



An
Bord
Pleanála

S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report ABP-311138-21

Strategic Housing Development

Alterations to previously permitted development ABP-305991-19 to include minor design changes and associated site works.

Location

Seamount Road, Seamount Abbey,
Malahide, Co. Dublin

Planning Authority

Fingal County Council.

Applicant

Ballymore Property Developments
Limited.

Date of Site Inspection

11th March 2022

Inspector

Sarah Moran

Contents

1.0 Introduction.....	3
2.0 Site Location and Description	3
3.0 Planning History.....	4
4.0 Requested Alterations	6
5.0 Requester’s Submission	7
6.0 Legislative Basis.....	9
7.0 Assessment.....	10
8.0 Recommendation.....	13

1.0 Introduction

- 1.1. This is an assessment of a request for proposed alterations submitted under section 146B of the Planning and Development Act 2000 to a permitted strategic housing development permitted by the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

2.0 Site Location and Description

- 2.1. The Inspector's Report relating to ABP-305991-19 describes the site as follows:

The site is located in Malahide, to the north of Seamount Road at c. 1.1 km south east of Malahide Main Street.

The site has a stated area of c. 3.98 hectares. It comprises two separate parcels of residential zoned land connected via open space zoned lands. The larger parcel (c. 2.5 ha) is bounded by the existing residential developments of The Hill and Grove Lawn to the north, Hill Drive and Oak Hall to the west and by Seamount Abbey and Seamount Park to the south. The smaller area (c. 0.8 ha) is a long narrow rectangular plot of land that slopes steeply upwards from Seamount Road and downwards from east to west. This area of land is bounded by Seamount Heights to the east, Seamount Drive to the west and Seamount Road to the south. Open grass lands to the east and north of the site are part of the former Malahide golf links and are zoned open space. There is an Irish Water reservoir between the two land parcels that appears as a covered earthen mound.

The topography of the area rises generally in a north-east direction with level differences of between 35.70 to 52.84 m OD within the site. There is a ridge level of 59 m OD to the east of the site that marks the highest point in the local landscape (Site Survey Drawing P19-009D-RAU-ZZ-ZZ-SU-A-PPP-1001). The eastern parcel of land rises steeply from Seamount Road (36.7m OD to 52.84m OD). The western section rises from west to east and from south to north (36.4m OD to 44.2m OD). The northern parts of the site are elevated above the surrounding context and there are views into and out of the site from the surrounding area.

The site is in grass for the most part and has been subject to disturbance. There is an existing haul road running north from Seamount Road through the eastern section

of the site. In the western section ESB overhead cables have been undergrounded, there are 2 no. substations on the site and an earthen mound. The site boundaries to Seamount Heights, Seamount Drive, Seamount Park and Seamount Abbey comprise temporary wooden fencing / hoarding of c. 2 metres in height. There are railings along the boundary to Oak Hill. The other boundaries comprise planting and older boundary walls and fences.

- 2.2. It was noted at site inspection on 11th March 2022 that permitted development is currently under construction.

3.0 Planning History

3.1. Subject Permission ABP-305991-19

- 3.1.1. The Board granted permission on 20th March 2020 for the following development at the subject site:

- 142 number residential units, including:
 - 58 number detached, semi-detached and terraced houses (35 number four-bed (house types A, B and C) and 23 number three-bed (house types D, F, G and H) and eight number one-bed maisonette apartments (house type E), all with private rear gardens,
 - 76 number apartments (26 number one-bed, 46 number two-bed and four number three-bed),
 - all with private patios, terraces or balconies on east and west facing apartment building elevations.
- Building height ranges between one and two storeys for houses and maisonettes, and split level five to six storeys over basement, with setback at penthouse levels five and six, in each of the two number apartment buildings.
- One number two-storey creche building (circa 186.63 square metres gross floor area) with external play area.
- And, all associated and ancillary site development and infrastructural works (associated plant), hard and soft landscaping and boundary treatment works, including:

- Two number vehicular site entrances and associated road works, at Seamount Road and Seamount Abbey,
- Vehicular, pedestrian and cycle access through the site, connecting with Seamount Road, Seamount Abbey and the former Malahide golf links lands,
- Provision of public open space and children's playground facilities,
- 246 number ancillary car parking spaces (154 number surface space in a mix of on-curtilage, off and on street locations and 92 number at basement level),
- 184 number ancillary bicycle parking spaces (130 number at the lower ground floor level and 54 number at surface level),
- Bin store and collection areas, and one number Electricity Supply Board Unit sub-station and use of existing sub-station on site.

