



An
Bord
Pleanála

Inspector's Report ABP-310163-21

Strategic Housing Development

Alterations to previously permitted ABP-302749-18 (as altered by ABP-306991-20, ABP-307009-20 and ABP-309277-20) to comprise a change of use of a permitted area of office space to the south of Block B to provide a single studio unit.

Location

Former Nolan Seafoods Limited,
Rathdown Road, Dublin 7

Planning Authority

Dublin City Council

Applicant

NTM ROI Seed Capital LP

Type of Application

Section 146B

Prescribed Bodies

Transport Infrastructure Ireland

Observer(s)

None on file

Site Inspected

11th November 2021

Inspector

Sarah Moran

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1.0 Introduction

- 1.1. An Bord Pleanála received a request for alterations to a previously permitted development (reference ABP-302749-18) on 7th May 2021, from John Spain Associates on behalf of the applicant NTM ROI Seed Capital LP to alter the permission granted for 289 student bedspaces within 47 no. bedroom clusters across two residential blocks and associated site works on lands at the former Noland Seafoods premises, Rathdown Road, Dublin 7. The request for alterations is made under Section 146B of the Planning and Development Act, 2000, as amended.
- 1.2. In accordance with Section 146B (2)(a) of the Planning and Development Act 2000 (as amended) and following a review of the submitted details, it was concluded that the alterations to which this request relates, amounted to a significant alteration to the overall development, and it could not be reasonably concluded that the Board would not have considered the relevant planning issues differently to a material extent, and that other planning issues for consideration might also arise. As a result, the alteration was considered to constitute the making of a material alteration of the terms of the development concerned.
- 1.3. Pursuant to subsection (3)(b)(i) notice was subsequently served on the requester to require the submitted information to be placed on public display and submissions sought, prescribed bodies to be issued a copy of the proposal, and additional drawings to be submitted.
- 1.4. Following the receipt of this information and display period up to 21st October 2021, a determination is now required under subsection (3)(b)(ii) of the Act whether to —
 - (I) make the alteration,
 - (II) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or
 - (III) refuse to make the alteration

2.0 Site Location and Description

- 2.1. The overall development site has a stated area of 0.43 ha and has a triangular shape, bound to the east by the Cross City Luas line (Grangegorman stop), to the west by a lane serving the rear of two storey Victorian houses along Rathdown Road and to the north by no. 274 North Circular Road, where there is another recently completed student accommodation development (Highfield Park). The Dublin Bus Broadstone Depot is located north east of the site, on the opposite side of the Luas line. The area is generally undergoing transformation with the Grangegorman TU Dublin campus located to the west of the site. Grangegorman Primary Care centre is located on the opposite side of the road, accessed via Grangegorman Upper.
- 2.2. The development site is located at a higher level than the Luas line and is accessed via a short laneway to the south of the site. The properties along Rathdown Road lower are also located at a lower level than the site however there is a private lane that separates the site from these residential properties. The permitted student accommodation development at the subject site is now completed and occupied.

3.0 Legislation

- 3.1. 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.

Section 146B (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.

3.2. Alteration a material alteration –

Section 146B (3)(b) If the Board decides that the making of the alteration would constitute the making of such a material alteration, it shall—

(i) by notice in writing served on the requester, require the requester to submit to the Board the information specified in Schedule 7A to the Planning and Development Regulations 2001 in respect of that alteration, or in respect of the alternative alteration being considered by it under subparagraph (ii)(II), unless the requester has already provided such information, or an environmental impact assessment report on such alteration or alternative alteration, as the case may be, to the Board, and

(ii) following the receipt of such information or report, as the case may be, determine whether to—

(I) make the alteration,

(II) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or

(III) refuse to make the alteration.

Section 146B (4) Before making a determination under *subsection (3)(b)(ii)*, the Board shall determine whether the extent and character of—

(a) the alteration requested under *subsection (1)*, and

(b) any alternative alteration it is considering under *subsection (3)(b)(ii)(II)*

are such that the alteration, were it to be made, would be likely to have significant effects on the environment (and, for this purpose, the Board shall have reached a final decision as to what is the extent and character of any alternative alteration the making of which it is so considering).

