



An
Bord
Pleanála

Inspector's Report

ABP-308391-20

Development	RETENTION: Retention of the existing uses of Units 2, 7, 9, 13, 14, 15, 17 and 19 on site.
Location	Docklands Innovation Park, 128-130 East Wall Road, Dublin 3
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4327/19
Applicant(s)	EWR Innovation Park Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Atlantic Diamond Ltd.
Observer	None
Date of Site Inspection	15 th January 2021
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 1.45 hectares and is located at the junction of East Wall Road and Merchant's Road, Dublin 3. The lands are bounded by East Wall Road to the north, the Beckett Building site and St. Joseph Educational National School to the west, 3-4 storey residential development to the south and Merchant's Road to the east, which has a line of 2 storey terraced dwelling houses located along its eastern side.
- 1.2. The site is accessed off East Wall Road, via a gated entrance on the northern boundary and is comprised of 19 no. units located along the boundaries of the site and a central block (with numerous smaller units no.23 to 37 within) with a mixture of commercial / light industrial uses. The buildings range in height from single storey to three storey buildings, with associated parking located to the front of each unit. The remainder of the site mostly comprises of hard standing, however two deciduous trees and a low box hedge are located to the north western corner of the central block. The units, the subject of this appeal are located within the structures around the periphery of the site, on all 4 sides.
- 1.3. The site is located within the Dublin Docklands area and is well served by public transport including the Luas, which is within 1km (10 minute walk) to the Point Luas stop and the Dart, with the Clontarf Dart Station c. 1.4km (15 minute walk). The site is also situated along a Dublin Bus corridor served by bus routes No.'s 53 and 151 connecting the site to the city centre. The Port Tunnel is located approximately 400m northwest of the site with direct access to the M50 and Airport.

2.0 Proposed Development

- 2.1. The proposed development is to comprise:
 - Retention permission is sought for the existing uses of Units 2, 7, 9, 13, 14, 15, 17 and 19. The existing uses within each unit for which retention is sought can be detailed as follows:
 - Unit 2 and 7: Cultural/Recreational use (Dance Studio)
 - Unit 9: Office use

- Unit 13: Gym at ground floor level and office use at 1st and 2nd floor level
- Unit 14: Educational use (Language School) at ground floor level and office use at 1st and 2nd floor level
- Unit 15: Warehouse at ground floor level
- Unit 17: Cultural/Recreational use (Dance Studio)
- Unit 19: Office use

2.2. Further information submitted on 19th August 2020 clarified issues in relation to the use of first and second floors of Unit 15. The applicant in their submission stated that the ground floor 'warehouse' use was the only use for which retention permission was sought under the current application. Revised drawings confirm this and reference to the 1st and 2nd floor has been removed.

2.3. In response to the Transportation Planning Division's request the applicant proposed an additional 20 bicycle parking spaces (in addition to the existing 32 on site) to be located north of the side elevation of Unit 19.

2.4. In addition, the applicant stated that the use of Unit 2 and Unit 7 for cultural/recreational purposes (dance studio) had now ceased and they wished to now use the units for light industrial use. Condition no.2 of the notification to grant details the use to be retained on site as light industrial.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission subject to nine conditions, most of which are standard in nature, but also including the following Condition no.2:

Units 2 and 7 shall be retained as light industrial use.

Reason: *In the interests of orderly development and clarity and consistency.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner's Report December 2019

- Insufficient information submitted as part of the application in relation to the nature and operation of the uses for which retention permission is sought.
- Further information was sought requesting details of the following:
 - a. Details of all existing uses within the Docklands Innovation Park.
 - b. Details of opening hours for each use for which retention permission is sought.
 - c. Details of employee/ staff numbers for each unit.
 - d. Schedule of classes and attendee numbers where relevant.
- Discrepancies in the application were noted between the drawings and public notices. In this regard it was noted that the public notice refers to change of use of the ground floor of Unit 15 only to accommodate warehousing use, while Drawing PL62 illustrates that the extent of the application extends to include the first and second floors of Unit15. Further information was sought to clarify this issue.
- The Transportation Planning Division raised concerns regarding carparking, hours of operation, staff numbers, delivery/service vehicles. Location of cycle parking. Further information was requested to address.
- The drainage division of DCC noted the location of the subject site within Flood Zone A – further information was requested which included the requirement for a flood risk assessment.

Final Planner's Report September 2020

A response to the 4 points of further information detailed above was received by the planning authority on 19th August 2020.

