



An
Bord
Pleanála

Inspector's Report

ABP-321068-24

Development

Proposed alterations to previously approved ABP-318607-23, construction of a residential-led mixed-use scheme across sixteen blocks within nine buildings ranging in height from four to fifteen storeys

Location

Lands at Park West Avenue, Cherry Orchard, Dublin 10

Planning Authority

Dublin City Council (DCC)

Requester

The Land Development Agency (LDA) on behalf of Dublin City Council (DCC)

Type of Application

Application under section 146B of the Planning & Development Act, 2000 (as amended), to alter previously approved section 175 (3) development

Inspector

Anthony Kelly

Date of Site Inspection

17th April 2024 (under ABP-318607-23)

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1.0 Introduction

- 1.1. The applicant has made a request to An Bord Pleanála under section 146B of the Planning & Development Act, 2000 (as amended), to alter the approval granted under ABP Reg. Ref. ABP-318607-23 for a development on land in Cherry Orchard in the western area of Dublin city.
- 1.2. The approved development comprised a ten year permission for a residential-led mixed-use scheme containing 708 apartments (547 cost rental and 161 social/affordable units), a convenience retail supermarket, independent retail/commercial units, internal and external community and arts/cultural spaces, a childcare facility, open space areas, and all associated site and development works. The proposed development represents phase 1 of the overall planned development for Development Sites 4 and 5 of the Park West Cherry Orchard Local Area Plan 2019 (LAP) lands.
- 1.3. Approval was granted subject to conditions on 9th July 2024. The application had been made under section 175 (3) of the Act (as amended). Applications under section 175(3) are made by or on behalf of local authorities when it is proposed to carry out development within its functional area in respect of which an Environmental Impact Assessment Report (EIAR) has been prepared.

2.0 Site Location and Description

- 2.1. The original Inspector's Report (IR) for ABP-318607-23 dated 8th May 2024 describes the site as follows.

'The site is located in the western area of Dublin city. Park West and Cherry Orchard railway station and the Dublin-Kildare railway line are immediately adjacent to the south of the site and the M50 is adjacent to the west.

Park West Avenue runs along the eastern site boundary. The residential development of Cedarbrook (two to four storeys in height) is on the east side of Park West Avenue. There is also an area subject to future development and the two-storey Barnville Park estate to the south east. South of the railway line there is a mixed-use area including

the eight-storey residential Crescent building and Park West Business Park. The M50 is to the west, at a higher ground level than the subject site.

The site subject of the planning application forms part of a larger site which is to also comprise future phases 2 and 4 of a wider masterplan development (phase 3 is on the opposite side of Park West Avenue). The overall site is relatively flat. It is undeveloped and is surfaced in grass/scrubland with some areas of hardstanding toward the southern area. There are some trees/hedgerows through the site. There is a palisade fence along the western and northern boundaries.

The site subject of the planning application has an area of 6.27 hectares (4.87 hectares net). The overall site to the west of Park West Avenue (phases 1, 2, and 4) is approx. 11.5 hectares. The overall masterplan area (phases 1-4) is approx. 13 hectares’.

3.0 Legislative Provisions

- 3.1. Section 146B (1) of the Planning & Development Act, 2000 (as amended), provides that, subject to subsections (2) to (8) and to section 146C, upon the request of any person who is carrying out or intending to carry out a strategic infrastructure development¹, the Board may alter the terms of the development the subject of planning permission, approval, or other consent granted.
- 3.2. Subsection 2(a) states that as soon as practicable after making such a request, the Board is required to make a decision as to whether the making of the alteration to which the request relates would constitute a material alteration to the development concerned.
- 3.3. Subsection (2)(b) states that before making its decision under this subsection the Board may invite submissions as it considers appropriate, and it is required to have regard to any submissions made to it on foot of the invitation.
- 3.4. Subsection (3)(a) states that if the Board decides that the making of the alteration would not constitute a material alteration, it is required to alter the planning

¹ Section 2 of the Planning & Development Act, 2000 (as amended) includes ‘any proposed development by a local authority referred to in section 175(1) ...’ in its interpretation of ‘strategic infrastructure development’.

permission/approval/consent accordingly and to notify the requester and the planning authority(s) concerned of the alteration.

3.5. Subsection (3)(b) states that if the Board decides that the making of the alteration would constitute the making of a material alteration, it is required to:

- Request the information specified in Schedule 7A, unless it or an EIAR has already been provided by the requester (subsection (3)(b)(i)). This information is required to be accompanied by any further relevant information on the characteristics of the alteration and its likely significant effects on the environment including, where relevant, information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to EU legislation other than the EIA Directive have been taken into account (subsection (3A)) and can include a description of mitigation measures (subsection (3B)).
- Following the receipt of such information, determine whether to make the alteration, make an alteration of the terms of the development which differs from the proposed alteration (subject to it not representing a more significant alteration), or refuse to make the alteration (subsection (3)(b)(ii)).

3.6. Under subsection (4), before making a determination under sub-section (3)(b)(ii), the Board is required to determine whether the extent and character of the alteration being requested, or being considered by the Board, would be likely to have significant effects on the environment.

3.7. Under subsection (5), if the Board determines that no significant environmental effects will arise, it shall make a determination under subsection (3)(b)(ii). If the Board determines that significant effects will arise, the provisions of section 146C apply. This relates to the preparation of an EIAR.

