



An  
Bord  
Pleanála

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

**Inspector's Report**

**310264-21**

Strategic Housing Development

Alterations to previously permitted  
strategic housing development ABP-  
306074-19.

Location

Windmill, Porterstown, Clonsilla, Dublin  
15

Planning Authority

Fingal County Council

Prospective Applicant

Kimpton Vale Limited.

Inspector

F. Fair

Date

13<sup>th</sup> February 2022

## 1.0 Introduction

- 1.1. An application has been made by McCrossan O'Rourke Manning Architects on behalf of Kimpton Vale Limited to alter the permission granted for a residential development at Windmill, Porterstown, Clonsilla, Dublin 15 under Section 146B of the Planning and Development Act, 2000, as amended.
- 1.2. Permission was granted on 30<sup>th</sup> of March 2020 under reference ABP-306074-20 for a residential development under the provisions of the SHD legislation. The applicant is making a request to An Bord Pleanála to alter this proposed development as follows:
  - To provide 2 no. ESB substations,
  - Change of balustrade material,
  - Revisions to balconies and
  - Revisions to external finishes of penthouses.
- 1.3. The application is accompanied by the following documents:
  - A Cover Letter
  - Engineering Letter
  - Landscape Architects Letter
  - Architects Design Statement
  - Drawings

## 2.0 Planning History

- 2.1. ABP 306074-20: Permission was granted on the 30<sup>th</sup> March 2020, for a Strategic Housing Development, at Windmill, Porterstown, Clonsilla D15 for the construction of 211 no. apartments and all associated site works.
- 2.2. ABP granted permission subject to 27 Conditions.

## 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.

(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.

3.2. 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'.

## 4.0 Proposed Changes

4.1. The proposed changes to permitted development ABP 306074-20 comprise of the following:

- To provide 2 no. ESB substations, an associated switch room total floor area of 30.7 sq. m, a louvred enclosure to screen the lift back – up generator, associated alterations to the two permitted basement stair core structures located in the west and east courtyards and including related revisions to the courtyard layouts.
- Change of balustrade material, from glazing to metal balustrading on selected courtyard facing balconies.
- Revisions to balconies consisting of the replacement of solid drained balcony decks with free draining open deck balconies to all blocks,
- Revisions to external finishes on all blocks at 5<sup>th</sup> and part 6<sup>th</sup> floor penthouse levels. The revised external finish proposed is grey self-coloured render in lieu of the permitted zinc cladding.

4.2. The applicant considers that the amendments proposed are not material. It is stated that the proposed alterations, as described above, will not materially alter any impacts identified in the Environmental Impact Assessment, as submitted with the

planning application Ref. No. ABP-306074-19. The proposals are for minor alterations, no new considerations arise, in relation to impacts on the environment, which were not considered in the assessment of impacts for the original application.

- 4.3. Note. A letter on file, from McCrossan O'Rourke Manning Architects, dated 17<sup>th</sup> May 2021, refers to a "Planning and Environmental Report", prepared by John Spain Associates. This report is not on the file. I consider, overall, that the information on file is sufficient for an informed decision to be made in this case.

## 5.0 Assessment

- 5.1. Permission was granted on the 30<sup>th</sup> of March 2020, for a Strategic Housing Development consisting of 211 no. apartments and all associated site works in four no. blocks (Block J, K, L and M), comprising of:

- 10 no. studio units,
- 68 no. 1 bed units and
- 133 no. 2 bed units

above an existing basement.

- 5.2. ABP granted permission subject to 27 Conditions. I note Condition 3 which states:

"Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be, as submitted with the application, unless otherwise agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. Reason: In the interest of visual amenity".

- 5.3. The proposed revisions relate to the provision of 2 no. sub-stations as required by the ESB to serve the new development.

- 5.4. Sub station no. 1 is shown located in the west courtyard by enlarging permitted revised basement stair core structure. A louvered enclosure for the lift backup generator is positioned adjoining the substation to the south. A brick external finish is proposed for revised stair core and substation structure in keeping with the finishes of the main blocks.

- 5.5. Substation no. 2 is located in the eastern courtyard. It is proposed to enlarge the permitted new basement stair-core structure in order to incorporate the new sub station and associated new switch room. The one storey structure is also finished in brick as per sub station 1.
- 5.6. Minor revisions are proposed to the courtyards due to the larger footprint of the combined stair-core and sub station structures. Car parking has been rearranged, however the overall number of proposed parking spaces on surface and in basement remains as per the permitted scheme.
- 5.7. The proposal is to provide metal balustrades to the courtyards facing balconies / terraces in lieu of the permitted glazed balustrades. This it is submitted is an owner led request in order to reduce long – term maintenance requirements. The introduction of metal balustrades where balconies face the courtyards will result in a more unified aesthetic due to the fact that the balcony balustrades of the existing buildings are of similar material. The balconies facing the greenway and those that face Diswellstown road are to be glazed as permitted.
- 5.8. It is submitted that the proposal which differentiates between the facades facing the greenway / Diswellstown road and the courtyards is in line with the permitted design rational of using differing elements facing the courtyards compared to the greenway. Metal balustrades to the courtyards ensures a consistency of scheme presentation over time versus glazing, particularly, if glazing is not regularly cleaned by apartment occupiers.
- 5.9. It is proposed to replace the solid deck to the balconies throughout the scheme with free draining open balconies. It is submitted that significant continuing maintenance is required where drained solid trays are under balcony decking. Blocked outlets under the decks can lead to inconvenience for tenants. The principal reason that permission for this modification is being sought, is in order to reduce ongoing maintenance. By omitting the under tray decking tray outlet and associated drainage pipes, any rain will fall through the decking to the ground below.
- 5.10. The proposal is to provide a grey rendered finish in lieu of the permitted zinc cladding at the 5<sup>th</sup> and part 6<sup>th</sup> floor penthouse levels. The external finishes proposed for the scheme are of a high quality and it is contended that generous proportions of brick and stone finishes generally are maintained.