- The area planner noted the information submitted in response to the uses on site and stated that it provided greater clarity regarding the nature and operation of uses for which retention permission was being sought. It included

details of use, opening hours, employee numbers and schedule of classes within the Docklands Innovation Park. The area planner also noted that the cultural/recreational use (dance studio) within Units 2 and 7 had ceased and it was considered reasonable to attach a condition to ensure that the light industrial uses for both units be retained.

- In response to further information the 1st and 2nd floors of Unit 15 have now been omitted from the application. The area planner was satisfied with this clarification.
- The applicant states that there are 86 no. car parking spaces on site at present and they are managed on a first come/first serve basis, no change to these numbers is proposed. It is however proposed to increase the number of bike spaces on site from 32 to 52 in line with development plan standards. Proposed uses on site are to operate Monday to Friday 9am to 5:30pm and staff numbers in each unit range from 1-10 no. employees. The area planner also notes that details of deliveries and visitors to each unit was also presented. The information submitted was considered satisfactory by the area planner.
- A flood risk assessment was submitted and the development was determined satisfactory subject to conditions.
- Having regard to the information submitted, the area planner considered that the proposed development would not seriously injure existing buildings or the surrounding location and was in accordance with the Development Plan.

3.2.2. Other Technical Reports

- Drainage Division – Dublin City Council (DCC)
 - Report dated 27/11/19 – further information requested in relation to flood risk as site is located in Flood Zone A. Flood risk assessment requested.
 - Final Report dated 04/09/20 – No objection to development subject to conditions.
- Transportation Planning Division – DCC

- Report dated 11/12/19 – further information was requested regarding car parking provision on site, hours of operation, number of staff and how they travel to site, details of any delivery/service vehicles to each unit, location and details of bicycle parking.
- Final Report dated 13/09/20 – based on the information submitted in response to FI the division had no objection to the development subject to conditions.

3.3. Prescribed Bodies

- Transport Infrastructure Ireland (TII) – response received 27th November 2019 - no objection to proposal were raised. The TII however did highlight that the development falls within an area set out in a Section 49 Levy scheme for light rail. The Section 49 scheme lists several exemptions where the levy does not apply, the TII go on to state that if the application is successful and not exempt, as a condition of the grant the Section 49 contribution scheme levy should be included.
- Irish Rail – no response.
- Irish Water – no response.

3.4. Third Party Observations

3.4.1. One third party observation was received from Atlantic Diamond with an address in the Docklands Innovation Park. The following concerns were raised:

- Question the bona fides of the applicant as in December 2019 same applicant was engaged in consultations with An Bord Pleanála on an SHD scheme (ABP. Ref. PL29N.305551) which sought the demolition of the Docklands Innovation Park and construction of 336 apartment in its place.
- With regard to the public notices, the description of the material changes to the eight named units is inadequate.
- It is difficult to see why the applicant is seeking permission in relation to 8 units, when the remaining units also require consent for their related changes.

- Incomplete and inaccurate development description in relation to the extent of works carried out to facilitate the proposed changes of use.
- Lack of reference in planning history to development refused for change of use to Unit 19 under Register Reference 1812/92.
- Parking in the estate is inadequate.
- Insufficient footpaths within the estate.
- Unit 2, Unit 7, Unit 13, Unit 14, Unit 15, Unit 17 and Unit 19 have inadequate toilet facilities
- History of non-compliance with planning permission in the estate.
- Inconsistencies between the plans and layouts submitted.
- No provision for disabled people internally within the layouts or footpaths within the estate.
- Details of fire isolation of individual sub-units and general fire regulatory compliance and certification not provided.
- Safety concerns for young children and young adults using the facilities for which retention permission is sought.
- Requests planning application is refused outright.

4.0 Planning History

- **ABP. Ref. 306778 – 20 – (Strategic Housing Development – SHD)**

Permission granted on 17th August 2020 for SHD which included the following:

“demolition of the existing two number / three number storey light industrial / commercial units on the site (Units 1 to 43) circa 11,059 square metres, retaining units 11, 15, 16 (circa 2,606 square metres) on site and construction of 336 number residential apartment units comprising of 161 number one-bed units, 171 number two-bed units and four number three-bed units in six number blocks ranging in height from four number storeys to 10 number storeys over basement level”.

