



An  
Bord  
Pleanála

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

**Inspector's Report  
ABP-311161-21**

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**Development**

Alterations to previously permitted  
SHD development ABP-3007258-20.

**Location**

Lands at Devoy Quarter, Naas Road,  
Naas, Co. Kildare.

**Planning Authority**

Kildare County Council.

**Applicant**

Randelswood Holdings Limited.

**Type of Application**

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

**Inspector**

Karen Hamilton

## 1.0 Introduction

- 1.1. An application has been made to alter the permission granted for a residential development at Lands at Devoy Quarter, Naas Road, Naas, Co. Kildare under Section 146B of the Planning and Development Act, 2000, as amended.
- 1.2. Permission was granted on the 09<sup>th</sup> September 2020 under reference ABP-307258-20 for a development under the provisions of the SHD legislation for 152 no. apartments, childcare facility, and associated site works.
- 1.3. The applicant is making a request to An Bord Pleanála for alterations relating to alterations of the red line boundary of the site, layout of car parking, bin and bike stores, re-orientation of permitted crèche, revisions to entrances of permitted blocks (in response to condition No.2) and associated site works.

## 2.0 Legislation

- 2.1. Section 146B – 146B(1) Subject to subsections (2) to (8) and section 146C, the Board may, on the request of any person who is carrying out or intending to carry out a strategic infrastructure development, alter the terms of the development the subject of a planning permission, approval or other consent granted under this Act.  
  
(2) (a) As soon as practicable after the making of such a request, the Board shall make a decision as to whether the making of the alteration to which the request relates would constitute the making of a material alteration of the terms of the development concerned.  
  
(b) Before making a decision under this subsection, the Board may invite submissions in relation to the matter to be made to it by such person or class of person as the Board considers appropriate (which class may comprise the public if, in the particular case, the Board determines that it shall do so); the Board shall have regard to any submissions made to it on foot of that invitation.
- 2.2. Alteration not a material alteration - Section 146B(3)(a) states that ‘if the Board decides that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned, it shall alter the planning permission, approval or other consent accordingly and notify the person

who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration’.

### 3.0 Proposed Changes

3.1. The application seeks for amendments to an approved Strategic Housing Development (ABP-307258-20) to include:

- Alterations of the red line boundary following review of the ownership of the site boundaries,
- Amended layout of parking, bin stores to accommodate redline boundary changes,
- Reorientation of the permitted crèche building, including internal and external modifications and an increase in the area from 172m<sup>2</sup> to 175.1m<sup>2</sup>.  
Amendment to associated carpark and outdoor space to accommodate red line boundary changes,
- Revisions to entrances to permitted Blocks 3, 4, 5, 7, 8 and 9 to accommodate changes required as a result of condition no. 2 of the permitted development and the internalization of the external staircases. Included are alterations to the internal layouts and external elevations.

3.2. The alterations to the **red line boundary** would comprise of:

- A reduction in the overall site area to include alterations along the east of the site and a reduction in the area for the creche on the north-east corner.
- A reduction of 0.025ha (2.121ha to 2.1020ha) which represents a 1% reduction in the overall site area.
- Alterations to the red line boundary, around the creche, reduce the design of the crèche building and the open space provision.

3.3. The alterations specific to the **car parking layout** would comprise of:

- Alterations to the overall car park layout, to accommodate the changes to the red line boundary, the internal road layout and the location of the creche.

- Alteration of car parking spaces along the eastern boundary and relocation of existing permitted bin storage area, also along the eastern boundary.
- Retention of car parking spaces at 175 no.
- Redesign of landscaping throughout the scheme to accommodate the reconfiguration of car parking.

3.4. The alterations specific to the **crèche building** would comprise of:

- Alterations to the creche to respond to the changes to the red line boundary.
- Change of orientation from west to north.
- Alteration to internal layout.
- Increase in the size of the crèche by 3.1m<sup>2</sup> (172m<sup>2</sup> to 175.1m<sup>2</sup>).
- Alteration of the open space associated with the crèche from the rear, east, to the north.

3.5. The alterations to the **elevation and layout of Blocks 3, 4, 5, 7, 8 and 9** would comprise of:

- Modifications required to respond to the Condition No. 2 (a) of the permitted ABP- 307258-20, including the removal of external staircases for the duplex units, redesigned and internal access provided.
- Alteration to the internal layouts of the apartments and duplex units in Blocks 3, 4, 5, 7, 8 and 9 to accommodate the internalisation of the staircases,
- External alterations to the blocks to accommodate the internalisation of the staircases and the internal modifications.