- 5.11. Due to its importance as a landmark, particularly when viewed from Diswellstown Road, the proposal maintains the zinc cladding on the 8 storey corner block as permitted. The high-quality materials closer to the ground i.e. the brick and stone are retained and the change in material is at 5<sup>th</sup> or 6<sup>th</sup> floor, only. It is contended that this minor change will not have any impact on the overall quality of the finishes as perceived by residents or the general public.
- 5.12. In my opinion, the proposed substations are required in order to serve the development and their impact are reduced by incorporating them with the permitted stair-core structures. Having reviewed the site layout plan, as permitted, and as proposed, it is clear, that there is some minor adjustment to the car parking layout as permitted and to the open space / amenity space of the two courtyards. I note that the applicant has stated that there is no change to the car parking quantum as permitted.
- 5.13. Given the revision to the balconies and façade generally are proposed in order to optimise the ongoing maintenance requirements, in the interests of sustaining a quality environment over the long term. I consider that the alterations are acceptable in principle. The scale and mass of the substations is minimal. Finishes are a matter of architectural design and quality, and it is my opinion the proposed amendments are minor and do not result in any changes which would be considered material in nature or unacceptable.
- 5.14. While the amendments proposed affect the external appearance of the building, to what has been permitted under 306074-19. I am of the opinion the Board would not have considered the relevant planning issues differently to a material extent or considered that any other planning issues would arise had the development as now proposed formed part of the original planning application.
- 5.15. 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, and notify the person who made the request under this section, and the planning authority or each planning authority.
- 5.16. 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-306074-20, 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.

- 5.17. Environmental Impact Assessment: An Environmental report was submitted with the original application 306074-19. As I outlined above, I consider that the proposed alterations do not constitute the making of a material alteration of the development concerned and in this regard the provisions of Section 146B(3)(a) apply.
- 5.18. Appropriate Assessment: A screening report for AA was submitted with the application under ABP-306074-19. It was concluded that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites North Dublin Bay SAC 000206, South Dublin Bay SAC 000210, Glenasmole Valley SAC 001209, Rye Water Valley/Carton SAC 001398, North Bull Island SPA 004006 and South Dublin Bay and River Tolka Estuary SPA 004024 or any European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.
- 5.19. Having considered the Board's determination on Appropriate Assessment on ABP-306074-19 and section 13.3 of the Inspector's Report on ABP-306074-19, 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.

## 6.0 Recommendation

- 6.1. 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- 306074-19 and that the permitted development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on 19.05.2021.

## **DRAFT ORDER**

**REQUEST** received by An Bord Pleanála on the 19<sup>th</sup> May 2021 from McCrossan O'Rourke Manning Architects on behalf of Kimpton Vale Limited, under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Strategic Housing Development located at Windmill, Porterstown, Clonsilla, Dublin 15 , which is the subject of a permission under An Bord Pleanála reference number ABP-306074-19.

**WHEREAS** the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 30<sup>th</sup> 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:

- To provide 2 no. ESB substations,
- Change of balustrade material,
- Revisions to balconies and
- Revisions to external finishes of penthouses.

as shown on the drawings submitted with the request,

**AND WHEREAS** the Board decided, in accordance with section 146B(2)(b) of the Planning and Development Act 2000, as amended, not to invite submissions or observations from the public in relation to whether the proposed alteration would constitute the making of a material alteration to the terms of the development concerned,

**AND WHEREAS** the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alteration would not result in a material alteration to the terms of the development, the subject of the permission,

**AND WHEREAS** having considered all of the documents on file and the Inspector's report, the Board considered that the making of the proposed alteration would not be likely to have significant effects on the environment or on any European Site,



**NOW THEREFORE** in accordance with section 146B(3)(a) of the Planning and Development Act, 2000, as amended, the Board hereby alters the above mentioned decision so that the permitted development shall be altered in accordance with the plans and particulars.

### **REASONS AND CONSIDERATIONS**

Having regard to:

- (i) the nature and scale of the Strategic Housing Development permitted under An Bord Pleanála Reference Number ABP-306074-19 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,

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.

---

Fiona Fair  
Senior Planning Inspector  
13<sup>th</sup> February 2022