- **P.A. Ref. 3885/09** Dublin City Council (DCC) - issued a decision to grant permission for the following development on 2nd of November 2009:

“Planning permission for the change of use of Units 9 and 10 from light industry to science and technology based industry along with associated internal layout changes. The works within the park include the removal of two small walled yard areas and roller shutters and their replacement with windows/screens, as well as additional fire escape doors to the rear, along with associated modifications to the parking and making good.”
- **P.A. Ref. 3974/00** – DCC – issued a decision to grant planning permission for the following development on 7th February 2001:

“Change of use from industrial to training facility for the faculty of Tourism and Food, incorporating new canopy in yard and mechanical plant in yard and on roof.”
- **P.A. Ref. 1460/00** – DCC – granted planning permission for the following development on 5th July 2000.

“Minor alterations to existing elevations, new louvred screens and plant on existing roof.”
- **P.A. Ref. 1812/92** – DCC – 1992 – Permission refused for change of use of Unit 19 from industrial to office/ software use. Reasons for refusal related to:

 - contravene materially the zoning objective for the area indicated in the Dublin City Development Plan 1991, namely zoning Objective 'G', 'to provide for general industrial use';
 - inadequate provision of carparking; and
 - the proposal would set an undesirable precedent for similar conversions within the complex.

5.0 Policy Context

5.1. Development Plan

5.1.1. The operative Development Plan is the Dublin City Council Development Plan 2016-2022. The subject site is within the 'Z14' zoning objective, Strategic Development and Regeneration Areas. The Z14 objective is "*to seek the social, economic and physical development and/or rejuvenation of an area with mixed use of which residential and 'Z6' would be the predominant uses*".

5.1.2. Z14 areas are capable of accommodating significant mixed-use development, therefore, developments must include proposals for additional physical and social infrastructure/facilities to support same. Residential development is listed as a permissible use within this zone.

Zoning objective Z6 states – '*To provide for the creation and protection of enterprise and facilitate opportunities for employment creation*'.

5.1.3. The site is located in SDRA 6 Docklands (Strategic Development Zone (SDZ) and Wider Docklands Area), within the Docklands Area of the SDRA. Development Plan Sections 15.1.1.6 and 15.1.1.7 therefore apply. The following points are noted in relation to residential development:

- Achieve successful interaction between the SDZ scheme and surrounding streets and public realm to retain and foster a strong sense of neighbourhood within communities.
- To maximise the employment generating opportunities of the support services sector including the local enterprise office under Dublin City Council, as well as enterprise activity with a range of key skilled, semi-skilled and unskilled workers as part of the overall economic regeneration of the Docklands area.

5.1.4. Section 16.22 Industry, Warehousing and Business Park Development.

5.1.5. Section 16.38 Car Parking Standards

5.1.6. Section 16.38.1 Dublin Docklands - states the following: *The parking standards set out in Table 16.1 and 16.2 will also apply to the Docklands SDRA. However, the future development of the area needs to be weighted heavily in favour of the*

sufficient use and patronage of public transport, with a consequent reduction in the car parking requirements for significant commercial development proposals. The maximum car parking standards set out in Table 16.1 should not, as a general rule, be required for future commercial development in the Docklands area.

5.1.7. Table 16.1 – Maximum Car Parking Standards for Various Land-Uses.

5.2. Natural Heritage Designations

5.2.1. The nearest designated site is the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approx. 560m to the site's north. The South Dublin Bay SAC (Site Code: 000210) is located approximately 2.1km to the south east.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal has been lodged by Atlantic Diamond Ltd. of Docklands Innovation Park, the grounds of which can be summarised as follows:

- Of 23 units within the estate 17 of these are subject to unauthorised change of use. It is difficult to understand as to why the applicant is only seeking permission in relation to 8 of these units.
- The proposed development is contrary to Z14 zoning. Z14 zoning objective states that the dominant element should be Z6 – housing. Uses such as gyms, dance schools, language schools and offices are only permissible when they comprise subordinate elements.
- The applicant has just availed of the SHD process to build 336 apartments on site (ABP. Ref. 306778-20), the applicant/owner cannot simultaneously both retain and demolish these units. Granting this permission would prevent the construction of these apartments.
- There is an ongoing history on non-compliance with planning laws on the site. The conditions relating to P.A. Ref.3885/09 and P.A. Ref. 1812/92 have been ignored. The applicant has applied for retention of Unit 7 as a dance studio

even though it was in use as a theatre. In response to further information he then requested that the unit be used for light industry, however it is currently being used as a click and collect retail outlet.