(5) If the Board determines that the making of either kind of alteration referred to in *subsection (3)(b)(ii)*—

(a) is not likely to have significant effects on the environment, it shall proceed to make a determination under *subsection (3)(b)(ii)*, or

(b) is likely to have such effects, the provisions of *section 146C* shall apply.

Section 146B (8) (a) Before making a determination under subsection (3)(b)(ii) or (4), the Board shall—

(i) make, or require the person who made the request concerned under subsection (1) to make, such information relating to that request available for inspection for such period,

(ii) notify, or require that person to notify, such person, such class of person or the public (as the Board considers appropriate) that the information is so available, and

(iii) invite, or require that person to invite, submissions or observations (from any foregoing person or, as appropriate, members of the public) to be made to it in relation to that request within such period,

as the Board determines and, in the case of a requirement under any of the preceding subparagraphs, specifies in the requirement; such a requirement may specify the means by which the thing to which it relates is to be done.

Section 146(C)

146C.— (1) This section applies to a case where the determination of the Board under section 146B(4) is that the making of either kind of alteration referred to in F477[section 146B(3)(b)(ii)] is likely to have significant effects on the environment.

4.0 Policy Context

4.1. Section 28 Ministerial Guidelines

- 4.1.1. Having considered the nature and extent of the proposal, the receiving environment and the documentation on file, I consider that the directly relevant section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas including the associated Urban Design Manual
- Design Manual for Urban Roads and Streets (DMURS)
- The Planning System and Flood Risk Management Guidelines for Planning Authorities including the associated Technical Appendices.
- Urban Development and Building Heights Guidelines for Planning Authorities

4.2. **Dublin City Development Plan 2016-2022**

4.2.1. The site is located on lands with a zoning objective 'Z1' which seeks 'to protect, provide and improve residential amenities'.

4.2.2. Development plan section 5.5.12 on student accommodation sets out a broad policy statement in relation to the expansion of the student accommodation sector.

QH31: To support the provision of high-quality, professionally managed and purpose built third-level student accommodation on campuses or in appropriate locations close to the main campus, in the inner city or adjacent to high-quality public transport corridors and cycle routes, in a manner which respects the residential amenity and character of the surrounding area, in order to support the knowledge economy. Proposals for student accommodation shall comply with the 'Guidelines for Student Accommodation' contained in the development standards.

4.2.3. The following development plan policy objective applies:

CEE19: (i) To promote Dublin as an international education centre/student city, as set out in national policy, and to support and encourage provision of necessary infrastructure such as colleges (including English language colleges) and high quality, custom-built and professionally managed student housing. (ii) To recognise that there is a need for significant extra high-quality, professionally-managed student accommodation developments in the city; and to facilitate the high-quality provision of such facilities.

4.2.4. Development plan section 16.10.7 Guidelines for Student Accommodation, sets out design criteria and considerations for the design of student accommodation.

4.2.5. The Grangegorman Strategic Development Zone (SDZ) is located to the south west of the site.

5.0 Planning History

5.1. ABP-32749-18 Parent Permission

5.1.1. The Board granted permission subject to 20 no. conditions on 6th February 2019 under the Strategic Housing Development provisions, involving demolition of existing buildings (c. 2,471.6 sq.m.) on site and the construction of purpose built student accommodation development comprising:

- 289 no. student bed spaces, within 47 no. clusters across two residential blocks;
- Block A extends to three storeys and comprises 88 no. bed spaces in 11 no. eight-bed clusters (GFA c. 2,706 sq.m.) and provides c. 191.5 sq.m. of internal amenity space;
- Block B to the east extends to seven storeys (with enclosed plant at part eight storey level) in the north of the site adjacent to the Luas stop, reducing to five storeys in the south and comprises 201 no. bed spaces in 13 no. four-bed clusters, 12 no. six-bed clusters and 11 no. seven-bed clusters (GFA c. 5,814.8 sq.m.), and provides c. 347 sq.m. of internal amenity space;
- Six no. disabled access bedrooms are included across the development;
- Amenity space equating to c. 2,140.9 sq.m. is provided across the site consisting of c. 1,602.4 sq.m. of external amenity space in the form of a central courtyard, roof terrace and balconies;
- Internal amenity space equating to c. 538.5 sq.m. is provided in the form of a gym, television and study areas, cinema room and lounge areas;
- Provision for 90 no. bicycle parking spaces distributed at several locations throughout the scheme and a pedestrian connection to the site immediately adjacent to the north;
- Ancillary single storey ESB substation, switch room and refuse store are provided, comprising c. 74.8 sq.m. GFA;
- Additional associated plant will be located at enclosed roof level within Block B;
- Upgrade of the access laneway from Rathdown Road and provision of a pedestrian access route;

