



An
Bord
Pleanála

Inspector's Report

PL06S.248702

Development	Change of Use from Retail Warehouse use to Office use to existing ground floor unit (332sq.m.) at Industrial warehouse at Knockmitten Lane, Western Industrial Estate, Dublin 12
Planning Authority	South Dublin Co. Co.
Planning Authority Reg. Ref.	SD17A/0100
Applicant(s)	LED Group
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Appellant(s)	LED Group
Observer(s)	None
Date of Site Inspection	11 th of September 2017
Inspector	Caryn Coogan

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site is a large complex within an industrial estate just off the Nangor Road near Clondalkin. The site is accessed off Knockmitten Lane and it includes a massive L-shaped building occupied by the applicant. The subject site is a direct floor area along the northern elevation of the building where the public/ customers can access retail warehousing and offices to *National Lighting*. There are parking areas adjacent to the public area of the facility. The remainder of the building is a large warehouse storage unit.
- 1.2 The subject site is a ground floor unit (332sq.m.) along the northern elevation of development which is currently a retail warehouse. On the first floor above the subject site and along the entire northern elevation there is existing office accommodation.

2.0 PROPOSED DEVELOPMENT

- 2.1 Change of Use from Retail Warehouse use to Office use to existing ground floor unit (332sq.m.) at Industrial warehouse at Knockmitten Lane, Western Industrial Estate, Dublin 12

3.0 PLANNING AUTHORITY DECISION

3.1 DECISION

South Dublin Co. Co. granted the change of use on 22nd of May 2017, subject to 8No. conditions.

The conditions relevant to this appeal are as follows:

3. The drainage infrastructure, including the disposal of surface water shall fully comply with all of the technical requirements of the Council's Water Service Section and/or Irish Water as appropriate.

(1) Fully detailed revised plans detailing and providing for all requirements set out below along with :

(2) The written confirmation of the Council's Water Services Section and Irish water of their agreement to revised plans;

(3) A written commitment to carry out the development in accordance with the required revised plans and;

(4) The receipt for all these requirements has been acknowledged in writing by Planning Authority.

The revised detailed plans required to be lodged with planning authority shall provide all of the following:

- (a) Submit a drawing showing the surface water layout of the proposed development. The drawing shall comply with the Building Regulations 2010 Technical Guidance Documents H and the Greater Regional Code of Practice for Drainage Works.
- (b) Submit a letter or report to comment on the flood risk of site if any
- (c) Submit a drawing showing the watermain layout in compliance with the Building regulations 2010 Technical Guidance Documents B and the Irish Water Standard Details
- (d) All works shall comply with the Building Regulations Technical Guidance Documents B and the Irish Water Standard Details
- (e) Submit a drawing in plan view showing the proposed foul drain layout of the development up to and including the point of connection to the public sewer. The drawing should include the location of the all AJs, manholes, pipe size, material type and direction of flow.
- (f) There shall be a complete separation of the foul and surface water drainage systems both in respect of installation and use
- (g) All drainage works for the development shall comply with the Greater Dublin Regional Code of Practice for Drainage Works which can be viewed/ downloaded from Dept of environment website.

8. Development Contribution of €24,900 is payable.

3.2 TECHNICAL REPORTS

Planning Report:

- **Zoning** The subject site is EE 'To provide for Enterprise and Employment Related Uses under the South Dublin Co. Co. Development Plan 2016-2022.
- Planning History is detailed
- The proposal is an internal alteration from retail warehousing to office use. The office use will form an ancillary element that is a larger floor area than the warehouse use, and there are physical connections between both uses. A condition should be imposed requiring office use to remain ancillary to the main warehouse use.
- No changes to vehicular access and car parking
- There are no watermains and drainage layout drawings submitted. This can be dealt with by way of condition.
- Development Contribution is a change of use from a retail warehouse to office use. 332sq.m.

3.3 THIRD PARTY SUBMISSIONS

There appears to be no third party appeals submitted.

4.0 PLANNING HISTORY

- 4.1 There is a lengthy planning history to the industrial estate, however none of them are relevant to the current proposal.

SD00A/0135

Extension to industrial unit to include offices and a transformer room granted planning permission.

SD04A/ 0827

Permission granted for (a) elevation changes to north elevation and east elevation to existing building (b) change of use to part of existing warehouse (1677sq.m.) (c) internal extension to existing first floor offices (345sq.m.)

SD06A/0954

Permission granted for internal first floor extension (320sq.m.) to previously approved planning permission SD04A/0827

SD14A/0268

Permission for a new single storey extension to western elevation comprising of 4dock leveller loading bays, and ancillary first floor office area within existing warehouse. (340sq.m.)

SD16A/0131 Knockmitten Lane, Western Industrial Estate

Modifications to previously permitted planning permission SD14A/0268 comprising of construction of new single storey extension to western elevation comprising of 4 dock leveller loading bays and the omission of permitted ancillary first floor office area within existing warehouse.