3.6. In response to **changes to the red line boundary** the applicant submitted a full suite of amended drawings, including, *inter alia*, site layout drawings, amended landscaping and carparking, to illustrate the changes proposed for revisions to the red line boundary. The application was accompanied by a Planning Report which states that the rationale for the red line boundary which is based on the discovery that the red line of the site, submitted on the application, was incorrect. On foot of the red line alterations, the main changes include the amendment to the orientation and

layout of the crèche and alterations to the bin storage area and parking along the eastern boundary.

- 3.7. With regard to **car parking layout**, the applicant has submitted amended site layout drawings to illustrate the changes. The new location of the spaces is highlighted in orange on the site layout plan. Landscaping drawings and a “Landscape Report” have been submitted to illustrate the changes to the landscaping, having regard to the new carparking layout.
- 3.8. In relation to **amendments to the crèche building**, the application is accompanied by a site layout indicating, *inter alia*, the new location of the creche, associated open space and new drop off location. Detailed plans of the new creche have been submitted.
- 3.9. The **amendments to the permitted Blocks 3, 4, 5, 7, 8 and 9** are a response to Condition No 2 (a) of ABP-307258-20 which states:

*The external staircases for Blocks 3-9 shall be removed and these apartment blocks shall be redesigned to incorporate dual entrances as provided in Block 1 & 2. That is, the ground floor apartments shall be accessed via an entrance at the ground floor rear/ public open space, with the entrance to the upper apartments via an internal stairwell as proposed. Revised details shall incorporate appropriate waste/ recycling facilities for each of the units, with landscaping and boundary treatment.*

- 3.10. The alterations include external changes to address the integration of the internal staircases and also internal alterations to ensure the minimum areas can be achieved following the external amendments. An Urban Design Statement has been submitted which states that the alterations are a response to condition No 2 and those amendments can comply with the 12 criteria in the Urban Design Manual: A Best Practice Guide. An updated Daylight & Sunlight Assessment of the new layout has been submitted, along with additional photomontages.
- 3.11. The applicant has submitted information and correspondence between the PA and the applicant in relation to compliance of conditions No. 19 (naming of estate), No. 2 (external alterations to Blocks 3, 4, 5, 7, 8 and 9), No. 5 (car parking for disabled spaces) and No. 7 (external materials). The PA are satisfied the information submitted by the applicant complies with each of these conditions.

- 3.12. The applicant considers that the amendments proposed are not material. It is stated that the changes are minor in the context of the scale of the permitted development, with the changes having no material or significant planning consequences.
- 3.13. The applicant submits that the proposed alterations do not constitute a project defined by Part 1 and Part 2, Schedule 5 of the 2001 Planning Regulations and would not warrant a sub-threshold EIA, nor a new Appropriate Assessment or an AA Screening of the proposed alterations.

#### 4.0 **Assessment**

- 4.1. The permitted development includes for 152 no. apartments (54 no. 1 bed, 73 no. 2 beds and 25 no. 3 beds) within 9 Blocks, a single storey childcare facility and associated development. As stated above, the applicant proposes changes to the permitted scheme, mostly in response to conditions imposed in the grant of permission ABP-307258-20.
- 4.2. In relation to the **alteration of the red line**, the reduction in site area equates to 0.025ha or a 1% reduction in the entire site area. This reduction in site area now requires amendments to the orientation of the crèche and design of the associated outdoor space. Further minor alterations to the carparking along the eastern boundary and landscaping are also required. The applicant has submitted a full suite of plans illustrating the new area. Due to the reduced size of the area, there will be no encroachment onto third party lands. I have assessed the amendments proposed to the creche and associated works, further below, and have concluded that these works are not material. Overall, I do not consider the reduced area of the site has any material impact on the design and layout of the permitted development.
- 4.3. The amendments to the **car parking layout** are in response to amendments to the site boundary and compliance with condition no. 2 (external alterations to Blocks 3, 4, 5, 7, 8 and 9) and compliance with condition no. 5 (provision of 6 no. disabled parking spaces). The applicant has confirmed no change to the carparking quantum of 175 no car parking spaces and the provision of 9 no. spaces for persons with impaired mobility. The applicant has submitted letters from the PA to confirm they are satisfied with the alterations necessary to comply with conditions no 2 and no. 5. I note the alterations to the car parking spaces, and other minor associated works

such as bin storage relocation and landscaping do not significantly later the design and layout of the permitted scheme. In this regard, it is my opinion the reconfiguration of car parking spaces is minor in nature and not material.