None of the conditions imposed involved any significant changes to the development.

3.2. Recent Planning History of the Subject Site

3.2.1. PL06F.244149 F14A/0105

Permission refused for 14 no. 2 storey houses on the eastern section of the site. ABP's reason for refusal is as follows:

The proposed development on the steeply sloping restricted site would not provide an appropriate form of public access to the proposed New Public Park on the elevated former Malahide Golf Links lands adjoining to the north of the subject site, as required under the Specific Objective 'Indicative Cycle/Pedestrian Route' as set out in the 2011-2017 Fingal County Development Plan, along Seamount Road and then northwards through the subject site, by reason of the steep gradient and unsuitable layout of the public access proposed through these lands and the lack of provision of resting points at regular intervals. The proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

3.2.2. PL06F.244128 F14A/0106

Permission granted for 47 no. houses on the western / northern section of the site. The Board Order stated that the pedestrian link from the site to Oak Hall is an important feature of the overall coherent planning for the area.

Conditions of note included: Condition 2: No development shall take place until the lands for the adjoining public park (as indicated on drawing number ST-007 by Linda Sherlock Architects) has been ceded to the ownership of Fingal County Council.

Reason: In the interest of the amenities of the area. Condition 3: Prior to the commencement of development, details of the proposed pedestrian link between the proposed development and the adjoining Oak Hall site shall be submitted to, and agreed in writing with, the planning authority. Reason: In the interest of the amenities of the area.

3.2.3. ABP-302548-18 F18A/0357

Permission granted for revisions to internal layout and elevations of 13 no. houses permitted under PL06F.244128.

4.0 Requested Alterations

4.1. The following alterations to the permitted development are requested:

- The requested alterations relate to the two apartment blocks permitted on the eastern side of the development. The permitted blocks are split level (in response to site levels) with four storeys plus setback on the eastern side and five storeys plus setback on the western side.
- Alterations to the permitted site layout to include the provision of a new residents' amenity facility (c. 204 sq.m.), comprising a new two storey annex at ground floor and lower ground floor levels with entrance lobby and ground floor area, inserted at ground level between the permitted apartment blocks. Access to the proposed new lower ground floor communal residents' amenity area is via the proposed ground floor reception area and the permitted external landscaped communal amenity open space.
- Minor internal reconfiguration of the floor plan layout of 20 no. apartment units, located to the west of the internal corridor of the permitted south-eastern

apartment block, such that the floor plan of the south-eastern block mirrors that of the north western block. The proposed floor plan efficiencies are made with no material change to the number, mix or size of the permitted units, or to the permitted external elevation.

- The replacement of 44 no. winter garden private amenity spaces each with an equivalent open balcony space. This involves removal of glazing from the building façade but with no change to balcony size proposed. This alteration affects units in both permitted apartment blocks.
- Increase in height of permitted penthouse floor level by 0.61 m across both apartment blocks, to accommodate level access to the penthouse private open space terraces and increase in roof height of penthouse by 0.875 m, resulting in a total increase in building height by 1.325m.
- Increase in area and height of lift overrun enclosure of penthouse by 1.325m to accommodate small M&E items in accordance with the Part L strategy for the development.
- Increase in roof parapet height by 0.975m.

5.0 Requester's Submission

5.1. The requester's submission can be summarised as follows:

- The requested alterations will not involve any change to the permitted number, size or mix of housing units.
- There is no change to the compliance of the development with the Apartment Guidelines.
- There will be no material changes to the building height or to the general external appearance of the permitted apartment blocks. The proposed adjustments at penthouse and roof levels will result in minor change in height are likely to be imperceptible in views of the development.
- The requested residents' amenity facility will be managed by the residents' Management Company and used by residents of the development. It will replace a small area of communal open space and will have direct access to the

remaining communal open space serving the apartments. It does not involve any change to the permitted apartment units. The proposed use is ancillary to the permitted residential use at this location and is consistent with the residential zoning of the site. The structure will not block any connections to the public realm. The remaining quantum of external communal amenity space serving the apartments will comfortably exceed the quantitative standards of the Apartment Guidelines.

