



An
Bord
Pleanála

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

Inspector's Report ABP-312144-21

Strategic Housing Development

Alterations to previously permitted development ABP-305979-19 to include the reconfiguration of the ground floor of Block A to allow for the subdivision of a commercial unit into a retail unit and commercial unit.

Location

Former CIE lands, Carnlough Road, Cabra, Dublin 7.

Planning Authority

Dublin City Council.

Applicant

Seven Cabra Real Estate 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 Requestor's Submission	7
6.0 Legislative Basis	8
7.0 Assessment	9
8.0 Recommendation.....	15

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-305979-19 describes the site as follows:

The site located on Carnlough Road, Cabra, Dublin 7. It is c. 3 km north-west of Dublin's city centre and c. 1km east of the Phoenix Park.

The site (c. 3.89 ha) occupies former CIE lands to the east of the Phoenix Park rail link. It has an elongated shape. Most of its eastern boundary runs along the railway, while most of its western boundary runs along the back gardens of two-storey houses on Carnlough Road. The site has a c. 35 metre road frontage onto Carnlough Road at its southern end. A small area of land to the south that adjoins the Cabra Road is not within the site area. The shorter northern boundary mainly runs along the back gardens of two-storey houses along Fassaugh Avenue, but the site also includes two narrow strips of land that run to Fassaugh Avenue, along the side of existing houses. The eastern strip is beside the railway bridge on Fassaugh Avenue, the western one provides access to an ESB sub-station. The levels in the area generally fall from west to east and from north to south.

The area around the site is characterised by two-storey houses from the mid-20th century. The frontage of the site onto Carnlough Road is c. 400 metres from shops and a library at the bottom of the Navan Road and c. 1km walk from the Luas Stop at Phibsborough. The northern end of the site on Fassaugh Avenue is c. 600 metres from the Luas stop at Cabra and c. 1.1 km from the train station at Broombridge. It is also close to the local GAA clubhouse and c. 200 metres from a parade of shops.

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

3.0 Planning History

3.1. Subject Permission ABP-305979-19

3.1.1. The Board granted permission on 18th March 2020 for the following development at the subject site:

- Construction of 485 number residential units (484 number apartments and one number house) comprising of 33 number studios, 137 number one-bed, 271 number two-bed and 44 number three bed-units and a neighbourhood centre.
- Nine number Blocks (A – I) ranging in height from part single / part two number storey to eight number storeys:
 - Block A to comprise of 89 number apartment units, consisting of 22 number one-bed and 67 number two-bed units and a neighbourhood centre comprising of four number units, comprising of Unit 1 retail / café/ restaurant use (120.6 square metres), Unit 2 a convenience supermarket with ancillary off licence (1627 square metres), and Unit 3 retail / café/ restaurant use (230 square metres), and one number gym unit (617.9 square metres),
 - Block B to comprise of 24 number apartment units, consisting of 24 number two-beds and the provision of residential amenity space and a creche facility (351.9 square metres) at ground floor level,
 - Block C to comprise of 24 number apartment units, comprising of one number one-bed, 15 number two-bed and eight number three-beds,
 - Block D to comprise of 120 number apartment units, comprising of 17 number studios, 44 number one-beds, 53 number two-beds and 6 number three-beds and the provision of resident lounges and communal terraces at roof level,
 - Block E to comprise of 24 number apartment units, comprising of five number one-bed 11, number two-beds and eight number three-beds,
 - Block F to comprise of 123 number apartment units, comprising of 16 number studios, 49 number one-beds, 52 number two-beds and six

number three-beds and the provision of resident lounges and communal terraces at roof level,

