



An  
Bord  
Pleanála

## Inspector's Report PL06S.248645.

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### Development

Change of use of part of Youthreach premises from education to uses for provision of medical services with external changes and signage.

### Location

Tallaght Business Centre, Whitestown Road, Tallaght, Dublin 24.

### Planning Authority

South Dublin County Council

### Planning Authority Reg. Ref.

SD17A/0088.

### Applicant(s)

Pieta House CPSOS Ltd.

### Type of Application

Permission.

### Planning Authority Decision

Refusal.

### Type of Appeal

Pieta House CPSOS Ltd

### Appellant

[Click here to enter text.](#)

### Observer

None.

### Date of Site Inspection

19<sup>th</sup> September 2017.

### Inspector

Philip Davis.

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## 1.0 Introduction

This appeal is by the applicant against the decision of the planning authority to refuse permission for the change of use of part of a building in an industrial estate from education to medical services use (support for suicide prevention). The reason for refusal was stated to be a material contravention of the 'Enterprise and Employment' zoning of the area **and as such Section 37(2)(b) of the 2000 Act as amended, applies.**

## 2.0 Site Location and Description

The appeal site is within a small cluster of single storey industrial buildings within a larger business park just south-west of Tallaght Town Centre south of the N81. The Industrial Estate block is bounded by the N81 to the north, Firhouse Road West to the west and south, and Whitestown Way to the east. The north eastern corner of the block is occupied by a large modern commercial development which includes a Woodies outlet, a Lidl, smaller shopping units, a large hotel, and apartments over. There are several different industrial/business estates within the overall block. The Tallaght Stadium is across the Whitestown Way to the east, with the Square Shopping Centre north of the stadium across the N81.

The Industrial park is served by a single private cul-de-sac road (Whitestown Road) which runs due east from Firhouse Road west. This is the only road and pedestrian access to the appeal site (contrary to some online maps). The appeal site is a self-standing block within a small development of three units, subdivided into approximately 26 different units, with a wide mix of uses, including manufacturing, office, retail, education and at least one barber shop. The individual blocks appear to date to around the 1980's and are served by a private access road off the Whitestown Road.

The appeal site is a single storey unit used by Youthreach to provide educational and support services to the local community. It includes offices, a café, and storage. The change of use application relates to the south—west corner of the building, with a floorspace given as 125 square metres.

### 3.0 Proposed Development

*'The change of use of part of the existing Youthreach premises from education to uses for the provision of medical and / or health services. The development will include internal modifications and external changes including to elevations including signage.'*

### 4.0 Planning Authority Decision

#### 4.1. Decision

The planning authority decided to refuse for the following reason:

*The proposed development would materially contravene the 'EE' zoning objective of the application site, which is detailed within the 2016-2022 County Development Plan, 'To provide for enterprise and employment related uses'. The proposed development would prejudice the use of the existing property for economic and enterprise purposes. Additionally, the proposed development would materially contravene County Development Plan Policy Community Infrastructure (C) 11 Healthcare Facilities Objective 2, which sets out to promote the integration of healthcare facilities within new and existing communities.*

#### 4.2. Planning Authority Reports

##### 4.2.1. Planning Reports

The planning report states that the use of the building as a 'health centre' is listed as 'not permitted' within Zoning Objective 'EE'. It is also noted that Policy C11, objective 2 states that it is policy to promote the integration of healthcare facilities within new and existing communities that are appropriate to the size and scale of each settlement. **A refusal was recommended.**

##### 4.2.2. Other Technical Reports

**Environmental Health:** No objection subject to standard conditions.

**Roads:** No objection – site has sufficient parking.

#### 4.3. Prescribed Bodies

None on file.

#### 4.4. Third Party Observations

None on file.

### 5.0 Planning History

No copies are on file, but the planning report notes that in **SD10A/0244** permission was granted for a change of use from factory to Youth Training Centre.

### 6.0 Policy Context

#### 6.1. Development Plan

In the South Dublin Development Plan 2016-2022 the site, along with the rest of the industrial estate (apart from the north-east corner), is zoned 'EE' (Enterprise and Employment). The objective in such areas is '*To provide for enterprise and employment related uses*'. In such areas 'health centres' are 'not permitted'. In relation to healthcare facilities, policy C11 states:

**Policy C11a**

**It is the policy of the Council to support the Health Service Executive (HSE) and other statutory and voluntary agencies in the provision of appropriate healthcare facilities, including the system of hospital care and the provision of community based primary care facilities.**

**Policy C11b**

**It is the policy of the Council to support and encourage the integration of healthcare facilities within new and existing communities that are appropriate to the size and scale of each settlement.**

**C11 Objective 1:**

To support the Health Service Executive (HSE) and other statutory and voluntary agencies in the provision of appropriate healthcare facilities, including the system of hospital care and the provision of community based primary care facilities.