5.0 POLICY CONTEXT

5.1 Development Plan

Section 1.12 Employment

4.2.0 Strategic Policy for Employment

ET2 Enterprise and/ or Residential Led Development in Regeneration Zones. It is the policy of the Council to facilitate and support the regeneration of underutilised industrial areas that are proximate to urban centres and transport nodes and to promote and support more intensive compatible employment and or residential led development in regeneration zones.

ET3 Enterprise and Employment

It is the policy of the Council to support and facilitate enterprise and employment uses (hightech, manufacturing, light industrial, research and development, food science and associated uses) in business parks and industrial areas.

6.0 THE APPEALS

6.1 LED Group operate a wholesale lighting and retail business within the large industrial warehouse unit. The building was originally constructed in the mid-late 1990s and there have been a large number of extensions, and 'change of uses'. Due to business expansion, LED group had considered constructing an additional first floor office space within the building (Ref. SD14A/0268) but opted to apply for a change of use of one of that vacant retail warehouses originally granted permission under SD04A/0827.

6.2 Condition No. 8

SDCC Contribution Scheme Sates 2016-2020:

(i) Change of use: *In respect of a permission for change of use, where development contributions were paid in respect of the former use the contribution payable on the new proposal will be net of the quantum of development previously paid for. Where a contribution was not previously paid or the original development was carried out before 1963 it shall be treated in its entirety as new development and assessed accordingly. The Development Contribution Scheme does not provide for any rebate or refund in this regard. Agents/applicants should provide evidence of prior payment at application stage in order to expedite assessment and avail of this exemption*

- No new space is proposed
- The subject space was constructed in late 1990s
- The space was granted permission under SD04A/082 on 10th of February 2005 for retail warehouse. In 2004 it was evaluated the development contributions were no applicable to the change of use. Contributions were payable for the new area only.

- The financial contribution rate for 2017 is €75 per sq.m. which is the same as 2004. There should be no financial contribution as there has been no increase in the quantum of financial contributions.
- In 2014 the applicant bought the entire building and got a planning clean bill of health of the planning authority, letter enclosed. All financial contributions were paid up on the site. In accordance with the development contribution scheme exemptions the letters are provided to demonstrate the contributions have been paid on the building.

6.3 Condition No. 3

The condition has detailed a number of subsections and is completely inappropriate for the proposed change of use. The drainage infrastructure both foul and surface already exists.

- Condition 1,2 and 3 refer to revised plans
- Section 4a refers to surface water layouts of the proposed development, and the development is indoors, surface water is of no relevance
- Flood risk of an existing building is not relevant
- Section c refers to Building Regulations 2010, and the building was constructed in 2004
- 4e refers to proposed flood drainage layout and this is an existing building. There are no new foul sewers proposed
- Separation of surface and foul water drainage systems already exist on site

The condition should be deleted.

6.4 RESPONSES

The planning authority had nothing further to add.

7.0 ASSESSMENT

- 7.1 This appeal is against two conditions attached to the decision to grant planning permission for the change of use retail warehouse use to an office use within an existing unit at Western Industrial estate, Knockmitten. The first floor of the unit consists of office accommodation. The proposal includes an existing retail warehouse unit on the ground floor of a large unit which will still include retail warehousing units on either side of the proposed change of use to offices on the ground floor.

The total floor area of the change of use is 332sq.m. the gross floor area of the building buildings is 9,108sq.m. Under planning reference SD04A/0827 permission was granted for

(a) elevation changes to north elevation and east elevation of existing building incorporating new revised fenestration and exist doors (b) change of use to part of existing warehouses (1677.28sq.m.) (c) internal extension to existing first floor offices (345sq.m.).

The principle of the development is acceptable and in keeping with existing landuses on the property. The Board can assess the conditions under appeal only as the overall development is in keeping with the proper planning and sustainable development of the area.

7.2 **Condition No. 3**

This is a very long and detailed condition relating to foul and surface water drainage:

The drainage infrastructure, including the disposal of surface water shall fully comply with all of the technical requirements of the Council's Water Service Section and/or Irish Water as appropriate.

(1) Fully detailed revised plans detailing and providing for all requirements set out below along with :

(2) The written confirmation of the Council's Water Services Section and Irish water of their agreement to revised plans;

(3) A written commitment to carry out the development in accordance with the required revised plans and;

(4) The receipt for all these requirements has been acknowledged in writing by Planning Authority.

The revised detailed plans required to be lodged with planning authority shall provide all of the following:

(a) Submit a drawing showing the surface water layout of the proposed development. The drawing shall comply with the Building Regulations 2010 Technical Guidance Documents H and the Greater Regional Code of Practice for Drainage Works.

(b) Submit a letter or report to comment on the flood risk of site if any

(c) Submit a drawing showing the watermain layout in compliance with the Building regulations 2010 Technical Guidance Documents B and the Irish Water Standard Details

(d) All works shall comply with the Building Regulations Technical Guidance Documents B and the Irish Water Standard Details

(e) Submit a drawing in plan view showing the proposed foul drain layout of the development up to and including the point of connection to the public sewer. The drawing should include the location of the all AJs, manholes, pipe size, material type and direction of flow.