- 4.4. Those proposed alterations to the landscaping scheme do not change the quantum of open space provision. The relation of the car parking spaces will require changes to the planting scheme although the applicant has submitted landscaping details to illustrate the retention of the substantive landscaping proposal in keeping with the previously permitted landscaping scheme.
- 4.5. In relation to the **creche building** and associated works, the overall floor area has increased by 31.m<sup>2</sup>, the design of the building will be more horizontal and the open space area to the north of the crèche. These alterations are in response to alterations in the site area. The size of the creche (a provision of 36 no. childcare spaces) was initially assessed as sufficient to comply with the Planning Guidelines for Childcare Facilities (2001). No amendment to the housing mix is proposed, therefore the increase in size of the crèche is acceptable and having regard to the scale, is considered minor in nature. The overall design of the creche, flat roofed and contemporary design, remains similar to the permitted scheme, and the entrance door remains close to the drop off area. The landscaping plans illustrate the playground area (185.6m<sup>2</sup>) with indicative play facilities. Full details of these play areas are not submitted, although the final design of the playground equipment is submitted (as required in condition No. 3 (d)). I note the layout of the creche still accommodates the range of childcare facilities previously proposed, and in my opinion, the external design alterations are minor in nature and not material.
- 4.6. In relation to the external and internal alterations to **Blocks 3, 4, 5, 7, 8 and 9** the external staircases have been removed completely, relocated internally with new design features for the entrances at the above Blocks.
- External materials include a mix of smooth plaster render, 2 no types of brick (light brown and dark brown) and a Flemish bond brick pattern detail between select windows. Condition No. 17 required the submission of all details of materials, colours and textures to be submitted for the written agreement of the PA. The applicant has submitted a letter from the PA which notes the external materials and considers condition No 17 has been satisfactorily

complied with. I note the original permitted scheme included a mix of brick and render. The main differences now include a different colour of brick and location. These alterations are not considered significant, and the information contained in the *Building Lifecycle Report* is still relevant for the maintenance of the buildings.

- The design treatment at the entrance to Blocks 3, 4, 5, 7, 8 and 9 includes a flat roof, block type treatment, similar to the design of the apartment blocks. The main entrances provide access and are shared for the ground floor apartments and 2 no. duplex units over. The redesign presented incorporates the dual entrance in Blocks 3-9 as required in Condition No.9. Waste/recycling facilities have been relocated at the end of each block. Overall, it is my opinion that the external amendments satisfactorily address the requirements of Condition No. 2, are minor in nature and not material.
- The internal layout of each of the units has been altered to accommodate the modifications required for integrating the staircases. An amended Housing Quality Assessment notes that all internal layouts meet the minimum standards as outlined in their Sustainable Urban Housing: Design Standards. The alterations will not significantly impact these permitted apartments and the overall unit mix remains the same.

4.7. As stated above, the amended plans and particulars include proposals for the external materials and design changes to internalise the access doors and staircases. I note from these amended elevations the design of all the balconies has been altered. Both the amended elevations and photomontages include a new design treatment for the balconies. The applicant has not applied for or made any specific reference to these balcony alterations, aside from submitting the proposed materials (mild steel railing balustrade). The PA note the external materials of the balconies and make no comment on the amended design. The original balcony design was of a floating style with glazing surrounding each individual balcony. The design now included in these amended plans and particulars is of a cantilevered balcony style with steel poles from the ground, providing supports for the balcony. The new design, in my opinion, is a less superior design and I consider that, although the amendments do not significantly deviate from the permitted development, the balcony design would have a negative visual impact on the overall



development. I note the terms of Section 146B (3) (b) (ii) allows the Board in the making of the alteration to:

