



An
Bord
Pleanála

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

Inspector's Report ABP-311232-21

Strategic Housing Development

Amendments to previously permitted development ABP-305943-19 to include reconfiguration of internal stair and lift core, building facades to reflect adjustments and amendments to internal car parking to improve vehicle circulation

Location

Newtown, Malahide Road, Dublin 17

Planning Authority

Dublin City Council

Prospective Applicant

Claregrove Developments Ltd

Type of Application

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

Inspector

L. Dockery

1.0 Introduction

- 1.1 A request has been made to alter the terms of a development the subject of a planning permission for a mixed-use development at Newtown, Malahide Road (R107), Dublin 17 under Section 146B of the Planning and Development Act, 2000, as amended.
- 1.2 Permission was granted on 18th March 2020 under reference ABP-305943-19 for this mixed-use development under the provisions of the SHD legislation and comprised demolition of all existing structures on site; provision of 331 no. BTR residential units, three no. commercial units, a childcare facility and ancillary site works.
- 1.3 The applicant is making a request to An Bord Pleanála for alterations relating to the permitted development (ABP-305943-19). The alterations involve the reconfiguration of internal stair and lift core, building facades to reflect the adjustments and amendments to internal car parking to improve vehicle circulation.

2.0 Legislation

- 2.1 Section 146B – 146B(1) Subject to subsections (2) to (8) and section 146C, the Board may, on the request of any person who is carrying out or intending to carry out a strategic infrastructure development, alter the terms of the development the subject of a planning permission, approval or other consent granted under this Act.

(2) (a) As soon as practicable after the making of such a request, the Board shall make a decision as to whether the making of the alteration to which the request relates would constitute the making of a material alteration of the terms of the development concerned.

(b) Before making a decision under this subsection, the Board may invite submissions in relation to the matter to be made to it by such person or class of person as the Board considers appropriate (which class may comprise the public if, in the particular case, the Board determines that it shall do so); the Board shall have regard to any submissions made to it on foot of that invitation.
- 2.2 Alteration not a material alteration - Section 146B(3)(a) states that 'if the Board decides that the making of the alteration would not constitute the making of a material alteration of the terms of the development concerned, it shall alter the planning permission, approval or other consent accordingly and notify the person

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

3.0 Proposed Changes

3.1 A request has been made to alter the terms of a development the subject of a planning permission for a residential development at Newtown, Malahide Road, Dublin 17 (ABP-305943-19). The application seeks the following alterations:

- **Alterations to the permitted internal car and bicycle parking, motorcycle parking, and bin storage areas to improve vehicle circulation and to allow for internal accessible parking;**
 - proposed alterations include the reconfiguration of the internal car parking, bicycle parking, motorcycle parking, and bin storage areas within both of the permitted blocks.
 - alterations have arisen on foot of detailed design considerations, the requirement to provide for ease of access to accessible parking spaces, and to improve and simplify internal vehicle circulation, resulting in improvements to the operation and safety of the internal car parks within the development
 - this element of the proposed alterations is entirely internal to the two permitted buildings.
 - results in the revision of internal parking within Block B only, to provide for a single internal access ramp and revised circulation and car parking layout
 - does not result in any change in the number of internal car parking, bicycle parking, or motorcycle parking spaces
 - only change proposed to the permitted car parking quantum is the addition of two accessible parking spaces at ground level, to the east of Block B, in order to provide accessible parking in close proximity to the permitted duplex units to the rear of Block B.