- Associated site and infrastructural works include the provision of foul and surface water drainage, including an attenuation tank located beneath the external amenity courtyard, connection to an existing watermain and all other associated services infrastructure;
- Existing site boundaries to the south and east will be retained;
- The proposal incorporates a pedestrian connection to the adjacent student accommodation scheme to the north at 274 North Circular Road;
- The total gross floor area of the proposed development is c. 8,595.6 sq.m.

5.1.2. None of the conditions imposed by the Board involved any substantial amendments to the proposed development.

5.2. **S146B ABP-306991-20**

5.2.1. The following alterations were requested under ABP-306991-20:

- Addition of PV panels (300 sq.m.), air circulation units, roof access and two no, smoke exclusion shafts at roof level of Block B;
- Addition of one no. storey to the single storey bin store located at the south eastern corner of the site to provide c. 88 sq.m. of ancillary office space for management purposes, accessed by external staircase;
- All associated drainage and infrastructure works.

The Board determined on 14th July 2020 that the requested alterations would not be likely to have significant effects on the environment or on any European Site and that they would not be material. The parent permission was altered accordingly.

5.3. **S146B ABP-307009-20**

5.3.1. The following alteration was requested under ABP-307009-20:

- Temporary alteration of Condition no. 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 development as permitted.

The Board determined on 14th July 2020 that the requested alterations would not be likely to have significant effects on the environment or any European Site and that they would not be material. The parent permission was altered accordingly.

5.4. **S146B ABP-309277-21**

5.4.1. The following alteration was requested under ABP-309277-21:

- Temporary alteration of Condition no. 2 to previously permitted development ABP-302749-18 as amended by ABP-307009-20 and ABP-306991-20 to permit partial occupation of the of permitted student accommodation for tourist and visitor use in the academic year from 1st September 2021 to 31st May 2022 after such times, the original Condition no. 2 will be applicable.

The Board determined on 22nd April 2021 that the requested alterations would not result in a material alteration to the terms of the development and the parent permission was altered accordingly.

6.0 **Requested Alterations**

6.1. The requestor is making a request to An Bord Pleanála for alterations relating to ABP-302749-18. The requested alterations relate to the mixed-use building altered under the S146B ABP-306991-20 and comprise:

- Change of use and reconfiguration of upper floor of standalone mixed-use building with refuse storage and ESB substation at ground level and office space above (c. 74 sq.m.) to provide a single unit of student accommodation in the form of a studio apartment, bringing the total no. of student bedspaces at the development to 290 no. overall.
- The office use previously permitted at the building under ABP-306991-20 is not currently required due to the impact of the Covid 19 pandemic on the business.
- The external elevations of the permitted building are to be retained without any alterations. There is to be no change in access to the unit, which is via an external staircase as per ABP-306991-20.
- It is submitted that the requested alterations are non-material as they are compatible with the relevant Z1 zoning objective under the Dublin City

Development Plan 2016-2022 and are negligible in scale relative to the overall development originally permitted under ABP-302749-18.

- It is submitted that the proposed studio unit meets/exceeds the development standards for student accommodation as set out in development plan section 16.7.

6.2. The following documentation is submitted in support of the requested alterations:

- Planning and Environmental Report
- Appropriate Assessment Screening Report
- Correspondence from Lohan and Donnelly Consulting Engineers regarding drainage and watermain infrastructure.