3.8. Subsection (7)(a) states that the Board, in making its determination under subsection (4), is required to have regard to:

- the criteria for the purposes of determining which classes of development are likely to have significant effects on the environment set out in any regulations made under section 176,

- the criteria set out in Schedule 7 to the Planning & Development Regulations, 2001,
- the Schedule 7A information submitted by the requester,
- the further relevant information, if any, referred to in subsection 3A and the description, if any, referred to in subsection 3B,
- the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to EU legislation other than the EIA Directive, and,
- whether the development is located in or would have potential to impact on a European site, or a recognised or protected area of natural heritage.

3.9. Under subsection (7)(b), the Board is required to include in its determination, the main reasons and considerations, with reference to the relevant criteria listed in Schedule 7 to the Planning & Development Regulations 2001, on which the determination is based.

3.10. Under subsection (8)(a), before making a determination under subsection (3)(b)(ii) or (4) the Board is required to require the requester to make information about the alteration available for inspection, notify appropriate persons that the information is available, and invite submissions or observations from these persons. Under subsection 8(b) the Board is required to have regard to these submissions in its determination.

4.0 Planning History

4.1. The development description for the parent application on site, ABP-318607-23, is as follows, as per paragraphs 3.1-3.3 of the original IR dated 8th May 2024.

‘The proposed development is for a ten year permission for a residential-led mixed-use scheme containing 708 no. apartments (547 no. cost rental and 161 no. social/affordable units), a convenience retail supermarket, independent retail/commercial units, internal and external community and arts/cultural spaces, a childcare facility, open space areas, and all associated site and development works.

The proposed development represents phase 1 of the overall planned development for Development Sites 4 and 5 of the Park West Cherry Orchard Local Area Plan 2019 (LAP) lands.

The proposed development has an overall gross floor area (GFA) of 66,398.8sqm. It involves the construction of 16 no. blocks contained within 9 no. buildings ranging in height from 4 to 15 storeys comprising 28 no. studio units, 263 no. one-bed apartment units, 368 no. two-bed apartment units (52 no. three-person and 316 no. four-person), and 49 no. three-bed apartment units (59,022.8sqm residential GFA), a convenience retail supermarket (2,523sqm GFA), 7 no. retail/commercial units (373sqm GFA), community, arts, and cultural spaces across 13 no. units (1,222sqm GFA), external events spaces and community gardens (1,157sqm GFA), a childcare facility (672sqm GFA), and all ancillary and sundry accommodation e.g. refuse stores, cycle stores, and substations (2,586sqm GFA). The block-by-block description is:

- Building 1 (4,594sqm GFA) contains 24 no. apartments, a convenience retail supermarket and associated ancillary accommodation in a five-storey block above an additional car parking storey to the rear (six floors in total). 2,226sqm communal open space as a landscaped podium courtyard is shared between buildings 1, 2A, 2B, and 3.*
- Building 2A (3,084.8sqm GFA) contains 27 no. apartments, 4 no. retail/commercial units and associated ancillary accommodation in a six-storey block.*
- Building 2B (10,096sqm GFA) contains 110 no. apartments, 3 no. retail/commercial units, community and arts/cultural space and associated ancillary accommodation in a fifteen-storey block.*
- Building 3 (3,611sqm GFA) contains 35 no. apartments, community and arts/cultural space including provision for a Dublin City Council (DCC) Community and Estate Management Office and associated ancillary accommodation in a five-storey block.*
- Building 5A² (5,032sqm GFA) contains 54 no. apartments, a childcare facility with external play area, and associated ancillary accommodation in a six-storey block. 550sqm communal open space is shared between buildings 5A and 5B.*

² There was no building 4 proposed but there is a 'reserved site' adjacent to building 3.

- *Building 5B (2,628sqm GFA) contains 29 no. apartments and associated ancillary accommodation in a five-storey block.*
- *Building 6A (5,019sqm GFA) contains 58 no. apartments and associated ancillary accommodation in a six-storey block. 1,200sqm communal open space is shared between buildings 6A, 6B, 7A, and 7B.*
- *Building 6B (2,584sqm GFA) contains 24 no. apartments, community and arts/cultural space, and associated ancillary accommodation in a five-storey block.*
- *Building 7A (6,363sqm GFA) contains 81 no. apartments and associated ancillary accommodation in a seven-storey block.*
- *Building 7B (3,208.8sqm GFA) contains 30 no. apartments, community and arts/cultural space, and associated ancillary accommodation in a six-storey block.*
- *Building 8A (5,424sqm GFA) contains 63 no. apartments and associated ancillary accommodation in a six-storey block. 1,020sqm communal open space is shared between buildings 8A, 8B, 9A, and 9B.*
- *Building 8B (2,640sqm GFA) contains 33 no. apartments and associated ancillary accommodation in a five-storey block.*
- *Building 9A (3,791sqm GFA) contains 47 no. apartments and associated ancillary accommodation in a five-storey block.*
- *Building 9B (2,075.2sqm GFA) contains 22 no. apartments and associated ancillary accommodation in a four-storey block.*
- *Building 10A (3,664sqm GFA) contains 42 no. apartments and associated ancillary accommodation in a four-storey block. 600sqm communal open space is shared with building 10B.*
- *Building 10B (2,584sqm GFA) contains 29 no. apartments and associated ancillary accommodation in a five-storey block.*

The proposed development also provides for 6,123sqm public open space including a public plaza, multi-use playing spaces, and an outdoor fitness trail, temporary and permanent boundary treatments, 444 no. car parking spaces (328 no. residential, 99 no. supermarket/retail, 6 no. childcare, and 11 no. car sharing spaces) with 50% of these (222 no.) EV fitted and 21 no. accessible, 22 no. motorcycle spaces, 1,618

bicycle spaces (1,552 no. residential and 66 no. non-residential), new entrances from Park West Avenue, upgrading of Cherry Orchard Green, off-street cycle lanes along Park West Avenue and Cherry Orchard Green, and all associated ancillary site development infrastructure such as site clearance, public lighting, internal roads and footpaths, ESB substations, bin storage, bicycle stores, attenuation area, green roofs and PV panels etc.'