- Block G to comprise of 80 number apartments, comprising of 16 number one-beds, 49 number two-beds and 15 number three-beds,
 - Block H to comprise of resident amenity space including meeting rooms, postal storage, reception, co working space and cinema room (382.2 square metres),
 - Block I to comprise of one number three bed-two storey house at Number 2 Carnlough Road.
- The development also includes 403 number car parking spaces (375 number at basement level (305 number to serve the residential units and 70 number to serve the retail units) and 28 number at surface level (20 number to serve the residential units and eight number to serve the retail units) and 488 number bicycle parking spaces (368 number at basement level and 120 number at surface level), public and communal open space, private open space associated with each residential unit, landscaping, children's play area, fascia signage associated with each retail unit, resident amenities including gym, meeting rooms, postal storage centre, and reception, co working spaces, resident lounges and roof top terraces, a service / loading bay located to the rear of Block A along the western boundary of the site, three number substations and switch rooms, pump room, access gates to the north access point off Faussagh Avenue, upgrades to the road junction at Carnlough Road and Cabra Road, provision of photovoltaic panels at roof level of all blocks and all associated ancillary site development works necessary to facilitate the development.
 - The development is to amend and supersede a development previously being undertaken on site, pursuant to and in accordance with Strategic Housing Planning Permission Ref: ABP-300492-17.
 - The application was subject to Environmental Impact Assessment Screening and Appropriate Assessment Screening.

3.1.2. The Board granted permission subject to 25 no. conditions. Condition no. 2 required the following amendments:

- (a) In Block F and Block D all apartments shall have a doorway leading from the living / dining area to the balcony.
- (b) In Block I the corner window serving bedroom number two shall at first floor be opaque to the northern elevation.
- (c) A landscape strip with a minimum depth of 1.5 metres shall be provided in the roof level terraces of Blocks D and Block F on the northern gable of Units D1.58 and D2.62 and F1.58 and F2.65 to protect the privacy and amenity of the adjoining bedrooms.

Reason: In the interest of residential amenity

Condition no. 3 required amendments to the roads, pedestrian and cycle layout in order to comply with the requirements and specifications of the Design Manual for Urban Roads and Streets (DMURS). Condition no. 8 (e) specified that:

The initial uses of units one, two and three of Block A shall be within Classes 1 or 2 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001 as amended, or as a restaurant or café. If uses as a restaurant or café is proposed the submitted details shall include detail of the air handling and ventilation.

Reason: In the interests of visual and residential amenity.

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

- 3.2. A detailed planning history of the development site is set out in the Inspector's Report of ABP-305979-19.

4.0 Requested Alterations

- 4.1. The requested alterations relate to Block I, a two storey house at Number 2 Carnlough Road, Block A at the southern end of the overall development and Blocks D and F at the eastern side of the development, facing the railway line. The following alterations to ABP-305979-19 are requested:

- Reconfiguration of the ground floor of Block A to allow for the subdivision of a commercial unit into a retail unit and commercial unit with consequential changes to the elevations and substation/switchroom arrangements.
- Provision of new substations/switchrooms to Blocks D and F and consequential changes to the elevations and residential units of both blocks.
- Minor reconfigurations to the internal layouts of Blocks D and F and to the unit sizes and types to facilitate the requested alterations.
- The requested alterations to Blocks D and F will change the overall apartment mix from 33 no. studios, 137 no. 1 bed, 271 no. 2 bed and 44 no. 3 bed units to 34 no. studios, 134 no. 1 bedroom units, 273 no. 2 bed and 44 no. 3 bed units. There is no change to the overall number of residential units (485 no.) or to the gross floor area (49,208.7 square metres).

5.0 Requestor's Submission

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

- The requested alterations are proposed to implement design improvements and efficiencies identified subsequent to the grant of planning permission, following a more detailed review by a wider team of design consultants. An end user has been identified for the commercial unit, to be used as a gym, which has specific operational requirements that would not be met by the permitted development in its current form. The requested alterations are to meet these requirements. The alterations also involve the subdivision of the commercial unit, resulting in the creation of an additional retail unit.
- The requested alterations to the permitted ESB substations on site are due to operational requirements.
- The requested alterations will result in a reconfiguration of the layout of the permitted apartments within the Blocks D and F, which will marginally alter the unit sizes and types. The overall gross floor area remains unchanged. It is submitted that these changes to the layout are considered minor in the overall context of the development.

- All units which are affected by these minor amendments remain in full compliance with the relevant standards as set out in the Apartment Guidelines 2020.
- It is submitted that the requested alterations are not considered to be material when considered against the overall development and are unlikely to have significant effects on the environment, given the nature of the alterations proposed, the consistency of the proposed alterations with the land use zoning and permitted residential use and the negligible impact on adjoining landowners or residents.
- It is submitted that the requested alterations are justified in the context of national planning policy and the Dublin City Development Plan 2016-2022.
- It is submitted that the requested alterations could not reasonably be expected to have any significant effects on the environment as per the findings of the AA Screening Report which was submitted as part of the original application.