7.0 **Submission of Dublin City Council**

7.1. Planning Comment

7.1.1. The following points are noted:

- The provision of student accommodation on the site has previously been assessed and found to be acceptable in principle.
- The indicative plot ratio in areas with zoning objective Z1 is between 0.5 and 2.0 and site coverage is 45-60%. The subject proposal was assessed and found to be compliant with these standards.
- The space in question was permitted as an addition to the approved development, which included management facilities, there is therefore no objection in principle to the loss of this additional management space.
- The development plan allows for the provision of studio units as part of student accommodation developments and the principle of the proposed use is therefore considered to be acceptable.
- There is no specific provision in the development plan for one-bedroomed apartments within student accommodation developments, however, the unit would fulfil a similar function to a single or double occupancy studio unit and,

having regard to the overall mix of units within the development, could be considered on this basis.

- The proposed unit would provide for an acceptable standard of residential amenity in respect of floor area and daylight provision, while it is considered that the overall development provides for a sufficient quantum of amenity space to allow for the provision of one additional unit.
- There is concern in relation to the proposed provision of a residential unit directly above a refuse store of this size, which could result in disamenities such as noise, odours and possible attraction of rodents and flies, which could be exacerbated by the scale of the refuse store and its proximity to the sole access to the apartment. In the event of a grant of permission being considered, stringent conditions would need to be applied in relation to management of the refuse store, ventilation and regular cleaning and disinfecting of the area.

7.2. DCC Drainage Division

- 7.2.1. No objection subject to compliance with code of practice and previous drainage condition.

7.3. DCC Transportation Planning Division

- 7.3.1. No objection to the requested alterations.

7.4. DCC Parks and Landscape Services

- 7.4.1. No comments on the requested alterations.

8.0 **Submission of Transport Infrastructure Ireland**

- 8.1. The following points are noted from the submission of TII:

- The building that is to be altered is located in the south eastern corner of the site, adjacent to the Luas line, and was originally permitted as a single storey substation under ABP-302749-18. It is further noted that by alteration request under ref. ABP-306691-20 the addition of a first floor to this building was permitted for office use. The alteration under ABP-306691-20 was not circulated to the Authority.

- Having regard to the location of Luas immediately adjacent to the building the subject of this alteration request, TII advises that the requested alterations will involve works to be carried out in close proximity to the Luas Overhead Conductor System (OCS). In considering whether to make the requested alteration, TII recommends that the alteration pose no risk of intrusion of people into the OCS danger zone via opening windows, maintenance, cleaning, balconies or terraces. The danger zone is described in TII's 'Code of engineering practice for works on, near, or adjacent the Luas light rail system' defined by a 2.75 m offset in all directions from the nearest item of OCS infrastructure. The Authority notes that if made, the alteration is subject to the terms of ABP-302749-18 that include conditions to ensure its compatible development in conjunction with the safe and efficient operation of Luas.

9.0 **Assessment**

9.1. The following are considered to be the principal matters for consideration with regard to the requested alterations:

- Principle of Development
- Quality of Residential Accommodation
- Impacts on Residential Amenities
- Drainage and Site Services
- Interaction with Luas Line

These matters may be considered separately as follows.

9.2. **Principle of Development**

9.2.1. The requested additional student accommodation unit is acceptable in principle on lands zoned Z1 and would not significantly alter the nature or the scale of the overall student accommodation development permitted at this site under ABP-302749-18. I note that the overall student accommodation development permitted under ABP-302749-18 was considered to be acceptable in principle at this location with regard to relevant development plan policies on student accommodation, ref, section 11.3 of the Inspector's Report of ABP-302749-18, and I note that the development site is

close to the Grangegorman TU Dublin campus. I am satisfied that the requested provision of one additional one-bed student accommodation unit would not result in any significant increase in the density of student accommodation development such as would warrant a reconsideration of the original assessment of communal amenities, open space provision, etc., and would not result in any significant overconcentration of student accommodation in the area beyond that which is already permitted. I note that the submission of Dublin City Council states no objection in principle to the requested additional student accommodation unit and that there are no third party submissions on file which object in principle to the requested additional unit. The requested additional student accommodation unit is considered acceptable in principle on this basis.

