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Bord  
Pleanála

**Inspector's Report**

**PL06S.247349**

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<b>Development</b>	Additional Storey onto Building, Extension to reception Area at Block H, Riverview Business Park, New Nangor Roads, Clondalkin, Dublin 22
<b>Planning Authority</b>	South Dublin Co. Co.
<b>Planning Authority Reg. Ref.</b>	SD16A/0251
<b>Applicant(s)</b>	Joseph Dolan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Appellant(s)</b>	Joseph Dolan
<b>Observer(s)</b>	None
<b>Inspector</b>	Caryn Coogan

## **1.0 PROPOSED DEVELOPMENT**

- 1.1 Add and additional storey onto an existing three storey building comprising of ground floor warehouse/ storage area, first and second floor office areas, ancillary entrance and toilet areas, off street carparking and ancillary works. The application incorporates the conditions from a previously approved scheme Planning Reference SD02A/0242 with proposed additional 4<sup>th</sup> storey/ floor of office and ancillary areas added to the existing 3 storey building including an extension to existing reception area at front of building.

## **2.0 PLANNING AUTHORITY DECISION**

### **2.1 DECISION**

South Dublin Co. Co. granted planning permission for the proposed development subject to 9No. conditions. The conditions relevant to this appeal are Nos. 2 & 9.

*2. The ground floor shall be retained as a warehouse/ storage area associated with the office use at 1<sup>st</sup> – 3<sup>rd</sup> floors and shall not operate as a separate business venture on site or be sold, let or otherwise transferred or conveyed save as part of the overall unit.*

*9. The developer shall pay the planning authority a financial contribution of €21,750.00 in respect of public infrastructure.*

### **2.2 TECHNICAL REPORTS**

Planning Reports states the development contribution was calculated on the basis that there is 290sq.m. commercial floor area, with 280sq.m. at third level and 10sq.m. at ground level.

The application proposes an additional floor of office space, retaining the warehouse use on the ground floor. There 295sq.m. of warehouse and 840sq.m. of office use (total floor area of 1,1,35sq.m.) which is an unusual combination.

### **2.3 THIRD PARTY OBSERVATIONS**

There were none received.

## **3.0 PLANNING HISTORY**

- 3.1 **S02A/0243** Planning permission granted for a three storey building comprising of ground floor warehouse/ storage area, first and second floor office area, ancillary entrance and toilet areas, off street car parking and ancillary works.

This application incorporates the conditions of a previously approved scheme planning reference S00A/0527 with an additional storey.

## 4.0 POLICY CONTEXT

### 4.1 Development Plan

**South Dublin County Development Plan 2016-2022** (The relevant sections are included in the Appendix of this report)

The site is within an area zoned as EE – To provide for Enterprise and Employment related uses.

## 5.0 THE APPEALS

5.1 The applicant, Mr. Joseph Dolan, has appealed **Condition No. 2** on the following basis:

- The ground floor shall be retained as a warehouse/ store area associated with the office use at 1<sup>st</sup> -3<sup>rd</sup> floors, and shall not operate as a separate business venture on the site or be sold or let or transferred from the overall unit.
- The condition poses a serious threat to the viability of the building. The building has not been let or occupied is partly due to a similar conditions imposed on the original permission.
- With an increase in demand for office accommodation, it was expected the condition would be excluded from the permission.
- The building is surrounding by small office units with companies that have outgrown their current accommodation. They need larger accommodation space within the same area, as their businesses are established within River View Business Park
- He would prefer to have only one tenant in the entire building but this may not be the case, and some may rent out a floor. It is the rental market that will dictate the lease of the building on a floor by floor basis.

He has appealed **Condition No. 9** on the following basis:

- The condition requires a financial contribution of €21,750. This figure was calculated by multiplying the 290sq.m. additional floor area by €75 .
- The 290sq.m. is the combined floor area of the extended porch and 280sq.m. of the new 4<sup>th</sup> floor.
- The building footprint is the same as the existing and will be using the same drainage system
- The class 2: Surface Water and Environmental Infrastructure and facilities portion of the €75 contribution is €11.55 per sq.m.

The equates to €11.55 x 280 = €3234

- The contribution would have been paid as part of the original conditions for the building. Therefore, this is a double charging.

## 5.12 RESPONSES

The additional floor area of 290sq.m. was assessed at the current commercial rate of €75 per sq.m., which is in accordance with the current Development Contributions Scheme 2016-2020

## 6.0 ASSESSMENT

6.1 This appeal has been taken by the applicant against two of the conditions attached to the decision to grant planning permission for an additional floor onto Block H – Riverview Business Park, New Nangor Road, Clondalkin. I am satisfied with the permission of the proposal and do not consider it is necessary for the Board to review the entire development. I am also satisfied that a site inspection is unwarranted in this instance, and the assessment can be carried out having read the appeal file and the current Development Contributions Scheme. The planning application was accompanied by an comprehensive set of drawings and visual perspectives.

### 6.2 Condition No 2

There is no basis for including Condition 2 in the Planning Report on file. It states:

*The ground floor shall be retained as warehousing/ storage area with the office use at 1<sup>st</sup> – 3<sup>rd</sup> floors and shall not operate as a separate business venture on the site or be sold, let or otherwise transferred or conveyed save as part of an overall unit.*

I note the submitted drawings do not refer to the ground floor as warehousing even though this is the permitted use on the ground floor as per the original permission, **S02A/0243**. The public notices associated with the current planning application and this appeal refer to the ground floor area as warehouse/ storage area, therefore I am satisfied that that element of Condition No. 2 is unnecessary. The nature and extent of the proposed/ existing use is referred to in the legal description of the proposed development.

In terms of the office use, the existing and proposed three floors have a total floor area of 840sq.m. Condition 2 states all floors must operate as one business, and it cannot be let or sold except as an overall unit. I consider this unduly restrictive. I can understand the property should not be sold as separate units as it is within one building and there are no conditions attached relating to a management company. However, I see no issue with leasing or renting the office floor space to different clients or businesses, once the permitted 'office use' is retained. This is common practice within buildings, whereby office floor areas are occupied by a

number of businesses. The building itself is located centrally within an established business park. There would be no negative impacts to the wider area if the building was let out to a number of different clients. In fact, having regard to the scale and size of the office floor area, 840sq.m., I consider it may be the only viable and sustainable option for the applicant, in order to have the building fully occupied as he has stated on appeal. In my opinion, Condition 2 should be omitted as it is too rigid and could be deemed unenforceable, if the overall use of the building is maintained as per the permitted description 'office use'.

### **6.3 Condition No. 9**

The condition requires the payment of €21,750 of a financial contribution which was calculated at the current commercial rate of €75.00 for the additional floor area of 290sq.m. (280sq.m. at third floor level and 10sq.m. at ground floor level.) The applicant has states the footprint of the building will remain the same therefore the development contribution is effectively a double charge, as it was paid under a previous permission relating to the building.

The additional floor area is an intensification of the use of the building. This intensifies the use of services and facilities whereby additional carparking, sewage treatment and water etc is required to cater for the development. The development contributions are not payable in terms of building footprint, but are payable in terms of building floor area. The current application involves an additional and new floor area of 290sq.m. This is subject to a development contribution and the planning authority applied the Development Contribution Scheme correctly in this instance. Condition No. 9 should not be altered or omitted.

## **8.0 RECOMMENDATION**

I recommend Condition No. 2 be omitted from the Schedule of Conditions.

Condition No. 9 is acceptable.

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**Caryn Coogan**

**Planning Inspector**

**18/11/2016**