*(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),*

- 4.8. Having regard to the terms of this section I consider the Board may request the original balcony design to remain, even though this is different from that to which the elevations detail. To this end, it is my opinion this alteration would not represent, overall, a more significant change to the terms of the development than that which would be presented by the latter application and would benefit the overall proposed development.
- 4.9. The amendments proposed are largely within the footprint of the permitted apartment blocks, with the external amendments largely associated to the requirement to comply with condition no.2 and to accommodate the red boundary alterations. The alterations are primarily to the new entrances, including reconfiguration of car parking, bin storage and crèche location. The apartments remain in compliance with all standards as per the '*Sustainable Urban Housing: Design Standards for New Apartments*, where applicable.
- 4.10. The amendments are not, in my opinion, material, in that they mainly reflect the requirements of the conditions imposed by the permitted scheme ABP-307258-20. The changes as assessment do not, in my opinion, extend to those design changes to the balconies and I recommend a note is applied, in the interest of clarity, so as the applicant is fully aware of this assessment. Aside from this, overall, I do not consider the Board would not have considered the relevant planning issues differently to any material extent with the layout as now proposed, and it is considered that no other planning issues would arise, had the layout as now proposed formed part of the plans at application stage.
- 4.11. I consider, therefore, that the Board can determine under Section 146B(3)(a) that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned and, in that, it shall alter the planning

permission, approval or other consent accordingly and notify the person who made the request under this section, and the planning authority or each planning authority for the area or areas concerned, of the alteration.

- 4.12. 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-307258-20, 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.
- 4.13. Environmental Impact Assessment (EIA): The Board undertook an EIA screening of that permitted development under ABP-307258-20 and concluded that an Environmental Impact Assessment Report was not necessary. An EIA screening report of the proposed amendments was submitted as part of the amended scheme and concluded that having regard to the nature, scale and location of the proposed development, by itself or in combination with other plans and projects, is not likely to have significant effects on the environment and it was considered that an EIA is not required. I consider the submitted information sufficient to conclude that an EIAR is not required.
- 4.14. I consider that the proposed alterations do not constitute the making of a material alteration of the development concerned and in this regard the provisions of Section 146B(3)(a) apply.
- 4.15. Appropriate Assessment: A screening report was submitted with the application under ABP-307258-20 and it was concluded that that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Ballynafagh Lake SAC (1387), Ballynafagh Bog SAC (0391), Mouds Bog SAC (2331), Pollardstown Fen SAC (0396) Poulphouca Reservoir SPA (004063) or any other European site, in view of the sites conservation Objectives, and a Stage 2 Appropriate Assessment was not therefore required.
- 4.16. A revised screening report accompanied the proposed amendments which concluded that given the nature of the proposed alterations they will not, either individually or cumulatively in combination with the other identified plan or projects, adversely effect the integrity of any European Site.

4.17. Having considered the Board's determination on Appropriate Assessment on ABP-307258-20 and the submitted revised screening report, in addition to the minor nature, scale and extent of the alterations relative to the development, and the information on file (which I consider adequate to carry out AA Screening), I consider it reasonable to conclude that the alterations proposed, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European sites, in view of the sites' conservation objectives.

## 5.0 Recommendation

5.1. I recommend that the Board decides that the making of the alterations subject of this request do not constitute the making of a material alteration to the terms of the development as granted permission under ABP-307258-20 and that the permitted development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 09<sup>th</sup> September 2020.

### DRAFT ORDER

**REQUEST** received by An Bord Pleanála on the 13<sup>th</sup> of August 2021 from Downey Planning on behalf of Randelswood Holdings Ltd. under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Strategic Housing Development at Devoy Quarter, Naas West, Naas, Co. Kildare, which is the subject of a permission under An Bord Pleanála reference number ABP-307258-20.

**WHEREAS** the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 09<sup>th</sup> September 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 red line boundary of the site,
- Amended layout of parking, bin stores to accommodate boundary changes,
- Re-orientation and redesign of the permitted crèche building and amendments to associated car parking and outdoor spaces,

- Revisions to the entrances to permitted Blocks 3,4,5,7,8 and 9 and associated external alterations.

**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 amends permission ABP ABP-307258-20 to permit:

- Alterations to the red line boundary of the site,
- Amended layout of parking, bin stores to accommodate boundary changes,
- Re-orientation and redesign of the permitted crèche building and amendments to associated car parking and outdoor spaces,
- Revisions to the entrances to permitted Blocks 3,4,5,7,8 and 9 and associated external alterations.

### **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-307258-20 for this site,
- (ii) the screening for appropriate assessment and environmental impact 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.

Note: These alterations are subject to the retention of the original balcony details, permitted under ABP-307258-20 and not the proposed balcony details which consists of steel supports for cantilevered balconies. In the interest of clarity, the applicant shall submit, for the written approval of the planning authority, final proposals for all balconies, complying with the original permitted design features permitted under ABP-307258-20.

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Karen Hamilton  
Senior Planning Inspector  
21<sup>st</sup> of September 2021