9.3. Quality of Residential Accommodation

- 9.3.1. The proposed one-bed unit has a stated floor area of 74 sq.m., which is well in excess of the recommended minimum floor area for a one-bed apartment set out in the Apartment Guidelines. In addition, as stated in the planning comment of Dublin City Council, the requested studio unit meets the standards for student accommodation as set out in development plan section 16.10.7, which provides for studio units within student accommodation developments. While I note the concerns stated in the submission of DCC regarding the interaction of the residential unit and the waste storage area below, it was observed at site inspection that the structure appears to be well built and ventilated and the overall complex is well maintained. I am therefore satisfied that no disamenity to the proposed unit will occur as a result of refuse storage at this location. I note that the overall provision of communal services and amenities provided for in ABP-302749-18 was considered satisfactory in that instance and that the permitted and now completed student accommodation scheme provides for a high-quality living environment. The provision of one additional one-bed unit within the development would not significantly increase the overall density of development such as would warrant a reconsideration of these issues.
- 9.3.2. Development plan section 16.10.7, which provides guidance for student accommodation developments, states:

The student accommodation should be designed to give optimum orientation in terms of daylight to habitable rooms. Given the nature of student occupancy, the

residential standards in relation to dual aspect may be relaxed. Proposed developments shall be guided by the principles of Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice (Building Research Establishment Report, 2011).

I note that the requestor has not submitted any Daylight, Sunlight and Overshadowing assessment of the proposed student accommodation unit. Section 7.1 of the Guidelines on Sustainable Residential Development in Urban Areas states in relation to daylight and sunlight:

Overshadowing will generally only cause problems where buildings of significant height are involved or where new buildings are located very close to adjoining buildings. Planning authorities should require that daylight and shadow projection diagrams be submitted in all such proposals. The recommendations of “Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice” (B.R.E. 1991) or B.S. 8206 “Lighting for Buildings, Part 2 1992: Code of Practice for Daylighting” should be followed in this regard.

The BRE standards and associated British Standard (note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018) describe recommended values (eg. ADF, VSC, APSH, etc) to measure daylight, sunlight, and overshadowing impact, however it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria (para.1.6). The BRE guidelines also state in paragraph 1.6 that:

Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.

While I note that the document British Standard (BS) 8206-2:2008 has since been withdrawn and that the publication of the guidelines been replaced by BS EN 17031:2018 ‘Daylight in Buildings’, however, I am satisfied that this does not have a material bearing on the outcome of this assessment and that the relevant guidance documents remain those referenced in the Guidelines on Sustainable Residential Development in Urban Areas.

- 9.3.3. I do not consider the omission of a specific daylight, sunlight and overshadowing assessment is significant in this instance with regard to the specific characteristics of the requested alterations. All of the habitable rooms within the proposed residential

unit are at least dual aspect, maximising available light and ventilation. In addition, the BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. in Section 5 of the standards. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones. The BRE guidelines are therefore clear that access to natural light is only one of many factors in site layout design. As such, I am content that daylight, sunlight, and overshadowing conditions for the proposed residential unit will generally be within an acceptable range. While I acknowledge that the requestor has failed to carry out their own assessment of the numerical targets for daylight and sunlight in the proposed alterations, I am satisfied that considerations of daylight and sunlight have informed the proposed revised layout design in terms of separation distances, scale and aspect. In conclusion, I have had appropriate and reasonable regard of quantitative performance approaches to daylight provision, as outlined in the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. I am satisfied that the design and layout of the requested alterations have been fully considered alongside relevant sunlight and daylighting factors. The standards achieved, when considering all site factors and the requirement to secure comprehensive urban regeneration of this highly accessible and serviced site close to Grangegorman TU Dublin campus, in accordance with national policy guidance, is in my opinion acceptable, are in compliance with the relevant BRE and BS standards.

9.4. Drainage and Site Services

- 9.4.1. As per the submitted correspondence from Lohan and Donnelly Consulting Engineers, the requested alterations will not involve any changes to the permitted drainage or watermain infrastructure.

9.5. Interaction with Luas Line

- 9.5.1. The comments of TII are noted. I note that condition no. 9 of ABP-302749-18 required the permitted development to comply with Transport Infrastructure Ireland's Code of Engineering Practice for works on, near, or adjacent to the Luas Light Rail

system. Condition no. 9 also set out specific requirements relating to works adjacent to the Luas infrastructure, in the interests of public safety and to protect the existing public transport network. The requirements of condition no. 9 shall also apply to the requested alterations.

