



An
Bord
Pleanála

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

Inspector's Report ABP-312215-21

Strategic Housing Development

Alterations to previously permitted development ABP-305940-19 to provide for sprinkler protection at the Lower Ground Floor Level.

Location

Former Aldi Site, Carmanhall Road,
Sandyford Business District, Co.
Dublin

Planning Authority

Dun Laoghaire Rathdown County
Council.

Applicant

Sandyford GP Limited.

Date of Site Inspection

31st March 2022

Inspector

Sarah Moran

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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-305940-19 describes the site as follows:

The subject site has stated area of 1.56 and is located in Sandyford, Dublin 18. It is at the northern end of the Sandyford Business Estate. The site is bound to the north by Blackthorn Drive (North) and to the south, by Carmanhall Road. The Stillorgan Luas stop and park and ride facility are directly to the north of the site. The Lakelands estate is located beyond the Luas line further to the north.

The site is a brownfield site with hardstanding and a derelict building on its southern end. Ground levels slope from south to north with a level difference of c. 5 metres between Carmanhall Road and Blackthorn Drive.

There is an unfinished mixed-use scheme to the immediate west of the site called the 'Rockbrook' development. Permission was granted on this site in 2005 for a mixed-use development comprising retail, commercial and residential uses in 6 no. 5-14 storey blocks. Two blocks (Blocks A and D) in the northern section of the site have been completed. These contain retail and commercial units at ground floor level and residential on the upper floors. Block C known as the 'Sentinel' building is a 6-14 storey office tower in the south west corner of the site. This building is completed to floor plate stage and permission was granted in 2017 to complete the building (PA Ref. D16A/0991). The south east section of the 'Rockbrook' site to the immediate west of the subject site is unfinished. The Board granted planning permission in August 2019 for 428 no. apartments, 4 no. retail units and a crèche on this part of the site (ABP-304405-19). The approved development includes a pedestrian connection into the subject site.

To the east of the site, there are office / commercial developments (1-4 storeys) with frontage onto the Ballymoss Road to the east. To the south, there are office /

commercial developments of c. 1-2 storeys with frontage onto Corrig Road. The 'Beacon South Quarter', a mixed-use development of residential, commercial and retail land uses is located to the south east of the site on the opposite (southern) side of Carmanhall Road.

2.2. Construction works were underway at the site when it was inspected on 31st March 2022.

3.0 Planning History

3.1. Subject Permission ABP-305940-19

3.1.1. The Board granted permission on 12th March 2020 for the following development at the subject site:

- Demolition of the existing structures on site and the provision of a Build-to-Rent residential development comprising 564 number apartments:
 - 46 number studio apartments,
 - 205 number one-bed apartments,
 - 295 number two-bed apartments and
 - 18 number three-bed apartments
- In six number blocks as follows:
 - Block A (144 number apartments) is part 10 to part 11 number storeys over basement;
 - Block B (68 number apartments) is eight number storeys over basement;
 - Block C (33 number apartments) is five number storeys over lower ground;
 - Block D (103 number apartments) is part 16 to part 17 number storeys over lower ground;
 - Block E (48 number apartments) is 10 number storeys over semi-basement; and
 - Block F (168 number apartments) is 14 number storeys over semi-basement.

- The development provides resident amenity spaces (1,095 square metres) in Blocks A, C and D including concierge, gymnasium, lounges, games room and a panoramic function room at roof level of Block D; a creche (354 square metres); café (141 square metres); a pedestrian thoroughfare from Carmanhall Road to Blackthorn Drive also connecting into the boulevard at Rockbrook to the west; principal vehicular access off Carmanhall Road with servicing and bicycle access also provided off Blackthorn Drive; 285 number car parking spaces (254 number at basement level and 31 number at ground level); 21 number motorcycle spaces; set-down areas; bicycle parking; bin storage; boundary treatments; hard and soft landscaping; lighting; plant; Electricity Supply Board substations and switchrooms; sedum roofs; and all other associated site works above and below ground.

3.1.2. The application was subject to Environmental Impact Assessment and Appropriate Assessment Screening.

3.1.3. The Board granted permission subject to 34 no. conditions. None of the conditions imposed involved any significant changes to the proposed development.

3.1.4. There is a detailed planning history relating to the development site and to the adjacent Rockbrook development to the immediate west, which is set out in the Inspector's Report of ABP-305940-19. Permission was recently granted under ABP-311722-21 for an SHD to the immediate east of the development site comprising demolition of the existing building on site, construction of 190 no. Build to Rent apartments in two blocks up to 15 storeys, and associated site works.

4.0 Requested Alterations

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

- Provision of sprinkler system fire protection at Lower Ground Floor level (Level 0).
- Associated provision of a new plant area of 198 square metres at the western side of the Lower Ground Floor level (Level 0) to accommodate sprinkler tanks.

- Reorganisation and rationalisation of the layout of the Lower Ground Floor level (Level 0) to accommodate the amended plant area requirements and access to same which affects the area of various permitted spaces within Level 0.
- Rearrangement of cycle, motorbike and car parking layouts.
- Minor adjustment to the external basement wall at the eastern boundary of the site.
- Change in Floor Area at Level 0 from 10,284 square metres as permitted to 10,533 square metres (increase by 249 square metres / 2.4%) to accommodate the 198 square metres plant area and 51 square metres arising from rationalisation of spaces and adjustment of cranked wall.