- The application is incoherent and unintelligible.
- The development which includes the conversion and subdivision of units results in sub-standard units with no provision for disabled people, toilets, carparking, footpaths, stairs, lifts, emergency exits etc. Part M of the building regulations has not been considered or met and the application should be rejected.
- Parking in the estate is inappropriate for the intensified use. The 86 car park spaces disclosed in this application are inadequate, as 52 of these are required by six of the subject units being retained, leaving just 34 spaces for use by the remaining 17 units. From an examination of previous permissions on site it can be determined that only 62 car park spaces are authorised on site (P.A. Ref. 1812/ 92 and P.A. Ref. 3885/09).
- The applicant claims that the 86 spaces in the estate remain unchanged due to the intensified use is not true. 24 of the 86 car spaces present on site were provided by the illegal removal of trees and hedgerows to provide for the change of use. No report has been provided detailing the loss of biodiversity or wildlife habitat or how the applicant intends to mitigate these losses. The appellant claims applying for retention permission in this way without conducting an appropriate environmental impact assessment is contrary to European law.
- From recent planning applications it can be determined that bats are present on the East Wall Rd. The planning authority did not consider the illegal removal of trees, hedgerows and habitats to provide for the additional car parking spaces. In addition, without a field study or source receptor pathway analysis it would be impossible to determine the impact that the development would have on the nearby SAC.
- The removal of significant amounts of vegetation required a screening for EIA. The developer has failed to disclose the impact of the whole project and the

Board cannot make an appropriate assessment without it. The planning authority decision that no appropriate assessment is required is wrong as they have been misled as to the true extent of this development.

- Photographic evidence showing the extent of tree planting on site previously has been submitted. Photos in connection with subsequent change of use of Unit 7 has also been submitted.

6.2. Applicant Response

6.2.1. The response by John Spain Planning and Development Consultants on behalf of the applicant addresses the grounds of appeal as follows:

- The subject application seeks to retain the existing uses on site. There is no change to the building footprint on the site or no additional floor area proposed. The application was made in response to unauthorised uses, to regularise and comply with the appropriate planning provisions.
- The subject 9 no. units (Units 2, 7, 9, 13, 14, 15 , 17 and 19) were considered to be the only uses requiring retention permission. It was submitted that all of the other uses on the site were compatible with the permitted uses of each relevant unit.
- The appellant's concerns in relation to Unit 7 being used as a theater is noted. This unit was previously used as a dance school which included for a performance element. During the course of the application, the relevant use of Units 2 and 7 ceased. Therefore, as part of the further information response it was requested that the change of use of Unit 2 and Unit 7 be no longer considered, condition no. 2 was there for attached which retained light industrial use on site.
- The uses proposed within the retention application are compatible with the zoning objective for the area i.e. Z14. The Z6 zoning objective is an entirely different land use zone within the development plan.
- Two applications within the same site boundary can be made concurrently in accordance with Section 34 of the Planning and Development Act 2000 (as amended). The application has been submitted to regularise the existing

development on site, in accordance with proper planning regulations for the continued use of the development, until such a time that the SHD application is implemented (granted by the Board on 17th of August 2020). The Board should note the appellant has previously objected to the SHD planning application and has challenged the decision by judicial review. Their support for residential development on site is therefore questionable.

- Part M is a building control matter to be agreed/approved by Dublin City Council's building control section, therefore any matters in relation to Part M will be dealt with by the applicant in due course.
- 118 car spaces have been identified on site under a recent survey. The subject site is located in Zone 2 for car parking as set out in the Development Plan. The maximum car parking requirement for the entire development is 62 spaces. Therefore, proposed car parking is above the maximum required. In addition, it should be noted that the DCC Transportation Department did not raise any objections to the level of car parking currently on site to cater for the proposed uses.
- In response to the EIA and AA screening concerns raised by the appellant, the Board should know that the proposed development does not fall under the relevant categories for EIA as set out in Part 2 of Schedule 5 of the Planning and Development Act 2000 (as amended). The development has therefore been identified as subthreshold and does not generate the need for EIAR and as such the retention application is therefore not precluded.
- A Screening Report for Appropriate Assessment has been prepared and is submitted as part of the appeal response. This report concluded that no likely significant effects from the project itself or in combination with other plans and projects are possible on site.
- In response to the appellant's concerns in relation to the removal of trees on site, the applicant states that they acquired the site in 2017 and thus any prior claims have been the subject of a separate ownership. The subject application does not involve any modifications to the landscape treatment of the site.