9.6. Impacts on Residential Amenities

- 9.6.1. The requested residential use could result in a greater degree of overlooking of adjacent residential units than the previously permitted office use at this location. The western façade of the structure that is the subject of the requested alterations will achieve a separation distance of c. 8m to the adjacent façade of Block A to the west. However, given that the facades are angled away from each other, I am satisfied that direct overlooking will not occur. In addition, the intervening distances and the angles of the facades prevent any direct overlooking of student accommodation within Block B to the north of the structure to be altered. No new issues arise in relation to overshadowing as the outer envelope of the structure is unchanged from that previously permitted.

10.0 Environmental Impact Assessment Screening

- 10.1. Under S146B(4), the Board must consider whether the proposed material alterations would be likely to have significant effects on the environment, before making a determination under S146B(3)(b)(ii).
- 10.2. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- 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.)

In addition, item 13(a) of Schedule 5 Part 2 refers to changes and extensions to permitted developments:

Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:

- (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and
- (ii) result in an increase in size greater than –
 - 25 per cent, or
 - an amount equal to 50 per cent of the appropriate threshold,whichever is the greater.

Having regard to the nature and scale of the development permitted under ABP-302749-18 and to that of the requested alterations, I am satisfied that they do not come within the scope of the above thresholds. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination, it can be concluded that there is no real likelihood of significant effects on the environment.

10.3. The requestor's EIA comment in the documentation on file sets out the criteria specified in Schedules 7 and 7A of the Planning and Development Regulations 2001. The following points are noted having regard to the particulars submitted with the subject request, as well as the EIAR and documentation on file of ABP-302749-18:

- The development site is a brownfield site in an urban area that is zoned and serviced and surrounded by existing residential areas. There are no designated sites at or in the immediate vicinity of the development site (European sites and / or pNHAs).
- The requested alterations will result in one additional student accommodation unit at the overall development. They will not substantially alter the density of the permitted development and will not diminish the standard of urban design or residential amenity achieved within the development. There will be a minor positive benefit in relation to Population and Human Health due to the provision of additional student accommodation.

- The alterations will not result in any significant change to the permitted demolition works, use of natural resources, production of waste, pollutions and nuisance, risk of major accidents or risk to human health.
- The construction methodology will remain the same, and the proposed alteration will not result in any material changes to the Construction and Environmental Management Plan.
- The alterations will not result in any change to the permitted site services, drainage or watermain infrastructure.
- The alterations will not result in any increased risk of flooding at the development site or elsewhere.
- The alterations will not generate any significant additional traffic or demand for pedestrian, cycle or public transport infrastructure at this location.
- The development is located at a brownfield site, on zoned lands in a built up urban area. There is no watercourse present at the site.
- There are no changes to the permitted development in respect of landscapes and sites of historical, cultural or archaeological significance.
- The alterations do not involve any change to the external appearance of the permitted development (as altered). There will be no changes to the permitted impacts on residential and visual amenities.
- Adequate measures are in place to avoid, reduce or mitigate likely impacts, such that neither the construction nor operational phase of the overall development will have a significant negative impact on the environment

Having regard to the above, I am satisfied that there are no new considerations in relation to impacts on the environment arising from the proposed alteration additional to those previously considered under ABP-302749-18 and ABP-309661-20.

10.4. The documentation submitted by the requestor considers the proposed alterations with regard to the criteria at Schedules 7 and 7A as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. It concludes that, having regard to the nature, extent, and the characteristics of likely

impacts, the proposed alterations to the permitted development do not constitute a project defined by Part 1 and Part 2, Schedule 5 of the 2001 Regulations as requiring an EIAR and would not warrant a sub threshold EIA in accordance with Article 103 of the 2001 Regulations.