5.0 Requestor's Submission

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

- The requested alterations arise on foot of the requirements of the Fire Safety Officer and are required to comply with the Fire Safety Certificate issued in respect of the permitted development.
- The alterations relate to the Lower Ground Floor Level 0 only and thus affect a marginal proportion of the overall scheme.
- The total floor area of the permitted scheme (including carpark L0 & L1) is 58,931 sq.m. Thus, the additional 249 sq.m represents an increase in the total floor area of the scheme by 0.4% and the majority of this additional area is to accommodate plant associated with the sprinkler system.
- A schedule of the permitted and revised floor areas at Level 0 is submitted.
- There is no change to the permitted quantum of residential development.
- The requested alterations do not involve any change to the permitted quantum of car, motorbike and cycle parking spaces permitted at this level. However, the alterations involve a change to the type of cycle parking provided as follows:

Type of Cycle Parking	Permitted	Proposed
Car Parking Spaces	254	254
Motorbike Spaces	21	21
Cycle Parking		
Sheffield Stands	786	192
Stackers	102	696
Total Cycle Parking	888	888

- The proposed sprinkler tanks are located in an area of the basement that would otherwise be subject to piling works.
- The requested minor adjustment to the external basement wall at the eastern boundary of the site is subterranean and thus does not affect the elevation of the building facing Blackthorn Drive.
- In the overall context of an application for 564 no. apartments, commercial units, public and communal open spaces and car-parking and cycle parking, there are no material changes to any element of the permitted scheme in terms of impact on the apartments, public and communal spaces and the provision of car and cycle parking spaces.
- The requestor submits that the requested alterations are modest in nature and do not give rise to any new considerations to those considered by the Board under ABP-305940-19, or to any significant new planning or environmental impacts and are therefore non-material.

5.8. The requestor has included the following documentation:

- Planning Report dated 14th December 2021 (includes comment on EIA and AA)
- Details of Fire Safety Certificate.
- Permitted and proposed basement layouts

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-305940-19 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 impacts on visual and residential amenities, site services, surface water drainage, traffic and transportation and environmental impacts. The following points are noted in relation to these matters:

- The requested alterations do not involve any change to the overall quantum of residential development or housing mix.
- The requested increase in GFA is marginal and does not involve any change of use or intensification of a permitted use.
- There is no change to the permitted quantum of car, cycle or motorcycle parking. The requested change in the nature of the permitted cycle parking is considered to be minor in nature, such as would normally be addressed by condition. No new issues arise in terms of traffic or transportation impacts.
- The requested alterations will not result in any change to impacts on residential or visual amenities from those of the permitted development
- There are no substantial changes to the built form or to the overall layout of the development.
- The alterations do not involve any changes to site services or to surface water impacts or flood risk. The requested alterations will have negligible impacts on water supply, foul water disposal, surface water drainage, and no significant flood risk. The requested alterations will not result in any further impacts or additional mitigation measures.

7.1.2. Having regard to the submitted particulars, 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.

- 7.1.3. 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 Lower Ground Floor layout 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-305940-19, I consider that the Board would not have determined ABP-305940-19 any differently 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-305940-19. 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-305940-19, and the information on ABP-305940-19 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 comment on EIA, dated 14th December 2021, is noted in this regard.

7.4. Appropriate Assessment

- 7.4.1. Under ABP-305940-19 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-305940-19, section 12.0 of the Inspector's Report on ABP-305940-19, the submitted AA comment dated 14th December 2021, the nature, scale and extent of the requested alterations relative to the development subject of and approved under ABP-305940-19, 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 alterations which are subject of this request do not constitute the making of a material alteration of the terms of the development as granted permission under ABP-305940-19 and that it makes the alterations under section 146B(3)(a) of the Planning and Development Act, as amended.

DRAFT ORDER

REQUEST received by An Bord Pleanála on the 14th December 2021 from Sandyford GP Limited under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Strategic Housing Development at the Former Aldi Site, Carmanhall Road, Sandyford Business District, Dublin 18, which is the subject of a permission under An Bord Pleanála reference number ABP-305940-19.

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 12th 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:

- Provision of sprinkler system fire protection at Lower Ground Floor level (Level 0).
- Associated provision of a new plant area of 198 square metres at the western side of the Lower Ground Floor level (Level 0) to accommodate sprinkler tanks.
- Reorganisation and rationalisation of the layout of the Lower Ground Floor level (Level 0) to accommodate the amended plant area requirements and access to same which affects the area of various permitted spaces within Level 0.
- Rearrangement of cycle, motorbike and car parking layouts.
- Minor adjustment to the external basement wall at the eastern boundary of the site.

- Change in Floor Area at Level 0 from 10,284 square metres as permitted to 10,533 square metres (increase by 249 square metres / 2.4%) to accommodate the 198 square metres plant area and 51 square metres arising from rationalisation of spaces and adjustment of cranked wall.

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 14th 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-305940-19 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
2nd May 2022