**C11 Objective 2:**

To promote the integration of healthcare facilities within new and existing communities that are appropriate to the size and scale of each settlement.

**C11 Objective 3:**

To require healthcare facilities of an appropriate scale to be provided in new communities on a phased basis in tandem with the delivery of housing, in accordance with the phasing requirements of Local Area Plans and approved Planning Schemes.

**C11 Objective 4:**

To direct healthcare facilities into town, village, district and local centres and to locations that are accessible by public transport, walking and cycling, in the first instance.

**C11 SLO 1:**

To support and facilitate the appropriate future development of Peamount Healthcare for rehabilitation and continuing care facilities.

Relevant extracts from the Development Plan and the Regional Planning Guidelines are attached in the appendix to this report.

## 6.2. Natural Heritage Designations

There are no Natura 2000 sites within 5 km of the site. The closest are the Wicklow Mountains SPA and the several SPA/SAC's designated in Dublin Bay.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

- The background to the application is outlined in some detail – it is noted that it has permission for education use and is used for youth training. It is proposed to use part of the building for suicide bereavement counselling and working with self-harm. The applicant ran a treatment centre in Jobstown, but they have been unable to secure an appropriate alternative premises. Currently, services are provided from a Ballyfermot centre.

- It is submitted that the proposal is in line with '**Connecting for Life: Irelands National Strategy to Reduce Suicide 2015-2020**'.
- It is noted that the planning report did not refer to any national policy on health issues.
- It is submitted that the planning authority did not take account of the existing permitted use of the site (education) and that the proposed use is a minor part of the overall education use of the building.
- It is argued that it is unclear as to what the planning authority considered an appropriate alternative for the proposed use.
- It is argued that the proposed use is in accordance with policy C11b '*to support and encourage the integration of healthcare facilities within new and existing communities that are appropriate to the size and scale of each settlement*'.
- A letter of support for the proposed development from the HSE is attached.
- A letter of support from Youthreach is attached.
- With regard to the material contravention issue and Section 37(2)(b) of the 2000 Act, as amended, it is argued that the proposed development is in accordance with policy C11b and it is argued that the planning authority has not been consistent with addressing conflicting objectives in the development plan. It is therefore submitted that the Board can and should overturn the decision having regard to Section 37(2)(b)(ii) of the 2000 Act.
- It is also noted that the Regional Planning Guidelines for the Greater Dublin Area, section 8.6 'Health and Healthcare Facilities' states that access to health care facilities should be a key planning consideration.

## 7.2. Planning Authority Response

The planning authority did not respond directly to the grounds of appeal. It is noted that if the Board decides to grant permission, it is subject to the Development Contributions Scheme and it may be subject to Supplementary Contributions in relation to the Kildare Route Project.

## 8.0 Assessment

Having inspected the site and reviewed the file I consider that the proposed development can be assessed under the following broad headings:

- Principle of development – zoning and planning history
- National, regional and local planning policy
- Requirements under Section 37(2)(b) of the 2000 Act, as amended
- Other issues
- Appropriate Assessment
- Development Contributions

### 8.1. Principle of development – zoning and planning history

The appeal site is zoned EE, in which ‘health centres’ are ‘not permitted’. However, I note that the planning authority decided to grant permission for the change of use of the overall building to ‘education’, which is also ‘not permitted’ under this zoning designation. I further note that the proposed change of use is for just a small part of the overall building so can be seen as ancillary to the overall permitted use.

The ‘Youthreach’ facility uses one building in a small self-contained development which is part of the overall industrial/business estate. I note that many of the uses within the estate appear to be non-conforming. There are at least two educational facilities (a hairdressing school and an acting school), service facilities such as a barber’s shop, and several units that appear to be operating primarily as retail outlets. It is not clear from the evidence on file as to the planning status of these apparently non-conforming uses. As so often happens with such multi-unit facilities, the uses have migrated over time into something very different from originally intended.

I would therefore question, having specific regard to the existing permitted use of the ‘Youthreach’ building whether permitting the use of a small part of the facility for a healthcare use is really ‘not permitted’ – I would consider it to be a minor alteration in line with the past uses of the site and does not reduce the floorspace available for ‘enterprise and employment’ uses.



## 8.2. National, regional and local policy

The proposed use is for a counselling service related to suicide prevention. The need for such a use in the Tallaght area would appear to be obvious and is supported by national policy ('Connecting for Life: Irelands National Strategy to Reduce Suicide 2015-2020') and Section 8.6 of the Regional Planning Guidelines. The Development Plan, in policy C11, sets out requirements for healthcare facilities, which in short is to encourage their integration within existing communities and in line with HSE and other related policy. It is also an objective to ensure that they are accessible by public transport and walking/cycling.

It would seem from the information submitted by the applicant that there are no other such facilities in Tallaght – an existing Jobstown centre having apparently been forced to close due to anti-social activities. It is stated that they have tried to secure other facilities within Tallaght but were unable to do so, and consider the Youthreach building to be complementary to the proposed use.