- 10.5. I have had regard to the characteristics of the site, location of the requested alterations, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other relevant information on file, including the AA Screening Report. I consider that the location of the requested alterations and the environmental sensitivity of the geographical area would not justify a conclusion that they would be likely to have significant effects on the environment. The proposed alterations do not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the subject request.
- 10.6. I am overall satisfied that the information required under Section 299B(1)(b)(ii)(II) of the Planning and Development Regulations 2001 (as amended) have been submitted.
- 10.7. I note the requirements of Section 299B (1)(b)(ii)(II)(C), whereby the requestor is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account. I have had regard to the SEA of the statutory plan for the area in which the development site is located. I am satisfied, given the minor nature of the proposed alterations, that no other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive are directly relevant in this instance.
- 10.8. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

11.0 Appropriate Assessment

- 11.1.1. The authorised development was screened for Appropriate Assessment and it was concluded that it would not be likely to have significant effects on any Natura 2000 site and that an appropriate assessment was not required. The Board is directed to section 11.9 of the Inspector's report of ABP-302749-18, which comprises an AA screening of the permitted development and concludes that, given the modest scale of the development, the existing site services, the design measures incorporated within the scheme for the construction and operational phases of development and particularly the absence of any hydrological pathways from the site to any Natura 2000 sites, that the development would not be likely to have any significant effects on any Natura 2000 site, either directly or indirectly. Similarly, there are no direct or indirect effects that would be likely to have significant effects on any Natura 2000 site in combination with any other plan or project. The Inspector therefore concluded that, by itself or in combination with other development in the vicinity, the proposed 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 AA was not, therefore, required.
- 11.1.2. I note the zoned and serviced nature of the development site and the fact that the proposed alterations do not involve any significant amendments to site services or surface water drainage. Having considered the Board's determination on Appropriate Assessment on ABP-302749-18, section 11.9 of the Inspector's Report on ABP-302749-18, the nature, scale and extent of the proposed alterations relative to the development subject of and approved under ABP-302749-18, 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 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.
- 11.1.3. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

12.0 Recommendation

12.1. As per section 146B(3)(b)(ii), the Board may (I) make the proposed alteration; (II) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or (III) refuse to make the alteration. As per the above discussion, the proposed alterations are considered acceptable without any further amendments. I therefore recommend that the Board apply the provisions of section 146B(3)(b)(ii)(I) and make the proposed alteration in accordance with the draft order set out below.

DRAFT ORDER

REQUEST received by An Bord Pleanála on the 7th day of May 2021 from NTM ROI Seed Capital LP under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of a permitted Strategic Housing Development of 289 no. bedspaces within 47 no. bedroom clusters, amenity space and associated site works at a site at Nolan Seafoods Limited, Rathdown Road, Dublin 7, the subject of a permission under An Bord Pleanála reference number ABP-302749-18.

WHEREAS the Board made a decision to grant permission, subject to 20 conditions, for the above-mentioned development by order dated the 6th day of February 2019 under ABP-302749-18,

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

AND WHEREAS the proposed alterations are described as follows:

- Alterations to previously permitted ABP-302749-18 (as altered by ABP-306991-20, ABP-307009-20 and ABP-309277-20) to comprise a change of use of a

permitted area of office space to the south of Block B to provide a single studio unit.

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 result in a material alteration to the terms of the development, the subject of the permission,

AND WHEREAS the Board decided to require the requestor to make available information relating to the request for inspection, and require the requestor to invite submissions or observations,

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 received by the Board on the 7th day of May 2021.

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

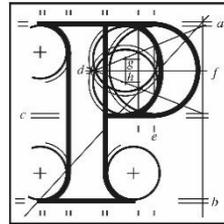
Having regard to:

- (i) the nature and scale of the Strategic Housing Development permitted under An Bord Pleanála Reference Number ABP-302749-18 for this site, which includes 289 no. student bedspaces within 47 no. bedroom clusters, amenity space and associated site works,
- (ii) the examination of the environmental impact, including in relation to European sites, carried out in the course of that application;
- (iii) the limited nature, scale and extent of the alterations;
- (iv) the absence of any significant new or additional environmental concerns (including in relation to European sites) arising as a result of the proposed alterations, and
- (v) the report of the Board's Inspector,

it is considered that the proposed alterations to the permitted development would be generally in accordance with the provisions of the Dublin City Development Plan 2016-2022, would not be likely to give rise to impacts on the surrounding area that significantly differed from those that were considered before permission was granted and would not injure the character of the permitted development or the level of amenity that it would afford its occupants. The requested alterations would therefore be in keeping with the proper planning and sustainable development of the area.