- It is noted that the appellant raises issues in relation to the potential for bats on the site. No new works or modifications are proposed to the existing buildings therefore there is no potential for disturbance of bats. Notwithstanding the above, a report has been carried out by Brian Keeley and submitted as part of the response to the appeal which concludes that no bats are present on site.

6.3. Planning Authority Response

6.3.1. The Planning Authority did not respond to the grounds of appeal.

6.4. Observations

6.4.1. None received.

6.5. Further Responses

6.5.1. A further response from the appellant to the applicant's response to the grounds of appeal was received by the Board on the 4th of December 2020. This response can be summarized as follows:

- The appellant acknowledges the judicial review proceedings against SHD application ABP Ref. 306778 on site and contend that the Board acted illegally and illogically in making that decision. This legal dispute however should not prevent the Board from acting impartially and lawfully in this current case.
- The appellant believes a grant of retention permission would be an obstacle that will delay perhaps indefinitely the building of housing in this area.
- The proposed retention development, which is exclusively retail, commercial and industrial is contrary to the Z14 zoning of the site and is a material contravention of the Development Plan. The Board under the SHD application (ABP Ref.306778-20) has already assessed that given the context of the surrounding area 12% commercial use was appropriate on site, therefore 100% retail, office, industrial of this development is surely not.

- The applicant's response does not address the issue regarding the incomplete description of the proposed development or the fact that many of the units in question are being subdivided. Unit 19 has been broken up into 10 separate units. Unit 19 is described as offices yet part of the unit is used by Connect Couriers as a logistics department and it should be noted that Unit 15 is used by DPD couriers.
- The applicant's response has not dealt with the previous planning permissions on site and their relevant conditions (P.A. Ref. 3885/09 and P.A. Ref 1812/92).
- It is hard to comprehend the applicant's claim that Unit 15 requires retention permission but that Unit 5 does not and that this was decided following a comprehensive review.
- The applicant's claim that the application does not include any modifications to the building structure is untrue. The appellant has attached photographic evidence of recent works. In addition, due to physical works on site in relation to the subdivision of Unit 19 an accident occurred which was reported to the Health and Safety Authority (HSA).
- The development is contrary to Policy SN29 of the Development Plan as the principles of universal design have been ignored.
- When purchasing any property requisitions on title are raised by the purchaser's solicitor, therefore the applicant must have known about the illegal removal of trees and hedgerows prior to purchasing the site.
- The project as a whole has not been considered under the EIA Directive and that project splitting which is now being attempted by the applicant is contrary to EU law.
- The applicant refers to the bat survey and the screening report for appropriate assessment, both of which were submitted after the case was decided by the planning authority, they state that this is an obvious breach of the Aarhus convention given that the public will not be afforded the opportunity to comment on either report.

- In addition, the appellant queries the trigger for appropriate assessment as outlined under previous judgments by the Advocate General and claims that the development is clearly subthreshold development, where an EIAR is mandatory. Reference is made to CJEU case C127 /02 Waddenzee 2004 ECR I-07405 regarding the test that a court would apply in case an EIA is required. The report fails to mention any removal of flora and fauna prior to the application for retention. The appellant also states that the removal of soil and replacement with hard surfaces on site may increase flood incidents in the area.
- Several errors have been noted in the report submitted by the applicant which to date have not been corrected. Some reference details in connection with the previous SHD application on site and others are in relation to the number of car spaces available. In addition the uses of certain units on site have not been clarified.
- Of the 62 legitimate carpark spaces, 52 are required by six of the subject units being retained, this leaves just 10 legitimate spaces for use by the remaining 17 units. The retention development provides an additional 24 car park spaces through the illegal removal of trees, hedgerows and wildlife habitat, this is the legal responsibility of the current owner and should be addressed.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Planning History on Subject Site
- Carparking
- Other Matters
- Environmental Impact Assessment

- Protected Species - Bats
- Appropriate Assessment – Screening

7.2. Principle of Development

7.2.1. The proposed development seeks a change of use of units 2, 7, 9, 13, 14, 15, 17 and 19 which are all permitted as industrial uses under historic permissions on the site apart from Unit 9 which the applicant states was granted planning permission for science and technology use under P.A. Ref. 3885/09. The site is located within an area zoned Z14 *Strategic Development and Regeneration Areas* with a stated. The appellant contends that the uses for which retention permission is sought are not compatible with the zoning on site. The following is a breakdown of the uses for which retention is sought on site:

