



An
Bord
Pleanála

Inspector's Report

ABP-321106-24

Development

Proposed alterations to the previously approved application ABP-315306-22 for residential development at former St. Teresa's Gardens

Location

Donore Avenue, Dublin 8.

Planning Authority

Dublin City Council North

Type of Application

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

Date of Site Inspection

22nd January 2025

Inspector

Paul O'Brien

1.0 Introduction

- 1.1. A request has been made to alter the terms of a development the subject of a planning permission for a residential scheme at Donore Avenue, Dublin 8 under Section 146B of the Planning and Development Act 2000 as amended. Permission was granted on the 27th of June 2023 under reference ABP-315306-23 for a residential development in accordance with the provisions of the Strategic Housing Development legislation.
- 1.2. The applicant is making a request to An Bord Pleanála for alterations relating to the internal and external layout of the development and associated works. The alterations will result in a revision in the unit numbers with 233 one bedroom apartments, 265 two bedroom units and 44 three bedroom units. The permitted development allows for 225 one bedroom units, 274 two bedroom units and 44 three bedroom units. The alterations include a change from artist workshop space to boxing club, and this also results in the loss of one apartment unit. A total of 542 apartment units are proposed instead of the permitted 543. Other alterations are minor in nature including revisions to fenestration, access points, plant and equipment revisions and the proposed development is now to be heated by electricity instead of gas.

2.0 Legislation

The following is the relevant legislation under Section 146B of the Planning and Development Act 2000 as amended:

2.1. Section 146B

146B. - (1) Subject to subsections (2) to (8) and section 146C, the Board may, on the request of any person who is carrying out or intending to carry out a strategic infrastructure development, alter the terms of the development the subject of a planning permission, other than a development for which permission was granted under section 9 of the Planning and Development (Housing) and Residential Tenancies Act 2016, approval or other consent granted under this Act.

(2)(a) As soon as practicable after the making of such a request, the Board shall make a decision as to whether the making of the alteration to which the request

relates would constitute the making of a material alteration of the terms of the development concerned.

(b) Before making a decision under this subsection, the Board may invite submissions in relation to the matter to be made to it by such person or class of person as the Board considers appropriate (which class may comprise the public if, in the particular case, the Board determines that it shall do so); the Board shall have regard to any submissions made to it on foot of that invitation.

(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.

(b) If the Board decides that the making of the alteration would constitute the making of such a material alteration, it shall—

(i) by notice in writing served on the requester, require the requester to submit to the Board the information specified in Schedule 7A to the Planning and Development Regulations 2001 in respect of that alteration, or in respect of the alternative alteration being considered by it under *subparagraph (ii)(II)*, unless the requester has already provided such information, or an environmental impact assessment report on such alteration or alternative alteration, as the case may be, to the Board, and

(ii) following the receipt of such information or report, as the case may be, determine whether to—

(I) make the alteration,

(II) make an alteration of the terms of the development concerned, being an alteration that would be different from that to which the request relates (but which would not, in the opinion of the Board, represent, overall, a more significant change to the terms of the development than that which would be represented by the latter alteration), or

(III) refuse to make the alteration.

3.0 Proposed Changes

3.1. Proposed Development

A request has been made to alter the terms of a development the subject of a planning permission for a residential development at Donore Avenue, Dublin 8 as permitted under Ref. ABP 315306-22 on the 27th of June 2023. The applicant has requested that the following alterations be allowed to the permitted development:

- Block 1 DCC1:
The provision of a new set down area to the eastern side of this block.
- Block DCC3:
 - The provision of an additional internal stair core within the northern side of the south west tower of this block. This will result in the revision of the apartment units between the 6th and 14th storeys from 9 x two bedroom units to 9 x one bedroom units. The revisions will extend to the arrangement of the balconies/ windows.
 - Provision of an access enclosure across the roof at level 06. This is to be located between the south west and north west cores.
 - Minor revisions to the switch rooms and electricity substations on the northern, eastern and western elevations.
 - Removal of window to ensuite bathrooms of the units located on the north facing elevation within the courtyard area. This revision impact on six windows in total.
- Block DCC5:
 - Change of use of permitted artist workshop space to use by a boxing club. This refers to a total of 216sq m on the ground floor of this block. The revisions to this floor will result in the loss of a ground floor unit and also includes associated internal reconfiguration and elevational changes.
 - Relocation/ change of use of permitted bicycle storage space to allow for additional boxing club floor space.
 - Additional bicycle parking at surface level.
 - Provision of universal design lifts in this block which will result in a minor reduction in the internal floor area of apartment Type 3B, two bedroom units.