- The 44 no. permitted winter gardens were intended to provide lightweight glazing screens to shelter the private balcony areas. However, the detailed design of the winter gardens necessary to comply with fire regulations would have a detrimental impact on the external appearance of the building. The requested alteration is therefore to omit the glazed screens. There are no other changes to the balconies. The alteration does not involve any changes to balcony size or render the spaces unattractive as usable external private amenity spaces. Development Plan Chapter 12 defines both balconies and winter gardens in the same category.
- The proposed internal alterations are minor in nature and are described as a 'tidying up' exercise following more detailed design development, including compliance with fire regulations.
- The requested alterations will have only a modest visual impact, as per the submitted drawings, photomontages and Landscape and Visual Statement. The alterations will not give rise to any significant visual effects, with regard to their nature, scale, extent and location.
- The Board is referred to the Appropriate Assessment of ABP-305991-19. The submitted AA Screening Report and EIA Screening Report demonstrate that there is no significant change between the requested alterations and the permitted development and that no new issues arise in relation to environmental impacts or the relationship with designated sites.
- The requester submits that the requested alterations are modest in nature and do not give rise to any significant new planning or environmental impacts and therefore are non-material.

The requester has included the following documentation:

- Planning Report
- Engineering Statement / Letter in relation to site services, surface water drainage and flood risk.
- AA Screening Report
- EIA Screening Report
- Regulation 299B Statement
- Landscape and Visual Statement
- Photomontage Views
- Drawings, plans, elevations and sections.

6.0 Legislative Basis

- 6.1. Section 146B of the Planning and Development Act 2000 (as amended) provides for a person carrying out or intending to carry out a Strategic Housing Development to make a request to alter the terms of a development, the subject of a planning permission under the Act. Section 146B(2)(a) provides that:

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.

Section 146B(2)(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.

Section 146B(3)(a):

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.

The provisions of section 146B(3)(b) to section 146B(9) set out the procedures where the Board decide that the making of the alteration would constitute a material alteration, including section 146B(3)(b) which allows the Board to require the requester to submit the information specified in Schedule 7A of the Planning and Development Regulations 2001 and section 146B(8) which requires that the request shall be made available for inspection and that the requester shall notify certain persons or the public that the information is so available and invite submissions or observations to be made within the specified period.

7.0 Assessment

7.1. Consideration of Materiality

- 7.1.1. The first consideration in relation to this request to alter the terms of ABP-305991-19 is to determine if the making of the alterations would constitute the making of a material alteration of the terms of the Strategic Housing Development as granted. I consider that the substantive issue is whether the requested alterations are materially different compared with those subject to the previous assessment. I consider that the principal potential impacts relating to the requested alterations are visual impacts, site services, surface water drainage, traffic and transportation and environmental impacts.
- 7.1.2. The requested alterations do not involve alterations to the housing quantum, housing mix or to the size of the residential units. There is no significant change to the overall layout of the development, the only minor alteration being the introduction of the communal amenity area between the permitted apartment blocks. The requested alterations will enhance the amenities available to residents of the development and will not result in any substantial reduction in the quality or quantity of external communal amenity space or public open space.
- 7.1.3. Having regard to the submitted plans, elevations and sections, I am satisfied that the requested alterations will not involve any change to the quality of the permitted residential accommodation or raise any issues in terms of consistency with national, regional or local planning policy on residential development.

- 7.1.4. I consider that the requested alterations to the external elevations and height of the apartment blocks are minimal. I am satisfied, with regard to the submitted drawings, photomontages and Landscape & Visual Statement, that they will not result in any significant change to impacts on visual or residential amenities from those of the permitted development.
- 7.1.5. There are no changes to car or cycle parking or to the permitted roads / pedestrian / cycle layout. No new issues arise in terms of traffic or transportation impacts.
- 7.1.6. The alterations do not involve any changes to site services or to surface water impacts or flood risk. The requested alterations, including the communal amenity building, will have negligible impacts on water supply, foul water disposal, surface water drainage or flood risk. The requested alterations will not result in any significant impacts on the surface water system, the foul system and the Irish Water supply, and no significant flood risk.
- 7.1.7. The alterations are not, in my opinion, material, in that they do not significantly affect the overall usable floor space of the development, car parking spaces will not be lost, public open space will remain the same, residential density remains the same, and the location of streets will not alter to any significant degree. I am satisfied that the relevant planning issues would not be considered differently to any material extent with the design, layout and housing mix as now proposed, and it is considered that no other planning issues would arise, had the layout and housing mix as now proposed formed part of the plans at application stage.