4.2. The application was accompanied by, among other documentation, an EIAR and an Appropriate Assessment (AA) Screening Report.

4.3. Approval was granted by the Board on 9th July 2024, subject to 24 conditions. Conditions of note include:

Condition 2 reduces the ten year permission period sought to seven years.

Condition 4 requires the developer to obtain the approval of DCC for the access junction layouts and the interface of the subject site with the adjacent train station plaza area.

Condition 6 requires townland and parish boundaries on site to be retained where feasible and treated appropriately, including provision of a rock/plaque/information board, with full detail to be agreed with DCC.

Condition 7 requires full details of the specific use of the retail/commercial units to be agreed with DCC prior to occupation of the units.

Conditions 9(a) and (b) require that, prior to completion of phases 1A and 1B, the relevant supermarket, retail/commercial units, community, arts, and cultural spaces, and creche, be fully fitted out and suitable for immediate occupation and operation.

4.4. There has been no other planning application specifically relevant to the site since ABP-318607-23.

5.0 Background to the Proposed Alterations

5.1. The applicant has submitted a supporting 'Planning Report' dated October 2024. Page 4 states that 'The proposed changes are as a result of the recommendations made at Further Information Stage following an application made for Fire Safety Certificate,

and the recommendations made in the grant for Disability Access Certificate, in relation to the parent scheme consented by The Board under ABP Ref. 318607-23'. Page 13 states that 'The proposed alterations have been made to comply with the requirements of Part B and Part F of the Second Schedule to the Building Regulations 1997 ... in relation to Fire Safety and with Part M of the Building Control Regulations, to comply with disability access requirements'. These parts relate to minimising the risk of fire and ensuring the safety of occupants, ventilation to ensure good indoor air quality, and the accessibility and usability of buildings.

- 5.2. The Planning Report also states that there are no changes proposed to the primary use of the scheme as consented, nor are there any amendments proposed to the building footprint, mix of uses, density, or height. Alterations are primarily confined to the interior spaces with some minor changes to the external elevation of Blocks 1-3 where the additional stairs and ventilation have been proposed.

6.0 Scope of Request

- 6.1. As per the accompanying Planning Report the proposed alterations comprise:

Block 1 – Addition of a cleaner's store at first floor level.

Block 2A – Addition of a cleaner's store at ground floor level.

Block 2B – Inclusion of a cleaner's store at ground floor and a second stairwell for fire escape purposes. This results in a change to the unit mix wherein 12 two-bed units have been amended to 12 one-bed units. Community, Arts, and Cultural Space 6 has been omitted. There are minor changes to fenestration on the north west and south west elevations and a reduction of two residential car parking spaces at upper ground floor.

Block 3 – Addition of a cleaner's WC at ground floor and a cleaner's store at first floor level.

Block 5 – Addition of two cleaner's stores at ground floor level.

Block 6 – Addition of two cleaner's stores and an accessible WC at ground floor. Change in unit mix from six two-bed four-person units to six two-bed three-person

units at levels 1-4 of Block 6A. A 30sqm increase of the external Community, Arts, and Cultural Space/Community Garden adjacent to the west of Block 6B.

Block 7 – Addition of two cleaner's stores at ground floor.

Block 8 – Addition of two cleaner's stores at ground floor.

Block 9 – Addition of two cleaner's stores and two accessible WCs at ground floor.

Block 10 – Addition of two cleaner's stores at ground floor.

6.2. (Blocks 1-3) Addition of sprinklers and ventilations in the car parking areas:

Amendments also consist of the inclusion of a water storage tank within the lower ground level between Block 3 and the supermarket following a recommendation from Dublin Fire Brigade to provide a sprinkler system in the car parking area. Further, in line with Part B and Part F, additional grilled openings have also been introduced at the lower and upper level to allow for ventilation to the car parking areas resulting in some minor amendments to the elevations on the lower levels of Block 3 (west and southwest) and upper levels of Block 1 (south).

7.0 Applicant's Case

7.1. The applicant has submitted the following documentation with the application:

- A cover letter dated 11th October 2024 which includes a letter of consent from DCC authorising the LDA to submit the planning application.
- A 'Planning Report' dated October 2024 sets out the proposed amendments and the rationale for same and considers the proposed alterations in terms of development standards of the Park West – Cherry Orchard Local Area Plan 2019³ and the Dublin City Development Plan (DCDP) 2022-2028. The alterations to the unit mix, community and arts/cultural facilities (objective CUO25 of the DCDP 2022-2028)⁴, and car parking provision are assessed. The Report considers that the unit

³ The parent application, ABP-318607-23, was approved by the Board on 9th July 2024. On 7th October 2024 DCC members approved the extension of the Park West - Cherry Orchard Local Area Plan 2019 until 4th November 2029. Therefore, the LAP under which the parent application was considered remains in effect.

⁴ Objective CUO25 (SDRAs and Large Scale Developments) requires large scale developments above 10,000sqm to provide a minimum of 5% community, arts and culture space.

mix remains consistent with the unit mix requirement under specific planning policy requirement (SPPR) 1 of the Sustainable Urban Housing: Design Standards for New Apartment Guidelines (2023), 5% community and arts/cultural use provision is still achieved, and the omission of two car parking spaces does not affect the ratio of residential car parking (0.46). The Report contains an EIA screening in consideration of the proposed amendments. It concludes that there would be no changes to the conclusions of the EIAR submitted as part of the parent application and no additional mitigation is required⁵. In terms of AA screening it is stated that the findings and conclusions of the AA Screening for the parent application remain valid and are not impacted by the proposed alterations.