Sarah Moran
Senior Planning Inspector
22nd November 2021

Appendix A: EIA Screening Form



An
Bord
Pleanála

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS		
An Bord Pleanála Case Reference		ABP-310163-21
Development Summary		Alterations to permission ABP-302749-18 to comprise a changed of use of a permitted area of office space to the south of Block B to provide a single studio unit.
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	An Environmental Report and a Stage 1 AA Screening Report were submitted with the application
2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	

<p>3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA</p>	<p>Yes</p>	<p>SEA undertaken in respect of the Dublin City Development Plan 2016-2022</p>
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<p>B. EXAMINATION</p>	<p>Yes/ No/ Uncertain</p>	<p>Briefly describe the nature and extent and Mitigation Measures (where relevant) <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.</p> </p>	<p>Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain</p>
<p>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</p>			
<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>No</p>	<p>The alterations comprise the construction of residential units on zoned lands. The nature and scale of the proposed alterations are not regarded as being significantly at odds with the surrounding pattern of development.</p>	<p>No</p>

<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>Yes</p>	<p>The proposal includes construction of a residential development (student accommodation) which is not considered to be out of character with the pattern of development in the surrounding area.</p>	<p>No</p>
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?</p>	<p>Yes</p>	<p>Construction materials will be typical of such an urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.</p>	<p>No</p>
<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>

<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan. Significant operational impacts are not anticipated.</p>	<p>No</p>
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p>	<p>No significant risk identified. Operation of a Construction Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services within the site. No significant emissions during operation are anticipated.</p>	<p>No</p>

<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p>No</p>
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>No</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of a Construction Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p>No</p>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p>No</p>

1.10 Will the project affect the social environment (population, employment)	Yes	Development of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant given the urban location of the site and surrounding pattern of land uses.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	This is an alteration to an existing permitted development. The development changes have been considered in their entirety and will not give rise to any significant additional effects.	No
2. Location of proposed development			
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: <ol style="list-style-type: none"> 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 	No	No European sites located on the site. An AA Screening Report accompanied the original application which concluded the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of any European site, in view of the sites Conservation Objectives.	No

<p>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>			
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No</p>	<p>No such species use the site and no impacts on such species are anticipated.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p>	<p>There are no Architectural Conservation Areas or Protected structures or other features of landscape, historic, archaeological or cultural importance in the vicinity of the site. .</p>	<p>No</p>
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No</p>	<p>No such features arise in this urban location.</p>	<p>No</p>

<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>No</p>	<p>The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding. Potential indirect impacts are considered with regard to surface water, however, no likely significant effects are anticipated.</p>	
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>Site investigations identified no risks in this regard.</p>	<p>No</p>
<p>2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>No</p>	<p>The site is served by a local urban road network. There are sustainable transport options available to future residents. No significant contribution to traffic congestion is anticipated. The site is adjacent to the Luas line. Condition no. 9 of ABP-303749-18 refers.</p>	<p>No</p>
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p>	<p>Yes</p>	<p>The alterations would not be likely to generate additional demands on educational facilities in the area.</p>	<p>No</p>

3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects. Some cumulative traffic impacts may arise during construction. This would be subject to a construction traffic management plan.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No trans boundary considerations arise	No
3.3 Are there any other relevant considerations?	No	No	No

C. CONCLUSION			
No real likelihood of significant effects on the environment.	Yes	EIAR Not Required	EIAR Not Required
Real likelihood of significant effects on the environment.	No		

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- a) the nature and scale of the proposed alterations, which are below the threshold in respect of Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) the location of the site on lands zoned for residential development under the Dublin City Development Plan 2016-2022.
- d) The existing / permitted use on the site and pattern of development in surrounding area,
- e) The planning history relating to the site,
- f) The availability of mains water and wastewater services to serve the proposed alterations,
- g) The location of the alterations outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended),
- h) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- i) The features and measures proposed by requester envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction & Demolition Waste Management Plan (CDWMP) of the parent permission,

It is considered that the proposed alterations would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector: _ Sarah Moran__

Date: __22nd November 2021____