5.2. The requestor has included the following documentation:

- Planning Report (includes consideration of EIA and AA)
- Operational Waste Management Strategy Amendment
- Engineering Statement / Letter in relation to site services and surface water drainage.
- Project Construction Management Plan
- Construction and Demolition Waste Management Plan
- Housing Quality Assessment
- AA Screening Report
- 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 requestor 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-305979-19 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 site zoning, housing mix and quality of residential accommodation, design and layout, impacts on visual and residential amenities, site services, surface water drainage, flood risk, movement and transport issues. These matters may be considered separately as follows. Potential environmental impacts are considered separately below in the context of AA and EIA screening.

7.1.2. Land Use Zoning

The site is subject to two separate zoning objectives under the Dublin City Development Plan 2016-2022. The northern part of the site has the zoning objective Z1 'To protect, provide and improve residential amenities'. The residential blocks D and F are located in this part of the site. They are consistent with the zoning objective and the permitted residential use is unchanged in the requested alterations.

The southern part of the site has the zoning objective Z3 'To provide for and improve neighbourhood facilities'. Block A is located in this part of the site. The use 'shop (neighbourhood)' is permissible under this zoning objective and development plan section 14.8.3 states in relation to Z3 zoned areas:

These are areas that provide local facilities such as small convenience shops, hairdressers, hardware etc. within a residential neighbourhood and range from the traditional parade of shops to neighbourhood centres. They may be anchored by a supermarket type development of between 1,000 sqm and 2,500 sqm of net retail floorspace. They can form a focal point for a neighbourhood and provide a limited range of services to the local population within 5 minutes walking distance.

Neighbourhood centres provide an essential and sustainable amenity for residential areas and it is important that they should be maintained and strengthened, where necessary. Neighbourhood centres may include an element of housing, particularly at higher densities, and above ground floor level. When opportunities arise, accessibility should be enhanced.

The permitted and requested floor areas at the ground floor of Block A are as follows (as per submitted drawings and excluding circulation areas, refuse storage and other ancillary uses):

Unit	Permitted Floor Area	Proposed Floor Area
Retail Unit 1	120.6 sq.m.	125 sq.m.
Retail Unit 2 (Anchor)	1,627 sq.m. (excluding service areas)	1,975 sq.m. (including service areas)
Retail Unit 3	230 sq.m.	290 sq.m.
Retail Unit 4	N.A.	95 sq.m.
Gym	617.9 sq.m.	400 sq.m.

The permitted and requested uses are all in accordance with the Z3 objective and I consider that the above changes in the floor areas of individual units will not give rise to any new considerations in terms of consistency with this zoning objective.

Condition no. 8 (e) of ABP-305979-19 specifies that the initial uses of units one, two and three of Block A shall be within Classes 1 or 2 of Part 4 of Schedule 2 of the Planning and Development Regulations, 2001 as amended, or as a restaurant or café. Classes 1 and 2 of Part 4 of Schedule 2 specify the following uses:

CLASS 1

Use as a shop.

CLASS 2

Use for the provision of—

(a) financial services,

(b) professional services (other than health or medical services),

(c) any other services (including use as a betting office), where the services are provided principally to visiting members of the public.

I am satisfied that the requested alterations come within the scope of this requirement and are therefore consistent with condition no. 8 (e).

7.1.3. Housing Mix and Quality of Residential Accommodation

The requested alterations do not involve any change to the total number of housing units. They involve the following changes to the permitted housing mix:

Unit Type	Permitted	Proposed
Studio	33 (7%)	34 (7%)
One bed apt	137 (28%)	134 (28%)
Two bed apt	271 (56%)	273 (56%)
Three bed apt	43 (9%)	43 (9%)
Three bed house	1 (< 1%)	1 (<1%)
Total	484	484

I consider that the requested changes to the housing mix are marginal and note that they do not involve any increase in the total GFA of the permitted development. Given that the alterations involve three no. fewer three-bed apartments, to be replaced by an additional studio unit and two additional two-bed apartments, they will not result in any substantial increase in population at the overall development from that already permitted, such as would have any significant impact in terms of new planning and development or environmental considerations.