- **Increase in the floor to floor heights of both blocks by 75mm to provide for floor to floor heights of 3 metres throughout;**
 - an adjustment to the floor to floor heights within both blocks, to provide for floor to floor heights of three metres throughout (an increase of 75mm from 2925mm to 3000mm)
 - will allow for the provision of required sprinkler systems, mechanical and electrical services, and will also facilitate the provision of level access to the external amenity terraces located at eight floor level of Block B
 - will not result in a change in the maximum overall height of the proposed development, with the top parapet level of the permitted development remaining at +64.5 metres above datum.
 - the height above ground level of the building has altered slightly along each frontage, to reflect the alteration to finished floor levels at ground floor level and above, thereby avoiding stepped entry points and allowing for a more open and interactive street frontage
- **Alteration (lowering) of the FFL of the ground floor of the duplex units to the rear of Block B, to provide for level access from the adjacent landscaped area and to follow the gradient of existing roads / routes;**
 - so as to align the FFLs with the level of the adjoining landscaped area, thereby providing for level access to these units. This will result in improved accessibility and a building profile at ground floor level that more closely follows the existing gradient of the subject site.
- **Reconfiguration of stair and lift cores and associated ancillary internal reconfiguration within both blocks to facilitate Part M compliance and meet fire safety requirements;**
 - results in consequential minor alterations to floorplans at all levels, including immaterial modifications to residential unit floorplans.
 - all units remain fully aligned with the SPPRs of the 2020 Apartment Guidelines.
 - no change to the number or type of apartment units from the permitted development as a consequence of the reconfiguration of stair and lift cores

- **Alterations to the permitted building facades of both blocks, to reflect adjustments made to stair and lift cores, adjustment to parapet heights (uppermost parapet level remains unchanged), and the addition of fire escape doors;**
 - changes to internal floor to floor heights to accommodate fire safety and mechanical/electrical requirements will have the impact of altering parapet heights externally within the development on both of the permitted blocks
 - as previously noted the overall maximum height of the development, and the level of the uppermost parapet will remain unchanged.
 - while the parapet heights have altered slightly, there is also a minor additional level of alteration in terms of height of the buildings above ground level. This is due to the alteration of proposed site levels across the site, to better tie in to the existing gradient and ground level. Having regard to this, while the dimensions of some built elements will be greater, the height of the top parapet above OS datum remains unchanged.
 - the relocation of the lift core to directly adjacent to the façade in stair core A1, which is reflected in the modified elevations with an alteration to external fenestration resulting from this change.
 - proposed to provide hit and miss brick ventilation areas in the rear and eastern façades of Block B, to provide natural ventilation for internal car park areas
 - additional fire escape doors are also provided to the south elevation of Block B and the eastern elevation of Block B in line with Part B requirements of the Building Regulations
 - other alterations to the permitted elevations include the internalising of access to the ESB substation in Block A, with the permitted doorway and windows to be replaced by brickwork to match the surrounding façade treatment, and
 - provision of an additional window to the corner duplex units in the eastern facades of both blocks.

- minor updates to permitted fenestration are also provided for to reflect the location of bathrooms internally within some units

- **All associated and ancillary alterations, including associated landscaping alterations.**

- a number of minor landscape alterations, which include minor improvements to the public and communal areas, in addition to being necessitated as a result of the other amendments which have been outlined above. Several of the alterations reflected in the updated landscape drawings reflect the requirements of conditions on the Board's grant of permission for the Strategic Housing Development (including the removal of gated access to the central open space at ground level, and provision of screening to terraces at upper floor levels).

3.2 The applicant states that the proposed alterations do not change the number or composition of units permitted nor do they alter the overall height in floors of the permit development. They acknowledge that the internal modifications result in a slight decrease in the quantum of commercial floor space at ground floor level within the permitted development, resulting in a total commercial floorspace of 654 sq.m (including childcare facility), compared to a total commercial floorspace of 659 sq.m as originally permitted.

3.3 The applicants state that the majority of the alterations now sought are pursuant to a detailed review of the development design by Fire consultants, with these changes required to carry out the development in compliance with the conditions of the fire safety certificate for the development. They note that Class 41(e) of Schedule 2 of the Planning and Development Regulations 2001, as amended, provides that development in accordance with the conditions of a fire safety certificate will be exempted development, with the exception of the construction or erection of an external fire escape or water tank. They further state that the majority of the alterations now sought fall within this exemption, however they have been included as part of the scope of this Section 146B request in the interest of completeness and consistency.