- Minor revisions to the switch rooms and electricity substations which face north.
- Relocation of lift core and which results in revised internal configuration and elevational changes to the creche.
- Block DCC6:
 - The provision of a canopy to the level 06 deck access.
- Other Changes:

Heating is to be provided by electricity rather than natural gas. The gas infrastructure is to be removed from this development and electrical infrastructure provided instead.

The above changes have resulted in a revised unit mix as per the following Table 1:

Table 1 – Unit Mix

Unit Type	Total	Percentage Unit Mix	Permitted Unit Mix
1 Bedroom – 1 Person	36	6.6%	43%
1 Bedroom – 2 Person	197	36.3%	
2 Bedroom – 3 Person	52	9.6%	49%
2 Bedroom – 4 Person	213	39.3%	
3 Bedroom – 5 Person	44	8.1%	8.1%
Total	542		

Permission was granted for 543 units and there is a minor revision in the proposed unit mix.

The applicant has submitted the following in support of the proposed revisions:

- Appropriate Assessment Screening
- Architectural Design Statement
- Housing Quality Assessment
- Daylight and Sunlight Assessment Report
- Transport Report
- Photomontages

3.2. Development Plan

There are no changes to the Dublin City Development Plan 2022 – 2028, the current operative plan relevant to this site, since permission was granted under Ref. ABP 315306-22, that would impact on this development.

3.3. Planning Reports

No report from the Planning Authority has been received, however a letter of support from the Housing and Community Services Department is provided. This sets out the reasons for the relocation of the boxing club into the proposed building. The relocation would allow for the remaining St. Teresa's Gardens Blocks to be demolished. The Donore Boxing Club provides an important role within the local community. Relocating the boxing club would allow for the club to continue in a purpose built unit and ensure its long-term viability.

4.0 Assessment

4.1. The alterations to the permitted development encompass a number of different aspects, though I note that a number of these are interlinked. I have assessed each of these under relevant headings as follows:

4.2. Boxing Club

- 4.2.1. This is perhaps the most significant revision to the proposed development and results in revisions to the ground floor of Block DCC5. The permitted artist workspace with a stated floor area of 160sq m in addition to the relocation of a bicycle parking area which in turn sees the removal of a one bedroom, two person unit. In addition to these changes there are minor revisions to the ground floor layout.
- 4.2.2. I am satisfied that the provision of the boxing club within this building has been adequately justified by the applicant. There is a need for a new space for this facility and this is an appropriate location. As is reported in the applicant's Cover Letter, the 'boxing club provides an important space for recreational activities within the community'. I am satisfied that the change in description of this space is acceptable in terms of compliance with Objective CUO25 of the Dublin City Development Plan 2022 – 2028. The 160sq m of the permitted Artist Workspace is to be replaced with

216sq m for Boxing Club use and this represents an increase in the floor area to be allocated to community use.

- 4.2.3. I note the proximity of the boxing club to apartment units D5a-00-01 and I am satisfied that the location of the boxing club should not impact on this apartment unit. The bicycle parking area and layout of the boxing club allow for a suitable buffer between the two areas. Overall, I am satisfied that the revisions to incorporate the boxing club into the proposed building is acceptable.

4.3. Revisions to Apartment Units

- 4.3.1. An additional stair core is to be provided in Block DCC3, according to the applicant this is a requirement of Dublin Fire Brigade through the Fire Certification Application. In order to provide the necessary space for this, there will be a reduction in the floor area for a number of the apartments. This revision affects Floors 06 to 14 in Block DCC3 and will result in the replacement of nine permitted two bedroom/ 4 person units with nine one bedroom/ 2 person units.
- 4.3.2. I have provided the revised unit mix in Table 1 and there is no change in the unit mix, and which is acceptable in terms of the Dublin City Development Plan 2022 – 2028 and SPPR1 of the Apartment Guidelines. Unit and room sizes are also acceptable and meet the requirements of the Dublin City Development Plan and the Apartment Guidelines, and I satisfied that this revision is acceptable.

4.4. Revisions to Elevations

- 4.4.1. The alterations to incorporate the boxing club into this development and the revisions to the apartments in Block DCC3 would result in alterations to the permitted elevation. The primary alteration to accommodate the boxing club is a set back entrance with concrete beam overhead to allow the provision of signage, to the southern elevation of Block DCC5. This alteration is relatively minor and does not have a significant impact on the elevational treatment of this block.
- 4.4.2. The revisions to the apartments in Block DCC3 include the following:

- North elevation: Balconies reduced from 7sq m to 5sq m, removal of a double panelled window and the provision of a metal canopy from Block DCC3 Level 6 to connect the adjoining block.
- Eastern elevation: Provision of additional balconies from Level 07 to Level 14. This allows for direct access from the living area of the relevant apartment to this amenity space. A double panelled window is replaced with a triple panelled window serving the living room and a triple panelled window is changed to a single panelled window which serves the bedroom. The bedroom benefits from a window to the northern elevation also.

