



An
Bord
Pleanála

Inspector's Addendum Report

ABP-306946-20

Development	Change of use from office to medical/dentist use with revisions to front elevation.
Location	Unit 8, High Street, Tallaght, Dublin 24.
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD20A/0010
Applicant(s)	Alex Gheorghe.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	First Party v. Development Contribution only.
Appellant(s)	Alex Gheorghe.
Observer(s)	None.
Date of Site Inspection	Not applicable.
Inspector	Susan McHugh

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1.0 Introduction

- 1.1.1. This addendum report is prepared on foot of a request from the Board under section 132 of the Planning and Development Act, 2000, (as amended) to South Dublin County Council dated 21st July 2020.
- 1.1.2. The Board request sought submissions or observations specifically addressing the grounds of appeal relating to the alleged improper application of the development contribution scheme to the condition under appeal.
- 1.1.3. This report should be read in conjunction with the previous report dated 15th July 2020.

2.0 Planning Authority Response

2.1. Planning Authority Response

- 2.1.1. The Planning Authority in a response dated 23/04/2020 comments as follows;
 - No further details to add regarding the calculation and levying of the Financial Contributions on planning application SD20A/0010.
- 2.1.2. The Board requested specific details of the basis on which the calculation was made, calculation involved, and the specific provisions in the scheme on which the calculation was based.
- 2.1.3. The Planning Authority in a response dated 23/07/2020 refers to;
 - Development Contribution was calculated under Section 9 of the South Dublin County Council Development Contribution Scheme 2016-2020.
 - The rate of financial contribution relevant to commercial development at the time of planning application was €91.11per sq. metre.
 - The calculation is based on an area of 130sq. metres x €91.11 per sq. metre = €11,844.30.
 - Planning permission is for a 'change of use' from office to medical/dentist use.

- No proof has been received by the Council of previous payment of a financial contribution relating to this area of commercial development and, therefore, a financial contribution is attached to this planning permission.

2.2. Further Response

A further response was submitted by Kane Architecture on behalf of the applicant dated 12th August 2020, indicates;

- Notes PA submission that no proof has been received regarding previous payment of a financial contribution and confirm that they have been unable to obtain proof in this regard and do not contest this fact.
- Notes PA submission that the rate of financial contribution relevant is €91.11 per sq. meter and do not contest this fact.
- Notes PA submission that the area for assessment is calculated to be 130 sq.metres. However, the area of the building to which the application refers is in fact 66.6 sq. metres, and acknowledge that the planning application form indicated a site of 0.013 hectares. This was recorded in order to identify the land around the building which is used exclusively for bin stores.
- Actual area for change of use is clearly highlighted in yellow and outlined in red in all documentation and is 66.6sq. metres. It is accepted in hindsight, that this was an erroneous means of identifying the site and has led to the issue at hand.
- Submit that the area that has been granted Change of Use is identified by yellow hatching and red outline on all documentation is in fact 66.6 sq. meters and request that the contribution be calculated on this basis.
- Note that the response by the PA does not address the issue of Exemptions and Reductions as outlined in the SDCCDCS 2016-2020 raised in the appeal, which allows for a 50% reduction in non-residential rate for developments in Village Centre Areas. Contend that the site is located within the Village Centre designation and request that the 50% reduction be applied.