- (f) *There shall be a complete separation of the foul and surface water drainage systems both in respect of installation and use*
- (g) *All drainage works for the development shall comply with the Greater Dublin Regional Code of Practice for Drainage Works which can be viewed/ downloaded from Dept of environment website.*

This condition appears to originate from the submission from **Irish Water** dated 28th of April 2017, whereby the watermain layout is required to ensure it is in accordance with the Building Regulations 2010 Technical Documents B and Irish Water Standard Details. The report also requested a plan of the proposed foul drainage layout including the point of connection to the public sewer. In addition, the **Water Services Department** of the planning authority stated there was no surface water layout drawing of the proposed development, and a full layout of the proposed development shall be submitted complying with the Building Regulations Technical Guidance Documents H. In addition, a letter or a report shall be submitted regarding the flood risk if any on the site.

- 7.3 The Board should note Technical Guidance Document H – Drainage and Waste Water Disposal (2016) amends the current 2010 edition of TGD H in order to call up requirements under S.R. 66:2015 - Standard Recommendation providing guidance to wastewater treatment products in compliance with the EN 12566 series of standards following its publication in May 2015 by the National Standards Authority of Ireland (NSAI). In general, this document applies to works, or buildings in which a material change of use takes place, where the works or the change of use commence or takes place, as the case may be, on or after 1 June 2011. Therefore, it would appear the recommendations made by both parties are to comply with newly published amendment to Technical Guidance Documents H.
- 7.4 The appellant states the condition is completely inappropriate for a change of use of an existing commercial space, and it is appropriate for a new development only. The drainage infrastructure already exists in terms of foul and surface water. It states most of the sections in Condition No. 3 are irrelevant as the development exists and it is not a new development. The appellant requests the condition be amended or deleted. The applicant considers most of the sections of the condition in particular the section relating to surface water and flood risk are not relevant to the current proposal.
- 7.5 In my opinion, the planning authority has not examined the proposed development in the context of the existing development on site. The bulk of the building which is circa 9000sq.m. is used for storage purposes and was constructed in the late 1990s. Along the northern elevation, there are a number of retail warehouses and an entire first floor area devoted to offices which was granted planning permission under a number of previous planning permissions. I note under planning registration reference SD14A/0268 extensive drawings relating to the drainage were requested by way of further information because there were new extensions proposed

along the exterior of the building and internally on the first floor of the building. The retail warehouses on the ground floor along the northern elevation were permitted under SD04A/0827. The subject site is 332sq.m. located on the ground floor and sandwiched between two retail warehouses with office accommodation overhead. It will not impact on surface water or flooding in the area. It will not impact on the foul sewerage scheme within the overall site or the public water drainage. I consider the condition is unnecessary because it involves a small segment of the existing large building, which is in keeping with the contiguous changes of use granted in 2004. Therefore, Condition No. 3 is unwarranted and in terms of the overall drainage scheme for the entire site, it will be of no use to the planning authority as it involves such a small floor area in the context of the overall building.

7.6 Condition No. 8

The condition requires a development contribution payable of €24,900 based on a calculation of €75 per sq.m (€75 per square meter of Industrial/ Commercial class Development). The applicant has submitted the development contribution scheme has been incorrectly applied in this stance whereby Exemption (xxvii) is applicable.

Change of use: In respect of a permission for change of use, where development contributions were paid in respect of the former use the contribution payable on the new proposal will be net of the quantum of development previously paid for. Where a contribution was not previously paid or the original development was carried out before 1963 it shall be treated in its entirety as new development and assessed accordingly. The Development Contribution Scheme does not provide for any rebate or refund in this regard. Agents/applicants should provide evidence of prior payment at application stage in order to expedite assessment and avail of this exemption

The applicant has submitted written proof that development contributions relating to original change of use on the subject site granted under SD04A/0827 were complied with in full. Therefore, by imposing a new development contribution to the current change of use, the planning authority is effectively double charging on the floor area and has not taken in consideration the EXEMPTION in the current Development Contribution Scheme as cited above.

On appeal, the planning authority responded by reiterating how the development contribution was calculated but it did not respond to the appeal submission relating to the Exemption or previous payments for a change of use relating to the floor area granted planning permission in 2004.

Based on the evidence submitted by the applicant I consider the development contribution scheme has been incorrectly applied. The planning authority did not take into consideration the exemption 'where development contributions were paid in respect of the former use the contribution payable on the new proposal will be net of the quantum of development previously paid for'. According to the appeal submission the

same rate of €75/ sq.m. was applicable in 2004, and a letter from the planning authority confirming the payment was received in full for the change of use permitted in 2004 which included the floor area of the subject site under this appeal. Therefore, I conclude Condition No. 8 should be removed as it does not comply with the adopted Development Contribution Scheme.

8.0 RECOMMENDATION

I recommend that conditions No. 3 and 8 be removed from the planning authority's decision to grant planning permission

Caryn Coogan

Planning Inspector

18/09/2017