



An
Bord
Pleanála

S. 146B of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report ABP-309416-21

Strategic Housing Development

Alterations to Condition No. 2 and No. 3 of previously permitted strategic housing development ABP-306075-19

Location

Lands off Northwood Avenue, Santry, Dublin 9

Planning Authority

Dublin City Council

Prospective Applicant

Cosgrave Developments Ltd

Type of Application

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

Inspector

L. Dockery

1.0 Introduction

- 1.1 A request has been made to alter the terms of a development the subject of a planning permission for a residential development at Northwood Avenue, Santry, Dublin 9 under Section 146B of the Planning and Development Act, 2000, as amended. Permission was granted on 24th March 2020 under reference ABP-306075-19 for this residential development under the provisions of the SHD legislation.
- 1.3 The applicant is making a request to An Bord Pleanála for alterations relating to Condition No. 2 and Condition No. 3 of ABP-306075-19. The alterations involve the provision of internal modifications and omission of 1 no. two-bed apartment rather than the omission 2 no. two-bed apartment units, as was required under Condition 2(a). These alterations would consequently alter Condition No. 3 with the development providing a total of 330 no. apartment units overall.

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 A request has been made to alter the terms of a development the subject of a planning permission for a residential development at Northwood Avenue, Santry, Dublin 9 (ABP-306075-19). The application seeks for Condition No. 2 and Condition No. 3 to be altered. The alteration to Condition No. 2 pertains to Condition No. 2(a) only. The proposed alteration to these conditions would allow for the provision of internal modifications and the omission of 1 no. two-bed apartment (Unit C2/2) rather than the omission 2 no. two-bed apartment units. These alterations would consequently alter Condition No. 3 with the development providing a total of 330 no. apartment units overall.

3.2 Permission Condition No. 2(a) states as follows:

The proposed development shall be amended as follows:

- (a) An increase in the area of the proposed childcare facility, including outdoor play provision, to accommodate a minimum of 62 childcare places. This shall be achieved by internal modification and omission of two number two-bed Block C ground floor apartment units (Units C2/2 and C2/1) as shown in Drawing PL06 Apartment Blocks Ground Floor Plan,

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development.

Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability.

Permission Condition No. 3 states as follows:

- 3. The number of residential units permitted by this grant of permission is 329 number units.

Reason: In the interest of clarity

3.3 In response to Condition No. 2(a), the applicant states that following engagement with prospective tenants (Little Harvard) and the project team, it was identified that

the integration of two- no. two-bed apartments as required under Condition No. 2(a) would create a childcare facility with capacity far in excess of 62 childcare spaces and would exceed projected demand for childcare in the locality. A facility of this scale would not be practical and effectively part of the facility would not be used. In addition, the childcare facility would no longer enjoy a unified self-contained floorplate but would be compromised by the residential core catering for access to the residential floors above. This could present both management and operational difficulties and could potentially compromise child safety.

- 3.4 With the omission of one no. two-bed unit (Unit C2/2) and the integration of this floor area into the childcare facility, the childcare facility is being increased from 224 square metres to 329 square metres (stated floor areas). There is also a proposed increase in the area of the associated childcare facility outdoor play area, which increases in size from 73 square metres to 175 square metres (stated).
- 3.5 A letter from Little Harvard is included with the documentation, which states that they have reviewed the proposed layout for the childcare facility, and having regard to existing regulations and regulatory framework, they confirm that this facility would be suitable as a stand-alone facility catering for a minimum of children aged from one year, up to and including school age children attending after-school, depending on the way in which the rooms were allocated to different age groups. They further note that the proposed outdoor space associated with the facility is more than adequate to cater for a facility of this scale.
- 3.6 An Updated Childcare Demand Analysis has been submitted with the documentation. It states that 4.5m² is being allocated per child and based on these figures, the proposed facility would cater to 72 children. It also notes that there are 23 childcare facilities within a 3km radius of the site and since the original analysis undertaken as part of ABP-306075-19, three additional childcare facilities are in operation in the locality, as reported on www.pobal.ie. It is also noted that there is a 110 place facility located adjacent to the site at Bridgefield. The report states that that the applicants consider that there are several viable options located within a reasonable distance of Blackwood Square for future residents of the permitted scheme to avail of.