- Relevant site layout plans, and plan, elevation, and section drawings.
- An undated 'Community, Arts & Cultural Spaces – Phase 1' document which supports the statement that the required 5% space remains provided for.
- A letter dated 10th October 2024 from the environmental consultant who was the project ecologist for the parent application. It concludes that no addendum to the AA Screening Report prepared for the original application is required and that the proposed alterations are not likely to have a significant effect on any Natura 2000 site either alone or in combination with other plans or projects, 'due to the minor nature of these alterations'.
- A 'Schedule of Accommodation Summary' dated 20th July 2023 and a 'Proposed – Schedule of Accommodation Summary' dated October 2024.
- A 'Housing Quality Assessment' dated 20th July 2023 and a 'Proposed – Housing Quality Assessment' dated October 2024.

8.0 Public Consultation

- 8.1. Having regard to section 146B (2)(b) of the Planning & Development Act, 2000 (as amended), I do not consider that it is necessary to invite submissions in relation to this

⁵ Section 6.1 of the Planning Report considers the proposed alterations in the context of the EIAR submitted with the parent application. Each environmental factor chapter of the EIAR is considered with the exception of Chapter 16 (Material Assets – Utilities). Notwithstanding, I consider that there would be no additional impact on this factor as a result of the proposed alterations.

application. I do not consider that the making of the alterations to which the request relates would constitute a material alteration to the development concerned, as set out in subsection 9.1 (Consideration of Materiality) of this report. In addition, I do not consider that the proposed alterations would have any impact on the residential amenity of third-party properties, the closest of which are on the opposite side of Park West Avenue, or result in any likely significant effect on any European site.

9.0 Assessment

9.1. Consideration of Materiality

- 9.1.1. The first issue in relation to this application to alter the terms of ABP-318607-23 is to determine if the making of the alterations would constitute the making of a material alteration to the terms of the development as approved. The approved development comprised a residential-led mixed-use development. There would be no change to the overall scheme in terms of primary uses, footprint, mix of uses, density, or height. Proposed alterations are primarily internal with some minor changes to the external elevations of Blocks 1-3. I consider each alteration in turn as per section 6 (Scope of Request). Relevant knock-on issues are also addressed in this subsection i.e. objective CUO25 of the DCDP 2022-2028, unit mix, car parking, and bicycle parking.
- 9.1.2. *Block 1 – Addition of a cleaner’s store at first floor level* – Drawing no. 2113-PA-BI-3-102 (High Density Area – Podium Floor Plans) dated October 2024 implies a slight labelling difference between the submitted Planning Report and the floor plan drawing in that the addition of a cleaner’s store is at podium level in Block 1. Notwithstanding this minor irregularity, the proposed 10sqm cleaner’s store is located within a corridor and its provision would not affect the floor area or configuration of any apartment. There would be a reduction in the width of an external window serving a podium-level access door (as illustrated in the respective drawing nos. 2113-PA-B1-3-300 (Sections AA & BB) dated Sept. 23 and Oct. 24, respectively) and creation of a small internal lobby area, but I consider these to be very minor internal and external alterations to the block and the building envelope would not be affected.

- 9.1.3. *Block 2A – Addition of a cleaner’s store at ground floor level* – This cleaner’s store is at upper ground floor level. It would utilise approved floor space which was not originally cited as being for any specific purpose. The floor area and/or configuration of adjacent uses e.g. cargo bike parking, risers, a ramp, or retail/commercial unit 6, would not be affected. The only amendment would be a minor relocation of doors. No external alteration would result, and I consider the proposed alteration to be negligible in terms of its impact.
- 9.1.4. *Block 2B – Cleaner’s store at ground floor and a second stairwell for fire escape purposes resulting in 12 two-bed units being amended to 12 one-bed units. Omission of Community, Arts, and Cultural Space 6. Minor changes to fenestration on the north west and south west elevations and removal of two residential car parking spaces at upper ground floor* – The proposed cleaner’s store is a space behind approved community, arts/cultural units 6, 7, and 8. No specific use was allocated to this space in the approved permission and it, in itself, would not affect the floor areas or configurations of the community, arts/cultural uses. It would have a floor area of approximately 16sqm and would require construction of a wall to separate it from the proposed stairwell. The change of use/proposed works for the cleaner’s room are entirely internal, and I consider its provision would be negligible in terms of its impact.
- 9.1.5. A new stairwell is proposed in the north west area of Block 2B. At lower ground floor level the provision of this stairwell would require the removal of a 15sqm plant room and community, arts/cultural unit 6 with a minor alteration to the elevation façade to the new street. At first floor level a 7sqm plant/comms room and a small area of corridor is to be subsumed into existing stairs with an external fire escape proposed to the south west elevation. There would be minor alterations to two one-bed apartments. At podium level a plant room would become the stairwell with minor alterations to two one-bed apartments. At levels three to five a two-bed unit has been reduced to a one-bed unit in order to accommodate the proposed stairwell. Similarly at levels six to thirteen, and level fourteen. This is twelve apartments in total. At levels three to fourteen the approved one-bed units adjoining the affected apartments are also subject of minor amendment.
- 9.1.6. As a consequence of these internal alterations there are also knock-on external alterations. However, I consider these to be limited. Respective drawing nos. 2113-PA-B1-3-200 (North East & North West Street Elevations) dated Sept. 23 and Oct. 24

illustrate that there would be a negligible visual impact on the proposed new street from the replacement of the community, arts/cultural unit with the fire escape lobby, notwithstanding the omission of an active use space with one that would not be frequently used. The main difference on the upper levels of the south west elevation (sections CC and DD on the approved and proposed '1/2/3 Sections CC, DD, EE, FF & GG' drawings) appears to be a slight repositioning of the affected windows to a slightly lower height in comparison with the window levels of the other apartments on the elevation. Notwithstanding, I do not consider that this would result in any visual incongruity. The external escape stairs at first floor level would only be visible in a very localised area. Overall, I consider these proposed alterations would have a very minor impact.