4.0 Assessment

- 4.1 The proposed amendments and the justification for same are noted. I consider that an adequate justification has been put forward in this regard.
- 4.2 Many of the amendments proposed are within the footprint of the permitted building, with the exception of the two additional accessible car parking spaces at ground level adjacent to Block B. The alterations are primarily to the internal layout, with minor elevational changes proposed to accommodate these internal works. While minor amendments are proposed to the layout and floor area of some residential units, the proposed development remains in compliance with all standards as per the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities', 2020. While minor alterations are proposed to parapet heights, the maximum parapet height remains unchanged. The quantum of internal car and bicycle parking spaces remain unchanged. In my opinion, many of the proposed amendments including provision of two additional accessible car parking spaces at ground level; alterations to landscaping and amendments to car parking circulation will provide for a better quality of residential amenity than was previously permitted.
- 4.3 The amendments are not, in my opinion, material, in that they affect primarily the internal layout, do not affect the external appearance of the building to any significant extent, with the changes required to the layout not significantly impacting on the building as a whole or on other permitted apartments. Furthermore, I am of the opinion that the relevant planning issues would not be considered differently to any material extent with the layout as now proposed, and it is considered that no other planning issues would arise, had the layout as now proposed formed part of the plans at application stage.
- 4.4 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.

- 4.5 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-30594319, 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.
- 4.6 Environmental Impact Assessment: I consider that the proposed alterations do not constitute the making of a material alteration of the development concerned and in this regard the provisions of Section 146B(3)(a) apply.
- 4.7 Appropriate Assessment: A screening report was submitted with the application under ABP-305943-19 and it was concluded that that the proposed development, would not be likely to have a significant effect on any European site, in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment (and submission of a Natura Impact Statement) is not, therefore, required.
- 4.8 Having considered the Board's determination on Appropriate Assessment on ABP-305943-19 and section 10.9 of the Inspector's Report on ABP-305943-19, in addition to the minor nature, scale and extent of the alterations relative to the development, and the information on file (which I consider adequate to carry out AA Screening), I consider it reasonable to conclude that the alterations proposed, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European sites, in view of the sites' conservation objectives.

5.0 Recommendation

- 5.1 I recommend that the Board decides that the making of the alterations subject of this request do not constitute the making of a material alteration to the terms of the development as granted permission under ABP-305943-19 and that the permitted development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on 25^h August 2021.

RECOMMENDED DRAFT BORD ORDER

REQUEST received by An Bord Pleanála on the 25th day of August 2021 from John Spain Associates on behalf of Claregrove Developments Ltd. under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Strategic Housing Development at the lands at Newtown, Malahide Road, Dublin 17, which is the subject of a permission under An Bord Pleanála reference number ABP-305943-19.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 18th day of March 2020,

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

AND WHEREAS the proposed alteration is described as follows:

- Alterations to the permitted internal car and bicycle parking, motorcycle parking, and bin storage areas to improve vehicle circulation and to allow for internal accessible parking;
- Increase in the floor to floor heights of both blocks by 75mm to provide for floor to floor heights of 3 metres throughout;
- Alteration (lowering) of the FFL of the ground floor of the duplex units to the rear of Block B, to provide for level access from the adjacent landscaped area and to follow the gradient of existing roads / routes;
- Reconfiguration of stair and lift cores and associated ancillary internal reconfiguration within both blocks to facilitate Part M compliance and meet fire safety requirements;
- Alterations to the permitted building facades of both blocks, to reflect adjustments made to stair and lift cores, adjustment to parapet heights (uppermost parapet level remains unchanged), and the addition of fire escape doors;
- All associated and ancillary alterations, including associated landscaping 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 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 25th day of August 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-305943-19 for this site,
- (ii) the screening for appropriate assessment carried out in the course of that application,
- (iii) the limited nature and scale of the alterations, and

(iv) the absence of any significant new or additional environmental effects (including those in relation to Natura 2000 sites) arising as a result of the proposed alterations, and

(v) the absence of any new or significant issues relating to the proper planning and sustainable development of the area arising from the proposed alterations,

(vi) the report of the Board's Inspector

it is considered that the proposed alterations would not be material. In accordance with section 146B(3)(a) of the Planning & Development Act, as amended, the Board hereby makes the said alterations.

Lorraine Dockery

Senior Planning Inspector

07th February 2022