The alterations to Block DCC3 are relatively minor and are considered to be acceptable.

4.4.3. Minor alterations have been made to electricity substation and switchroom areas with revisions required to doors etc. and these changes are visually acceptable. Relocation of services has resulted in the provision of electricity rooms within a proposed refuse store and bicycle parking area in Block DCC3, but again these are relatively minor alterations. Alterations to provide a canopy at Level 6 of Block DCC6 and removal of windows to ensuite bathrooms in Block DCC3 are visually acceptable; the ensuites are proposed to be in the form of bathroom pods and the windows here are not included in any daylight/ sunlight calculations.

4.4.4. I consider these alterations to elevational treatments to be acceptable and they do not have a negative visual impact on the character of this development.

4.5. **Other Alterations**

- 4.5.1. Fire cert requirements include the relocation of the lift core in Block DCC5 and this will result in internal alterations and elevational changes to the permitted creche. The floor area of the creche reduces from 644sq m to 641 sq m. These revisions are minor and have no significant impact on the elevational treatment of Block DCC5 and do not impact on the use/ capacity of the creche space.
- 4.5.2. The provision of universal design lifts in Block DCC5 results in a minor reduction in the floor area of the Type 3B apartments but they remain 10% greater than the required floor areas.

- 4.5.3. An additional set down area is to be provided to the east of Block DCC1 in order to meet Disability Access Certificate requirements. This will result in minor revisions to the layout to the east of this block.

4.6. Comment on the Proposed Revisions:

- 4.6.1. The proposed amendments to the permitted scheme, are not material in my opinion as the alterations are relatively minor to the elevational treatment and internal layout of the proposed blocks. The replacement of nine two between apartment units with nine one bedroom units is not significant in the context of a development of 542 units. Similarly, the omission of one unit is not significant for the same reason. I am satisfied that the relevant planning issues would not be considered differently to any material extent with the layout/ elevational treatment as now proposed, and it is considered that no other planning issues would arise, had the layout/ elevational treatment as now proposed formed part of the submitted plans at application stage.
- 4.6.2. I therefore consider, that the Board can determine under Section 146B(3)(a) that the making of the alterations 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 of consent accordingly and notify the relevant persons who made the request under this section, and the relevant Planning Authority for the area concerned, of the alterations.
- 4.6.3. I have considered the provisions of Section 146B(2)(b) which provides for, at the Board's discretion, the inviting of submissions from persons, including the public. Having considered in full the nature, scale and extent of the proposed alterations and the nature, scale and extent of the permitted development under ABP-315306-22, I am of the opinion that the inviting of the submission from the public in this instance is not necessary and is not required for the purposes of the Board in determining the revisions applied for.

4.7. Environmental Impact Assessment:

- 4.7.1. I consider that the proposed alterations and amendments do not constitute the making of a material alteration of the development concerned and in this regard the provisions of Section 146B(5)(a) of the Planning and Development Act 2000 as amended apply.

4.8. Appropriate Assessment:

- 4.8.1. The applicant provided an Appropriate Assessment Screening Report and Natura Impact Statement with their application under ABP-315306-22 and it was concluded that the development would not have an adverse impact on any designated European site subject to implementation in full of relevant mitigation measures. The Board Order reported:

‘In completing the screening exercise, the Board agreed with and adopted the report of the Inspector that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have an effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.’

- 4.8.2. The applicant has provided an ‘AA Screening Report of an application pursuant to section 146B of the Planning and Development Act 2000’. This document outlines the revisions to the development and identifies any potential impacts on Natura 2000 sites. Full consideration is given to the impact of the development from wastewater drainage, surface water drainage, and potential flooding on designated European sites. In-combinations effects are also considered. It is concluded that the proposed alterations are minor in nature and would not be ‘significant enough to negatively impact any Natura 2000 sites’. There is a marginal decreased in foul drainage loading through the omission of a one bedroom unit and the replacement of nine X two bedroom units with nine X one bedroom units. No Natura 2000 sites are within the zone of influence of this proposed development and the report concludes ‘that the proposed alterations are not likely to have a significant effect on any European Site, in light of their conservation objectives, either alone or in combination with other plans or projects’.

- 4.8.3. Having considered the Board’s determination in relation to Appropriate Assessment under Ref ABP-315306-22 and the relevant sections of the Inspector’s Report on ABP-315306-22, in addition to the minor nature, scale and extent of the revisions/ alterations to the development, and the information available on file (which I consider to be adequate to carry out an AA Screening), I consider it reasonable to conclude that the proposed alterations, individually or in combination with any other plans or

projects, would not be likely to have a significant effect on any designated European sites, in view of the sites' conservation objectives.