- 9.1.7. As approved, there were 69 residential car parking spaces on the upper ground floor. The proposed alterations require space for the external fire stairs which involves the slight reconfiguration of an access ramp and removal of two residential car parking spaces and very minor alteration to the car parking layout at this level. These alterations, in the context of the overall development, are not significant.
- 9.1.8. *Block 3 – Addition of a cleaner's WC at ground floor and a cleaner's store at first floor level* – The cleaner's store is at lower ground floor level. Approximately 6sqm of an approved 70.5sqm plant room is to be used for this purpose with very minor internal alterations including walls and a door to a corridor. There is no external effect. Similar to paragraph 9.1.2, drawing no. 2113-PA-BI-3-102 (High Density Area – Podium Floor Plans) implies a slight labelling difference between the submitted Planning Report and the floor plan drawing in that the addition of a cleaner's store is at podium level in Block 3. Notwithstanding this minor irregularity, the proposed 9.8sqm cleaner's store is located within a corridor and its provision would not affect the floor area or configuration of any apartment. There would be a creation of a small internal lobby area. I consider these internal alterations of Block 3 to be negligible in terms of internal impact and the building envelope would not be affected.
- 9.1.9. *Block 5 – Addition of two cleaner's stores at ground floor level* – The ground floor of building 5A is occupied by a creche. The proposed cleaner's store in the creche is currently occupied by a corridor area, part of the 1-2 year old room, and a 4.51sqm store. The minor internal configuration would result in the loss of part of a dead-end corridor, the store, and a reduction of 3.23sqm in the floor area of the 1-2 year old

room. Building 5B is residential. The approximate 4sqm cleaner's store would require a reduced floor area for a bike store. I consider these internal alterations of Block 5 to be very minor in terms of internal impact and the building envelope would not be affected.

- 9.1.10. *Block 6 – Addition of two cleaner's stores and an accessible WC at ground floor. Change in unit mix from six two-bed four-person units to six two-bed three-person units at levels 1-4 of Block 6A. A 30sqm increase of the external Community, Arts, and Cultural Space/Community Garden adjacent to the west of Block 6B* – The ground floor of Building 6A is residential. The cleaner's store in this building is created by reducing the floor area of the LV meter room by approximately 7sqm and provision of a wall and new door accessing the lobby. Building 6B comprises three community, arts, and cultural units and storage, plant etc. The cleaner's store in this building is achieved by reducing the floor area of the bike store. This does not affect the storage capacity of bikes, but the e-scooter charging area within the space would be reduced. An accessible WC is proposed in Building 6B, though no direct access is provided to it from the three community, arts, and cultural units. Its provision appears to have had a very minor impact on the floor areas of community, arts, and cultural units 1 and 3 and the water tank room. I consider that these internal alterations to the ground floor of Block 6 are very minor in terms of internal impact and the building envelope would not be affected.
- 9.1.11. The applicant states in the accompanying Planning Report that six apartment units at levels 1 to 4 are to change from two-bed four-person units to two-bed three-person units⁶. I am unclear as to how the applicant has calculated six apartments. Levels 1 to 4 implies the first to fourth floors i.e. four levels/floors. Drawing no. 2202-PA-B6/7-101 dated Oct. 2024 identifies one apartment in the western corner of Building 6A as being the relevant apartment on all four floors. No other apartment is identified. A minor internal reconfiguration is proposed but there is no change to the overall floor area of the unit or its external windows/balcony/door. It appears that the number of affected apartment units is four, and not six. This proposed amendment has a very minor internal impact and no external impact.

⁶ I note that the application cover letter states that the change in the unit mix in Block 6 is 'at first-floor level'. However, this appears to be a typographical error and I am satisfied that the change of use applies to levels 1 to 4.

- 9.1.12. The two Mitchell + Associates landscape plan drawings (approved and proposed) show the area of 'community garden' increased from 527sqm to 557sqm. It appears that this has been achieved by reducing an area of swale planting. I do not consider that this minor reduction would have significant implications in the context of the 262 linear metres of swales proposed as part of the development (as per page 16 of the Engineering Assessment Report submitted with the original application).
- 9.1.13. *Block 7 – Addition of two cleaner's stores at ground floor* – The ground floor of Building 7A is residential. The cleaner's store in this building is created by reducing the floor area of the water tank room from 49.81sqm to 45.01sqm with negligible internal alteration required. Similar to Building 6B (paragraph 9.1.10), the ground floor of Building 7B comprises two community, arts, and cultural units and storage, plant etc. The cleaner's store in this building is achieved by blocking off part of a corridor, which also appears to create a new storage space for community, arts, and cultural unit 2. I consider that these internal alterations to the ground floor of Building 7 are very minor in terms of internal impact and the building envelope would not be affected.
- 9.1.14. *Block 8 – Addition of two cleaner's stores at ground floor* – Block 8 is residential. In Building 8A a cleaner's store is created by the slight reduction in floor area of the bike store and the minor reconfiguration of the corridor. No apartment unit requires any reconfiguration. In Building 8B the cleaner's store is created by reducing the floor area of the LV meter room from 21.06sqm to 15.59sqm. I consider that the internal alterations required to Block 8 are very minor and there is no external impact.
- 9.1.15. *Block 9 – Addition of two cleaner's stores and two accessible WCs at ground floor* – Block 9 is residential. At ground floor level in Building 9A a cleaner's store and an accessible WC are provided adjacent to each other with access directly off the lobby of the principal access. This is achieved by reducing the floor area of the LV meter room from 25.63sqm to 16.32sqm. In Building 9B the cleaner's store is created by way of a reduction in the floor area of the LV meter room. Similarly, the accessible WC is created by way of a reduction in the floor area of the water tank room. The four additional rooms would result in very minor internal alterations with no external impacts and would not affect any approved apartment.
- 9.1.16. *Block 10 – Addition of two cleaner's stores at ground floor* – Block 10 is residential. The proposed cleaner's stores in Buildings 10A and 10B are created by the reduction