The use of a building in an industrial/business estate is hardly ideal in any sense for a health facility, in particular with regard to the policies and objectives set out in C11. The industrial estate is relatively centrally located, being close to Tallaght Town Centre. It is, however, quite awkward to access. There is no continuous footpath along the N81 (foot access to the Square and Luas stop is via Blessington Road). There is no direct link between the large mixed use (residential/hotel/retail) development just east of the site (there is no direct access from that site to Whitestown Road and there is no 'legal' footpath on the south side of the N81). Googlemaps indicates pedestrian/cycling access via the east side of Whitestown Road to Whitestown Way, but this link does not in fact exist – there is a palisade fence preventing any access at this point. Access is only possible through the western side of Whitestown Road. I estimate that the walk from Tallaght Luas station and the associated bus stops is around 15 minutes and a few minutes more to Tallaght Hospital. Cycle access from the town centre or residential estates to the north is predictably tortuous and poorly designed due to the layout of the N81 and the somewhat bizarre design of the cycle paths in the area. There seems to be a reasonably good provision of carparking around the site.

The site is therefore quite suboptimal in terms of access by foot, cycle or pedestrian access, and cannot be considered to be well located in respect of local communities

– clearly a facility closer to the town centre or Tallaght Hospital would be much superior.

Notwithstanding these concerns, the site does have a number of issues in its favour, most obviously its existing use for youth education and support, and it is certainly not the least accessible part of the wider Tallaght area. I would accept the submission of the applicant that reasonable attempts have been made to secure a more central location, but they have been unable to do so. I note in this regard the letters of support from the HSE (Mental Health Services) and Youthreach.

**I would therefore consider that on balance, the proposed use of this site is acceptable having regard to national and regional policy, and the objectives set out in Policy C11 of the South Dublin Development Plan.**

### 8.3. Requirements under Section 37(2)(b) of the 2000 Act, as amended

Section 37(2) of the Planning and Development Act 2000, as amended, states:

*(a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.*

*(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—*

- (i) the proposed development is of strategic or national importance,*
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,*

*or*

- (iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*

*(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.*

*(c) Where the Board grants a permission in accordance with paragraph (b), the Board shall, in addition to the requirements of section 34(10), indicate in its decision*

*the main reasons and considerations for contravening materially the development plan.*

In this regard, while the proposed development would not be of strategic or national importance ((b)(i) above), I would consider that there are conflicting objectives in the development plan (i.e. the zoning objective and the objectives in C11), and that there is a national and regional planning objective to facilitate such important health centres(B)(iii). I also note, in relation to (b)(iv), that the site already has permission for a non-conforming use, i.e. education. **I therefore conclude that having regard to the requirements under section 37(b) (ii to iv), the Board can decide to permit this proposed development notwithstanding the ‘material contravention’.**

#### 8.4. **Other issues**

The site has sufficient parking and other infrastructural provision for the proposed use. There are no protected structures or archaeological sites in the vicinity. It does not have any implications for residential amenity or visual amenities. I would consider the external alterations to be minor and consistent with the nature of the area. The site is not subject to flooding according to available information sources.

#### 8.5. **Appropriate Assessment**

There are no Natura 2000 sites in the vicinity. The small scale and nature of the proposed change of use is such that I would consider it *de minimis* with regards to any potential impacts and so the question of a requirement for an NIS does not arise.

#### 8.6. **Financial contributions**

The proposed development may be subject to the Development Contribution Scheme, but I note is not within the area covered by the Kildare Route Project (the upgrade to the Dublin-Kildare rail line) and so is not subject to a Supplementary Development Contribution.

## 9.0 Recommendation

I recommend that subject to the conditions set out below the Board grant permission for the proposed change of use, for the following reasons and considerations.

## 10.0 Reasons and Considerations

Having regard to the existing permission for education use for the site and the small scale of the proposed change of use it is considered that the proposed development would not contravene the zoning designation of the area. It is considered that notwithstanding its location in an industrial estate the proposed use is complementary with the existing permitted educational use of the building and is within reasonable walking distance from Tallaght Town Centre and Tallaght Hospital and public transport and as such is in accordance with Regional Planning Guidelines and Development Plan policy C11 with regard to community and healthcare facilities. The Board is satisfied that the facility is in accordance with national policy for the provision of such services for the vulnerable and that the site is suitable for such a use. With regard to Section 37(2)(b) of the 2000 Act, as amended, the Board has decided that due to conflicting objectives in the development plan; national policy with regard to the prevention of suicide; and the past planning history of the site with particular regard to its permitted use for education, it is appropriate to grant permission notwithstanding the zoning and planning objectives. The proposed development is, therefore, subject to the conditions set out below, in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning

authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason: In the interest of clarity**

2. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in 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 made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Philip Davis  
Planning Inspector

20<sup>th</sup> September 2017