7.2. Conclusion

- 7.2.1. Having considered the requested alterations and having considered the development permitted under ABP-305991-19 I consider that the Board would not have determined ABP-305991-19 had the requested alterations been included in that development at application stage. I consider it reasonable to conclude that the proposal subject of the request does not constitute the making of a material alteration of the development as granted under ABP-305991-19. Therefore, I consider 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.

- 7.2.2. I have considered the provisions of s.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 alteration; the information on file; the nature, scale and extent of the development granted under ABP-305991-19, and the information on ABP-305991-19 including the submissions from the public, 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.

7.3. Environmental Impact Assessment

- 7.3.1. As I outline above, I consider that the requested 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. The submitted EIA Screening Report and standalone Regulation 299B statement both dated 12th August 2021, are noted in this regard.

7.4. Appropriate Assessment

- 7.4.1. Under ABP-305991-19 the Board completed an AA Screening exercise in relation to Natura 2000 sites and accepted and adopted the screening assessment and conclusion carried out in the Inspector's report 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 Appropriate Assessment was not required.
- 7.4.2. Having considered the Board's determination on Appropriate Assessment on ABP-305991-19, section 12.0 of the Inspector's Report on ABP-305991-19, the submitted AA Screening Report dated 12th August 2021, the nature, scale and extent of the requested alterations relative to the development subject of and approved under ABP-305991-19, which itself was not considered likely to have a significant effect, I conclude that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that the Board decides that the making of the alteration which is subject of this request does not constitute the making of a material alteration of the terms of the development as granted permission under ABP-305991-19 and that it makes the alteration under section 146B(3)(a) of the Planning and Development Act, as amended.

DRAFT ORDER

REQUEST received by An Bord Pleanála on the 20th December 2021 from Ballymore Property Developments Limited under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Strategic Housing Development at Seamount Road, Seamount Abbey, Malahide, Co. Dublin, which is the subject of a permission under An Bord Pleanála reference number ABP-305991-19.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 20th 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 the permitted site layout to include the provision of a new residents' amenity facility (c. 204 sq.m.), comprising a new two storey annex at ground floor and lower ground floor levels with entrance lobby and ground floor area, inserted at ground level between the permitted apartment blocks. Access to the proposed new lower ground floor communal residents' amenity area is via the proposed ground floor reception area and the permitted external landscaped communal amenity open space.
- Minor internal reconfiguration of the floor plan layout of 20 no. apartment units, located to the west of the internal corridor of the permitted south-eastern apartment block, such that the floor plan of the south-eastern block mirrors that of the north western block. The proposed floor plan efficiencies are made with no material change to the number, mix or size of the permitted units, or to the permitted external elevation.

- The replacement of 44 no. winter garden private amenity spaces each with an equivalent open balcony space. This involves removal of glazing from the building façade but with no change to balcony size proposed. This alteration affects units in both permitted apartment blocks.
- Increase in height of permitted penthouse floor level by 0.61 m across both apartment blocks, to accommodate level access to the penthouse private open space terraces and increase in roof height of penthouse by 0.875 m, resulting in a total increase in building height by 1.325m.
- Increase in area and height of lift overrun enclosure of penthouse by 1.325m to accommodate small M&E items in accordance with the Part L strategy for the development.
- Increase in roof parapet height by 0.975m.

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 received by An Bord Pleanála on the 20th December 2021.

REASONS AND CONSIDERATIONS

Having regard to:

(i) the nature and scale of the Strategic Housing Development permitted under An Bord Pleanála Reference Number ABP-305991-19 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.

Sarah Moran
Senior Planning Inspector
26th March 2022