in the floor areas of the LV meter rooms in the respective buildings. Building 10A would result in the door to the new store accessing an internal circulation corridor while in Building 10B the new door would access directly to a lobby area. These are negligible internal alterations which would not affect any apartment unit and would not result in any external impact.

- 9.1.17. *(Blocks 1-3) Addition of sprinklers and ventilations in the car parking areas: inclusion of a water storage tank within the lower ground level between Block 3 and the supermarket and additional grilled openings at the lower and upper level to allow for ventilation to the car parking areas resulting in some minor amendments to the elevations on the lower levels of Block 3 (west and southwest) and upper levels of Block 1 (south) – The proposed water storage area would be located beneath the vehicular access ramp to the upper ground floor car parking area and it would not have any impact on residential amenity. The louvred openings for ventilation for the car parking areas are minor visual amendments which I consider would not have been of any concern if they had been originally applied for.*

Issues for Additional Assessment

- 9.1.18. On foot of the foregoing I consider that the proposed alterations in themselves would not comprise a material alteration to the approved development. However, I consider that there are some issues that require additional consideration in the context of the alterations proposed. These are objective CUO25 of the DCDP 2022-2028, unit mix, and car and bicycle parking; the first three issues were also identified in the accompanying Planning Report.

Objective CUO25 of the DCDP 2022-2028

- 9.1.19. Paragraph 8.9.4 of the original IR dated 8th May 2024 stated,

‘Objective CUO25 of the DCDP requires that all new SDRA developments over 10,000sqm must provide at a minimum for 5% community, arts, and culture spaces with this predominantly internal floorspace. 1,222sqm of internal floorspace is provided in 13 no. community, arts, and cultural units with 1,157sqm external space. Page 77 of the submitted Planning Report indicates that the external space is not double-counted as part of the public open space. The combined 2,379sqm is 5.04% of the net residential floor space of 47,237sqm. I consider the proposed development complies with objective CUO25 of the DCDP’.

9.1.20. The amendments proposed effectively replace the 29sqm lower ground floor community, arts, and cultural unit which is to be omitted in Building 2B as a result of the proposed stair core, with an additional 30sqm in the external community garden adjacent to the west of Block 6. Using the figures in the previous paragraph this would result in a revised internal community, arts, and cultural floorspace of 1,193sqm and revised external space of 1,187sqm. While this revised ratio lessens the predominance of the internal floorspace I do not consider it to be unduly significant in the context of the approved ratio and I also note that the applicant is acting on behalf of the planning authority, DCC, and it, presumably, is satisfied that objective CUO25 is achieved in this revised application.

9.1.21. I am satisfied that the proposed amendments to community, arts, and cultural spaces would not have any material impact on the achievement of objective CUO25 of the DCDP 2022-2028.

Unit mix

9.1.22. The unit mix permitted under the parent permission, ABP-318607-23, was as follows⁷.

	Bedroom Numbers					
Type	Studio	One-Bed	Two-Bed (3-Person)	Two-Bed (4-Person)	Three-Bed	Total
Apartments	28 (3.96%)	263 (37.15%)	52 (7.34%)	316 (44.63%)	49 (6.92%)	708 (100%)

9.1.23. On foot of the proposed alterations the applicant has provided the following residential unit breakdown as per table 5-1 of the accompanying Planning Report.

	Bedroom Numbers					
Type	Studio	One-Bed	Two-Bed (3-Person)	Two-Bed (4-Person)	Three-Bed	Total
Apartments	28 (3.96%)	275 (38.84%)	58 (8.19%)	298 (42.09%)	49 (6.92%)	708 (100%)

⁷ The applicant has combined the studio units and the one-bed apartments in the accompanying Planning Report and counted them as a single unit type whereas I have differentiated between the two unit types in the three tables in this report.

9.1.24. As I stated in paragraph 9.1.11, it is unclear as to how the applicant has arrived at six as the number of two-bed four-person units being amended to two-bed three-person units. I calculate that only four units are affected. Therefore, an amended residential unit mix would be as follows.

	Bedroom Numbers					
Type	Studio	One-Bed	Two-Bed (3-Person)	Two-Bed (4-Person)	Three- Bed	Total
Apartments	28 (3.96%)	275 (38.84%)	56 (7.91%)	300 (42.37%)	49 (6.92%)	708 (100%)

9.1.25. Notwithstanding the minor discrepancies between the two tables in paragraphs 9.1.23 and 9.1.24, in my view the alterations proposed to the unit mix are relatively minor in the context of the overall development. SPPR 1 of the Apartment Guidelines (2023) states that housing developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) with no minimum requirement for apartments with three or more bedrooms. As a result of the proposed amendments the percentage of one-bed and studios would be 42.8%, comfortably within the SPPR.

