Drainage Study and Building Regulations. It is also proposed to connect the commercial units and the apartments to the existing foul sewer network approved under the previous approvals by the Board.

The applicant notes on Page 9 of the submitted AA Screening Report that the proposed amendments are within a previously approved development site, that the revised Block D would retain substantially the same footprint as approved but is altered in layout and usage, and the amendment does not alter the road, drainage or watermain infrastructure granted under the parent and subsequent permissions.

I acknowledge that the proposed alterations are not directly connected with or necessary to the management of any Natura 2000 site.

6.3.3 *European Sites*

The development site is not located in or immediately adjacent to a European site. The closest European site is Bray Head Special Area of Conservation (Site Code: 00714), under 500m north of the amendment application development area.

A summary of European sites that occur within 10km of the proposed development is presented in Table 1, Page 9 of the applicant's AA Screening Report. Table 2 of the applicant's AA Screening Report identifies the relevant European sites, the reasons for their designation, and the potential source-pathway-receptor linkages.

The following are the European sites within 10km of the marina development:

Special Areas of Conservation	Location
Bray Head SAC	< 500m to north
Glen of the Downs sAC	c. 3.5km to the west
Murrough Wetlands SAC	c. 5m to south
Ballyman Glen SAC	c. 7km to north-west
Knocksink Woods SAC	c. 8km to north-west
Carriggower Bog SAC	c. 8km to south-west
Wicklow Mountains SAC	c. 9km to west
Rockabill to Dalkey Island SAC	c. 10km to north-east

Special Protection Area	Location
The Murrough SPA	c. 6km to south
Wicklow Mountains SPA	c. 9km to west

6.3.4 **Identification of Likely Effects**

The nature of the proposed alterations comprises changes to the design of the previously permitted Block D and usage of this Block. The alterations do not

require any additional mitigation over that associated with previous applications approved by the Board.

The qualifying interests of the nearest European site, Bray Head SAC, to the north of the marina project are vegetated sea cliffs and dry heath. There is no pathway between the Block D proposal and this European site or indeed any other European site. The amendment could not, therefore, have any direct or indirect effects on the qualifying interests of this or any other European site. Furthermore, the site for the proposed alterations does not have habitat to support any of the Special Conservation Interests of any Special Protection Area within 10km of the site.

Having regard to these considerations, it is reasonable to determine that the proposed alterations could not have effects, direct or indirect, on the conservation objectives of any European site.

6.3.5 *In-combination Effects*

The project requiring consideration for in-combination effects is the Greystones marina village development of which the site for proposed Block D forms a part. This is a project which was previously assessed by the Board for environmental impacts and effects and for which mitigation was proposed to minimise potential effects on European sites. The marina component of this development is operational and much of the land-based development is now complete. Having regard to the proposed alterations having no direct or indirect effects on the conservation objectives of any European site, it is reasonable to conclude that there is no potential in-combination effects.

6.3.6 **Mitigation Measures**

No measures designed or intended to avoid or reduce any harmful effects of the proposed alterations on a European site have been relied upon in this screening exercise.

6.3.7 **Screening Determination**

The proposed alterations (the project) have been considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European site, in view of their Conservation Objectives, and Appropriate Assessment is not therefore required.

This determination is based on the following:

- There are no known pathways between the site areas associated with the proposed amendments and any European site, and
- The site for the proposed alterations does not have habitat to support the Special Conservation Interests of the Special Protection Areas within 10km of the marina village development.

7.0 **RECOMMENDATION**

7.1 I recommend that the Board –

- (a) makes a determination under section 146B(2) of the Planning and Development Acts 2000-2011 that the making of the alterations to which this request relates would constitute a material alteration to the terms of the

development concerned,

- (b) makes a determination under section 146B(4) of the Planning and Development Act 2000, as amended, that the making of the alterations to which this request relates would not be likely to have significant effects on the environment, and
- (c) requires under section 146B(8), in the manner that the Board considers appropriate, the person who made this request to make accompanying information available to the public and the consultees that were prescribed for the application 27. JA0029 and to notify them that the information is available and that submissions on the request may be made to the Board within a stated period of time.

REASONS AND CONSIDERATIONS

The alterations which are the subject of this request would result in a material change in the building form, layout and uses of development within Block D and would include physical changes to components of the layout and form of courtyards and parking associated with the Greystones harbour/marina mixed-use development. They would, therefore, constitute a material alteration to the terms of the permitted development and the public and certain prescribed bodies should be afforded the opportunity to make submissions before the Board undertakes an Appropriate Assessment and decides whether to make the alterations. The alterations would not entail development that was not of a form or character for which permission was sought under Ref. No. 27.JA0029 or which were not the subject of the environmental impact assessment that was carried out before the Board granted permission on foot of that application. It is therefore considered that the making of the alterations would not be likely to have

significant effects on the environment.

Kevin Moore

Senior Planning Inspector

25th November, 2020