- 3.7 With regard to Condition No. 3, the applicant notes that consequently as it is not proposed to integrate Unit C2/1 into the enlarged childcare facility, it is instead to be maintained as an apartment. In this regard, the number of units referred to in Condition No. 3 should be altered to reflect that the proposed development will accommodate 330 apartment units in total.

4.0 **Assessment**

- 4.1 The proposed amendments to the layout and the justification for the omission of one no. apartment, as opposed to the omission of two no. residential units as required under Condition 2(a) is noted. It is proposed not to integrate Unit C2/1 into the enlarged childcare facility, as required by Condition No. 2(a) and instead maintain it as an apartment. I consider that an adequate justification has been put forward in this regard. The layout as proposed can cater for in excess of 62 childcare spaces, as was required under this condition. As now proposed, the childcare facility is a self-contained unit without need to have any interaction with the permitted residential core. I agree that it is preferable to keep the two uses as separate entities, if possible. It is preferable from a child protection policy as well as from a maintenance and management perspective. I am satisfied with the information contained within the report of Little Harvard, in which it is stated that they currently operate 12 separate childcare centres within the Greater Dublin region. I am of the opinion that it is preferable for the subject childcare facility to a viable, usable space that has a likelihood of being occupied and which provides a facility to the local community, rather than an enlarged facility that may be prohibitive to operate at this location due to its scale and layout arrangement. Having regard to all of the above, I am satisfied in this regard.
- 4.2 The amendments proposed are largely within the footprint of the permitted building, with the exception of the enlarged outdoor playspace. The alterations are primarily to the internal layout. The proposal complies with Condition No. 2(a) in terms of the provision of an enlarged outdoor playspace. The reinstated apartment remains in compliance with all standards as per the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities', 2020.
- 4.3 The amendments as proposed do not necessitate the omission of two no. apartments, as was required by Condition No. 2(a). I am of the opinion that the

apartment referenced in Condition No. 2(a), namely Unit C2/1 can be reintroduced, as per the revised design. I recommend a revised wording as follows:

Condition No. 2

2. The proposed development shall be amended as follows:

- (a) An increase in the area of the proposed childcare facility, including outdoor play provision, to accommodate a minimum of 62 childcare places. This shall be achieved by internal modification and omission of one number two-bed Block C ground floor apartment unit (Unit C2/2) as shown in Drawing PL06 Apartment Blocks Ground Floor Plan

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development.

Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability.

The remainder of Condition No. 2 is to remain unchanged.

The above has implications for the number of units permitted and the wording of Condition No. 3. I recommend that the wording of Condition No. 3 be amended as, follows:

Condition No. 3

The number of residential units permitted by this grant of permission is 330 number units.

Reason: In the interest of clarity.

- 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, I am of the opinion that the relevant planning issues would not be considered 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-306075-19, 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-306075-19 and it was concluded that that the proposed development, would not be likely to have a significant effect on any European site, in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment (and submission of a Natura Impact Statement) is not, therefore, required.
- 4.9 Having considered the Board's determination on Appropriate Assessment on ABP-306075-19 and section 11.4 of the Inspector's Report on ABP-306075-19, 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-306075-19 and that the permitted

development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on 10th February 2021.

RECOMMENDED DRAFT BORD ORDER

REQUEST received by An Bord Pleanála on the 10th day of February 2021 from RPS on behalf of Cosgrave Developments under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Strategic Housing Development at the lands off Northwood Avenue, Santry, Dublin 9, which is the subject of a permission under An Bord Pleanála reference number ABP-306075-19.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 24th day of March 2020,

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 No. 2 and Condition No. 3 of previously permitted development ABP-306075-19 with the omission of 1 no. two-bed apartment (Unit C2/2) rather than the omission of two no. two-bed apartments, as stated in Condition No. 2. These alterations would consequently alter Condition No. 3 with the development providing 330 no. apartments overall.

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 condition 3 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 10th day of February 2021:

Condition No. 2(a)

The proposed development shall be amended as follows:

- (b) An increase in the area of the proposed childcare facility, including outdoor play provision, to accommodate a minimum of 62 childcare places. This shall be achieved by internal modification and omission of one number two-bed Block C ground floor apartment unit (Units C2/2) as shown in Drawing PL06 Apartment Blocks Ground Floor Plan

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development.

Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability.

Condition No. 3

The number of residential units permitted by this grant of permission is 330 number units.

Reason: In the interest of clarity.

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-306075-19 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.

Lorraine Dockery

Senior Planning Inspector

31st March 2021