9.1.26. I do not consider that the alteration to the apartment mix would be a material change in the context of the approved development and I also note that number of apartment units proposed remains unchanged at 708.

Car parking

9.1.27. 444 car parking spaces (328 residential, 99 supermarket/retail, 6 childcare, and 11 car sharing spaces) were permitted as part of the approved permission. The proposed alterations would require the omission of two of the residential spaces in the lower ground floor car parking area associated with Blocks 1-3. The site is in Zone 2 in terms of car parking standards. As per table 2 (Maximum Car Parking Standards for Various Land Uses) of Appendix 5 (Transport and Mobility: Technical Requirements) of the DCDP 2022-2028, the maximum car parking standard is one space per apartment in a Zone 2 area. This is also consistent with SPPR 3 (Car Parking) of the Sustainable Residential Development and Compact Settlements Guidelines for Planning

Authorities (2024). Removing two spaces would result in the overall number of car parking spaces being reduced to 442 overall, and to 326 residential spaces. The approved ratio of residential car parking spaces is 0.4632 and the ratio would reduce to 0.4604. I consider that this is a very minor reduction in the context of the overall number of car parking spaces and, in my view, it cannot be considered to be a material alteration. I note that condition 18 (c) of the parent permission requires a Parking Management Plan to be prepared for the development.

- 9.1.28. Having regard to the foregoing I do not consider that the reduction in car parking provision can be considered to be a material alteration to the parent approval.

Bicycle parking

- 9.1.29. 1,618 bicycle spaces (1,552 residential and 66 non-residential) were permitted as part of the approved permission. The proposed alterations would affect bike stores in Buildings 5B, 6B, and 8A. While the specific number of spaces to be lost is difficult to quantify, it appears to be approximately twenty bike parking spaces and two e-scooter charging spaces (ten bike spaces in both 5B and 8A and two e-scooter charging spaces in 6B), though I note there appears to be space to provide compensatory bicycle spaces, particularly in Building 8A. Table 1 (Bicycle Parking Standards for Various Land Uses) of Appendix 5 of the DCDP 2022-2028 requires 1 cycle space per bedroom and one space per two apartment for short-stay/visitors. I calculate that this would result in a requirement for 1,516 residential spaces for the proposed development based on the revised mix as per paragraph 9.1.23. This requirement is less than the 1,532 residential spaces that would be provided, should twenty spaces be removed.

- 9.1.30. I consider that the reduction in bicycle parking is a very minor reduction in the context of the overall development, and it would remain consistent with the provisions of both the DCDP 2022-2028 and the Compact Settlement Guidelines (2024). Having regard to the foregoing I do not consider that a reduction in bicycle parking provision can be considered to be a material alteration to the parent approval.

Conclusion

- 9.1.31. Having regard to the foregoing I consider that the proposed alterations would primarily comprise internal changes that would largely be negligible or very minor in scale and would have very limited external impact to the exterior of the approved development.

There would be no material impact on objective CUO25 of the DCDP 2022-2028, the housing mix, or either car or bicycle parking provision and I conclude that the proposed alterations would not constitute a material alteration to the approved development.

9.2. The Potential for Significant Environmental Effects

- 9.2.1. I have carried out EIA Preliminary Screening as per Appendix 1 of this Inspector's Report. The proposed development comes within the definition of a project for the purpose of EIA as it is of a class specified in the Planning & Development Regulations, 2001 (as amended) i.e. Schedule 5 Part 2 Class 13 (Changes, extensions, development and testing). However, the proposed alterations are below the relevant threshold, which is any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would result in an increase in size greater than 25 per cent or an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.
- 9.2.2. I have also carried out an EIA Preliminary Examination as per Appendix 2 of this Inspector's Report. I have considered the proposed development in the context of Schedule 7 criteria i.e. characteristics of the proposed development, location of proposed development, and types and characteristics of potential impacts. I have concluded that there is no real likelihood of significant effects on the environment, and therefore EIA is not required.

9.3. Appropriate Assessment (AA) Screening

- 9.3.1. The proposed development was subject of AA screening in section 10.0 of the original IR dated 8th May 2024 for the parent approval, ABP-318607-23. In the Board Order, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other developments, plans and projects in the vicinity, 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 was not, therefore, required.
- 9.3.2. Having regard to the minor and non-material nature of the amendments proposed to the parent approval, it is concluded 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.

10.0 Recommendation

10.1. I recommend that the Board decides that (a) the making of the alterations subject of this request do not constitute the making of a material alteration of the terms of the development as approved under ABP 318607-23, and (b) the proposed modifications will not give rise to significant environmental effects or significant effects on the integrity of any European site, for the reasons stated below.

11.0 Draft Order

REQUEST received by An Bord Pleanála on the 15th day of October 2024 from The Land Development Agency under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of a strategic infrastructure development, approved under ABP-318607-23 for construction of a residential-led mixed-use scheme across sixteen blocks within nine buildings ranging in height from four to fifteen storeys at lands at Park West Avenue, Cherry Orchard, Dublin 10.

WHEREAS the Board made a decision to approve the proposed development, subject to conditions, for the above-mentioned development by order dated the 9th day of July, 2024.

AND WHEREAS the proposed alterations are described as follows:

- Block 1 – Addition of a cleaner's store at first floor level.
- Block 2A – Addition of a cleaner's store at ground floor level.
- Block 2B – Inclusion of a cleaner's store at ground floor and a second stairwell for fire escape purposes. This results in a change to the unit mix wherein 12 two-bed units have been amended to 12 one-bed units. Community, Arts, and Cultural

Space 6 has been omitted. There are minor changes to fenestration on the north west and south west elevations and a reduction of two residential car parking spaces at upper ground floor.