The submitted Planning Report and Housing Quality Assessment address consistency with the requirements of the Apartment Guidelines and section 16.10 of the Dublin City Development Plan 2016-2022. 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. Design and Layout, Impacts on Visual and Residential Amenities

There is no substantial change to the built form of the blocks in question or to the layout of the development. The requested alterations will not result in any change to the quality or quantity of external communal amenity space or public open space. There is no increase in the overall area or height of the proposed scheme. The requested internal reconfigurations will result in minor changes to external alterations, mainly at ground floor level.

I consider that the requested alterations to the external elevations are minimal. I am satisfied, with regard to the submitted drawings, that they will not result in any

significant change to impacts on visual or residential amenities from those of the permitted development.

No new considerations arise in terms of building height.

7.1.5. Site Services, Surface Water Drainage and Flood Risk

As per the submitted Engineering Statement / Letter, the alterations do not involve any significant changes to site services or to surface water impacts or flood risk. I am satisfied that the requested alterations will have negligible impacts on water supply, foul water disposal, surface water drainage or flood risk.

7.1.6. Movement and Transport Issues

A total of 402 no. car parking spaces were permitted under ABP-305979-19, 375 no. basement spaces and 28 no. surface spaces, comprising:

- 325 no. spaces to serve the residential units including 6 no. car club spaces (0.67 spaces per unit).
- 70 no. basement level spaces to serve the retail elements and 8 no. surface spaces are proposed to serve the retail and creche elements.

This quantum does not meet the car parking standards of the Dublin City Development Plan 2016-2022, but was considered acceptable in the context of the guidance on car parking set out in the Apartment Guidelines, as per section 13.6.3 of the Inspector's Report of ABP-305979-19. The quantum of parking for the apartments and retail units is unchanged from that permitted under the requested alterations. However, a single car parking space serving Block I, the standalone house, an on-curtilage parking space accessed via Carnlough Road, is to be omitted to allow for the provision of a larger front garden and to permit the inclusion of manhole covers for the drainage services. This minor reduction in the total parking quantum is considered acceptable given the accessible location of the site and I do not consider that the omission of a single car parking space would result in a material change to the permitted development such as would warrant a reconsideration of movement and transport issues.

There are no changes to the permitted quantum of cycle parking.

The requested alterations do not involve any significant changes to the permitted roads/ pedestrian/ cycle layout.

I am satisfied on this basis that no new issues arise in terms of traffic or transportation impacts.

7.2. Consideration of Materiality Conclusion

- 7.2.1. 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 generally 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.
- 7.2.2. Having considered the requested alterations and having considered the development permitted under ABP-305979-19, I consider that the Board would not have determined ABP-305979-19 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-305979-19. 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.
- 7.2.3. 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-305979-19, and the information on ABP-305979-19 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.

7.4. Appropriate Assessment

- 7.4.1. Under ABP-305979-19 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-305979-19, section 12.0 of the Inspector's Report on ABP-305979-19, the submitted AA Screening Report dated November 2021, the nature, scale and extent of the requested alterations relative to the development subject of and approved under ABP-305979-19, 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-305979-19 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 8th December 2021 from Seven Cabra Real Estate Limited under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Strategic Housing Development at Former CIE lands, Carnlough Road, Cabra, Dublin 7, which is the subject of a permission under An Bord Pleanála reference number ABP-305979-19.

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

- Reconfiguration of the ground floor of Block A to allow for the subdivision of a commercial unit into a retail unit and commercial unit with consequential changes to the elevations and substation/switchroom arrangements.
- Provision of new substations/switchrooms to Blocks D and F and consequential changes to the elevations and residential units of both blocks.
- Minor reconfigurations to the internal layouts of Blocks D and F and to the unit sizes and types to facilitate the requested alterations.
- The requested alterations to Blocks D and F will change the overall apartment mix from 33 no. studios, 137 no. 1 bed, 271 no. 2 bed and 44 no. 3 bed units to 34 no. studios, 134 no. 1 bedroom units, 273 no. 2 bed and 44 no. 3 bed units. There is no change to the overall number of residential units (485 no.) or to the gross floor area (49,208.7 square metres).

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 18th 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-305979-19 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 alteration would not be material. In accordance with section 146B(3)(a) of the Planning & Development Act, as amended, the Board hereby makes the said alteration.

Sarah Moran
Senior Planning Inspector
2nd May 2022