3.0 Assessment

- 3.1.1. This is an appeal in relation to the application of a development contribution only. The Board will not determine the application as if it was made to it in the first instance and will only determine the matters under appeal.
- 3.1.2. An appeal may be brought to the Board where an applicant for permission under section 34 considers the terms of the Development Contribution Scheme have not been properly applied in respect of any condition laid down by the planning authority. In this appeal, the issue to be considered is whether the terms of the Scheme have been properly applied.
- 3.1.3. The current proposal is for permission for;
- (i) Change of use from office to medical/dentist use, with
 - (ii) Revisions to front elevation.
- 3.1.4. The stated area of the site as indicated on the application form is 130sqm. The stated floor area of the ground floor unit is 66sqm.
- 3.1.5. The PA assessment and planning report refer to Development Contributions in relation to the proposed change of use from office to medical/dental facility for the existing unit with an area of 130sqm.
- 3.1.6. The calculation sheet on file dated 9/03/2020 indicates that the levy was calculated by the PA having regard to a change of use from office to medical/dentist use with a stated area of 130sqm. It is also indicated that there is 'no proof received of previous payment'.
- 3.1.7. The PA have also confirmed in a further submission dated 23/07/2020 that the calculation of the levy of €11,844.30 was based on the area of the site, and the charge per sqm of development applicable ($130\text{sqm} \times €91.11/\text{sqm} = €11,844.30$).
- 3.1.8. The applicant submits that an exemption/reduction the South Dublin County Council Development Contribution Scheme 2016-2020;
- (a) provides for a 50% reduction in non-residential rate for developments in Village Centre areas and
 - (b) the contribution should be further reduced by the amount already paid by the original developer.

- 3.1.9. In support of this assertion the applicant presents two alternative calculations of the levy.
- 3.1.10. The first calculation of €6,067.93 is based on the floor area of the proposed development which is 66.6sqm. A development contribution rate of €91.11/sqm, thereby requiring a contribution of €6,067.93 (66.6sqm x €91.11 = €6,067.93).
- 3.1.11. I have examined the application form which indicates the area to which the application relates as 130sqm. I have also examined the planning drawings submitted which clearly indicate the area of development as 66.6sqm. I am satisfied, therefore, that the ground floor area to which the proposed change of use relates is 66.6sqm and that the development contribution should be calculated on this basis.
- 3.1.12. The second calculation of €3,033.97 ($€6,067.93 \div 2 = €3,033.97$) is based a 50% reduction.
- 3.1.13. The applicant initially contends that this amount should be further reduced by the amount of contribution already paid by the original developer. In this regard however, I note the further submission received from the PA again notes that no proof has been provided by the applicant outlining the amount of contribution already paid by the original developer on previous applications. The applicant in a further submission has also confirmed that they were unable to provide proof in this regard.
- 3.1.14. I am satisfied, that the case put forward by the applicant is reasonable, and in the context of the current application which relates to a floor area of 66.6sqm that the Development Contribution Scheme which relates to Change of Use applications, and 50% reduction in non-residential rate for developments in Village Centre areas applies. However, in the absence of any evidence or details in relation to contributions previously paid, it not possible to provide an offset in this instance.

4.0 Recommendation

- 4.1. I recommend that South Dublin County Council be directed to **amend** Condition No.6 on the grounds that the terms of the Development Contribution Scheme 2016-2020 have not been properly applied.

5.0 Reasons and Considerations

Having regard to

- (a) The provisions of the South Dublin County Council Development Contribution Scheme 2016-2020,
- (b) The submissions made in this appeal;

The Board considers that the terms of the South Dublin County Council Development Contribution Scheme 2016-2020 have not been properly applied, and the amendment of Condition number 6 is, therefore, appropriate.

Condition no. 6

The developer shall pay to the planning authority a financial contribution of €3,033.97 (three thousand and thirty three euros and ninety seven cents), in respect of public infrastructure and facilities benefiting development within the area of the planning authority, that is provided, or intended to be provided by or on behalf of the authority, in accordance with the terms of the Development Contribution Scheme 2016-2020, made under Section 48 of the Planning and Development Acts 200-2011 (as amended). The contribution shall be paid prior to commencement of development, or in such phased payments as the planning authority may facilitate. Contributions shall be payable at the rate pertaining to the year in which implementation of the planning permission is commenced as outlined in the South Dublin County Council Development Contribution Scheme 2016-2020.

Reason: The provision of such facilities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.'

Susan McHugh
Senior Planning Inspector

3rd September 2020