- Block 3 – Addition of a cleaner's WC at ground floor and a cleaner's store at first floor level.
- Block 5 – Addition of two cleaner's stores at ground floor level.
- Block 6 – Addition of two cleaner's stores and an accessible WC at ground floor. Change in unit mix from six two-bed four-person units to six two-bed three-person units at levels 1-4 of Block 6A. A 30sqm increase of the external Community, Arts, and Cultural Space/Community Garden adjacent to the west of Block 6B.
- Block 7 – Addition of two cleaner's stores at ground floor.
- Block 8 – Addition of two cleaner's stores at ground floor.
- Block 9 – Addition of two cleaner's stores and two accessible WCs at ground floor.
- Block 10 – Addition of two cleaner's stores at ground floor.
- (Blocks 1-3) Addition of sprinklers and ventilations in the car parking areas: Amendments also consist of the inclusion of a water storage tank within the lower ground level between Block 3 and the supermarket. Additional grilled openings have also been introduced at the lower and upper level to allow for ventilation to the car parking areas resulting in some minor amendments to the elevations on the lower levels of Block 3 (west and southwest) and upper levels of Block 1 (south).

AND WHEREAS having regard to the issues involved, the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, not to invite submissions or observations from the public in relation to the matter,

AND WHEREAS the Board decided, in accordance with section 146B(2)(a) of the Planning and Development Act 2000, as amended, that the proposed alterations would not result in the making of a material alteration to the terms of the development, the subject of the approval,

AND WHEREAS having considered all of the documents on file and the Inspector's report, the Board considered that the making of the proposed alterations 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 abovementioned decision so that the approved development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 15th day of October 2024, for the reasons and considerations set out below.

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 development permitted under An Bord Pleanála Reference Number ABP-318607-23 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,
- (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,
- (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, and,
- (vi) the report of the Board's Inspector, which is adopted,

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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Anthony Kelly,

Planning Inspector

10th February 2025

Appendix 1

EIA Preliminary Screening

An Bord Pleanála Case Reference	ABP-321068-24		
Proposed Development Summary	Proposed alterations to previously approved ABP-318607-23, construction of a residential-led mixed-use scheme across sixteen blocks within nine buildings ranging in height from four to fifteen storeys		
Development Address	Lands at Park West Avenue, Cherry Orchard, Dublin 10		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	✓	Schedule 5 Part 2 Class 13 (Changes, extensions, development and testing) of the Planning & Development Regulations, 2001 (as amended)	Proceed to Q3.
No	Tick or leave blank		Tick if relevant. No further action required.
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick or leave blank	State the relevant threshold here for the Class of development	EIA mandatory EIAR required

	Tick or leave blank		
No	✓		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	<p>Class 13 (a) (ii) cites any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would result in an increase in size greater than 25 per cent or an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.</p> <p>The proposed alterations relate to non-material changes to the approved development.</p>	Preliminary examination required (Appendix 2)

5. Has Schedule 7A information been submitted?		
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321068-24
Proposed Development Summary	Proposed alterations to previously approved ABP-318607-23, construction of a residential-led mixed-use scheme across sixteen blocks within nine buildings ranging in height from four to fifteen storeys
Development Address	Lands at Park West Avenue, Cherry Orchard, Dublin 10
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning & Development Regulations, 2001 (as amended)] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>An EIAR was submitted with the parent planning application and this was considered in detail as part of the original IR dated 8th May 2024 for ABP-318607-23. The size and design of the approved development is set out in paragraph 4.1 of this Inspector's Report.</p> <p>The EIAR, supported by the documentation submitted with the application, adequately identified and described the cumulative effects of the development on the environment. There has been no other planning application relevant to the subject site since approval was granted. There are no associated demolition works.</p>

	<p>Use of natural resources would be no greater than any other similar development on a largely greenfield site. Wastewater is to be treated in the public system. No notable or unusual pollution or nuisances will arise. There is no notable risk of accidents or disasters, or to human health, as a result of this standard project.</p> <p>As part of this section 146B application an EIA screening assessment was submitted as subsection 6.1 of the Planning Report. This considered that the proposed alterations are minor, mostly internal, and do not give rise to any significant effects in addition to what was set out in the EIAR. In my opinion the proposed alterations comprise minor and non-material alterations to the approved development.</p> <p>Having regard to the foregoing, I am satisfied that the proposed alterations would not give rise to significant environmental effects by virtue of the characteristics of the development.</p>
<p>Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites,</p>	<p>The application site is not in an area of particular environmental sensitivity as demonstrated in the original EIAR. It is located within the built-up area of Dublin city and it is appropriately zoned for the development proposed. Existing infrastructure includes the M50 along the western boundary and the Park West and Cherry Orchard railway station and railway line to the south. Residential development is located immediately south of the railway line and on the opposite side of Park West Avenue.</p>

densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	<p>The application was assessed in terms of the environmental sensitivity of the site in the parent application, including both the EIAR and AA screening. In terms of AA screening it was concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European site, and AA (and submission of a Natura Impact Statement) was not therefore required.</p> <p>The proposed alterations are minor, mostly internal, and would not give rise to any significant effects in addition to what was set out in the applicant's EIAR and AA Screening Report. Having regard to the foregoing, I am satisfied that the proposed alterations would not give rise to significant environmental effects by virtue of the location of the development.</p>	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the minor and non-material nature of the proposed development, the development location removed from sensitive habitats and features, the likely limited magnitude and spatial extent of effects, and the absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A(b) of the Planning & Development Act, 2000 (as amended).	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes

There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A information is required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)