5.0 Recommendation

- 5.1. I recommend that the Board decides the making of the alterations, which are the subject of this request, do not constitute the making of a material alteration to the terms of the development as granted permission under Ref. ABP-315306-22 and that the permitted development shall be altered in accordance with the plans and particulars received by An Bord Pleanála on the 21st of October 2024.

6.0 Recommended Draft Bord Order

REQUEST received by An Bord Pleanála on the 21st of October 2024 from JSA on behalf of The Land Development Agency under section 146B of the Planning and Development Act, 2000, as amended, to alter the terms of the Strategic Housing Development at the lands at the former St Teresa's Gardens, Donore Avenue, Dublin 8, which is the subject of a permission under An Bord Pleanála reference number ABP-315306-22

WHEREAS the Board made a decision to grant permission, subject to conditions, for the above-mentioned development by order dated the 27th of June 2023,

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 alterations/ amendments are described as follows:

- Block 1 DCC1:
The provision of a new set down area to the eastern side of this block.
- Block DCC3:
 - The provision of an additional internal stair core within the northern side of the south west tower of this block. This will result in the revision of the apartment units between the 6th and 14th storeys from 9 x two bedroom units to 9 x one bedroom units. The revisions will extend to the arrangement of the balconies/ windows.

- Provision of an access enclosure across the roof at level 06. This is to be located between the south west and north west cores.
- Minor revisions to the switch rooms and electricity substations on the northern, eastern and western elevations.
- Removal of window to ensuite bathrooms of the units located on the north facing elevation within the courtyard area. This revision impact on six windows in total.
- Block DCC5:
 - Change of use of permitted artist workshop space to use by a boxing club. This refers to a total of 216sq m on the ground floor of this block. The revisions to this floor will result in the loss of a ground floor unit and also includes associated internal reconfiguration and elevational changes.
 - Relocation/ change of use of permitted bicycle storage space to allow for additional boxing club floor space.
 - Additional bicycle parking at surface level.
 - Provision of universal design lifts in this block which will result in a minor reduction in the internal floor area of apartment Type 3B, two bedroom units.
 - Minor revisions to the switch rooms and electricity substations north facing.
 - Relocation of lift core and which results in revised internal configuration and elevational changes to the creche.
- Block DCC6:
 - The provision of a canopy to the level 06 deck access.
- Heating is to be provided by electricity rather than natural gas. The gas infrastructure is to be removed from this development and electrical infrastructure provided instead.

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 designated European Site,

NOW THEREFORE in accordance with section 146B(3)(a) of the Planning and Development Act, 2000, as amended, the Board hereby alters/ amends the proposed development amended as follows:

- Block 1 DCC1: The provision of a new set down area to the eastern side of this block.
- Block DCC3, provide the following:
 - An additional internal stair core within the northern side of the south west tower of this block. This will result in the revision of the apartment units between the 6th and 14th storeys from 9 x two bedroom units to 9 x one bedroom units. The revisions will extend to the arrangement of the balconies/ windows.
 - An access enclosure across the roof at level 06. This is to be located between the south west and north west cores.
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- Relocation/ change of use of permitted bicycle storage space to allow for additional boxing club floor space.
- Additional bicycle parking at surface level.
- Provision of universal design lifts in this block which will result in a minor reduction in the internal floor area of apartment Type 3B, two bedroom units.
- Minor revisions to the switch rooms and electricity substations which face north.
- Relocation of lift core and which results in revised internal configuration and elevational changes to the creche.
- Block DCC6:
 - The provision of a canopy to the level 06 deck access.
- Heating is to be provided by electricity rather than natural gas. The gas infrastructure is to be omitted from this development and electrical infrastructure provided instead.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard.

REASONS AND CONSIDERATIONS

Having regard to:

(i) the nature and scale of the Strategic Housing Development permitted under An Bord Pleanála Reference Number ABP-315306-22 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.

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.

Paul O'Brien

Inspectorate

28th January 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-315306-22		
Proposed Development Summary	Alterations to provide for compliant lifts and stairwells, the relocation of a boxing club facility into Block DCC5, the omission of a one bedroom apartment, the revision of nine X two bedroom units to be nine X one bedroom units, provision of a new set down area and all associated internal/ external alterations and amendments.		
Development Address			
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)?			
No	√		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Not Applicable			
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Not Applicable			

5. Has Schedule 7A information been submitted?		
No		

Inspector: _____ Date: _____