Unit No.	Use sought under retention permission
Units 2 and 7	Originally sought retention for Cultural/Recreational use (Dance Studio), however applicant submitted a request that this be changed to light industrial as part of the further information response to the planning authority. Condition no.2 of the planning authority's grant of permission sees these units retained in light industrial use
Unit 9	Office Use
Unit 13	Gym at ground floor level and offices at 1 st and 2 nd floor levels
Unit 14	Educational Use (Language School) at ground floor level and office use at 1st and 2nd floor levels
Unit 15	Warehouse at ground floor level – logistics based and courier
Unit 17	Cultural/recreational use (dance studio)
Unit 19	Office use

7.2.2. The appellant in their appeal and response to the applicant's submission states that the Z14 zoning specifies that the dominant element should be Z6 – housing, and that uses such as those proposed for retention are only permissible within Z14 when they compromise subordinate elements. The Z6 zoning objective as defined under the Development Plan states '*To provide for the creation and protection of enterprise*

and facilitate opportunities for employment creation' and does not refer to housing as the appellant would suggest.

- 7.2.3. Relevant permissible uses under zoning objective Z14 include '*cultural/recreational building and uses, education, light industry, offices and training center*'. The following are open for consideration under Z14 '*warehousing (retail/non-food/retail park) warehousing*'. The uses for which retention permission is sought under the current application are listed as either 'permissible' or 'open for consideration' on the subject site, I would therefore agree with the area planner, that the principle of the uses for which retention is sought can therefore be considered on this basis. I consider that the development can be viewed positively in the policy context and that the proposal is in accordance with the overall objectives of Z14 areas. The principle of development is therefore acceptable, subject to the detailed considerations below.

7.3. Planning History on Subject Site

- 7.3.1. The current site has an existing permission for a SHD development comprising of 336 residential units (ABP Ref. 306778-20) which received approval on 17th August 2020. (The Board should note that the current appellant has challenged same decision by Judicial Review).
- 7.3.2. The appellant raises concerns over this concurrent SHD application onsite, stating that it is not possible to both retain the uses the subject of this appeal and demolish same units as part of the SHD application. The applicant in response claims he has sought to regularise the existing development on site under the current application until such time that the SHD application is implemented.
- 7.3.3. The current application for retention is not related to the SHD and the granting of one application, in this case the SHD development, does not preclude another application being applied for on the same site. Therefore, the applicant is fully within their rights under the Planning and Development Act 2000 (as amended) to apply for retention of existing uses on the current site. This application has been made independently of the SHD application and I have assessed the current application 'de novo' based on the details submitted with the application and appeal documentation.
- 7.3.4. The subject application seeks the retention of existing uses within 8 no. units, namely 2,7,9,13,14,15,17 and 19. The third party appellant claims that a total of 17

existing units within the subject site are the subject of unauthorised change of use and therefore the current retention application for 8 no. units is piece meal and cannot be considered in isolation. In response to this the applicant has stated that a full assessment was carried out at the time and the subject 9 number units were considered to be the only uses requiring retention permission. It was submitted that all of the other uses on site were compatible with the permitted uses of each relevant unit. The Board should note the applicant's reference in the appeal response to 9 no. units (Section 5.2 and 5.3) appears to have been made in error, the application and drawings related to same detail only 8 no. units.

7.3.5. While I note the appellants concerns, the current application relates to 8 no. units only and the matter of enforcement in relation to other possible unauthorised development falls under the jurisdiction of the planning authority.

7.3.6. The appellant in their submission raised issue with other previous permissions on site and the lack of compliance with the relevant conditions set under same (P.A. Ref. 3885/09 and P.A. Ref 1812/92) which restrict certain uses within units and also relate to car parking provision on site. Both applications were assessed under previous development plans and it is noted that the specific zoning objectives and parking requirements have since been revised under the current Dublin City Development Plan 2016-2022. The current application has been assessed under the policies and requirements of the relevant development plan which is that currently in place.

7.4. Car parking

7.4.1. In response to the planning authority's further information request the applicant stated that there were 86 no. car spaces on site at present and they were managed on a first come, first serve basis. No change to that number was proposed as part of the application, however the applicant as part of the further information response proposed for an increase in the number of bicycle parking spaces from 32 to 52 in line with the standards set out under Table 16.2 of the current Development Plan. Based on the information submitted the Transportation Planning Division had no objection to the uses to be retained on site.

7.4.2. As part of the applicant's response to the appeal submission they now state that as part of a more recent survey of car parking on site that an updated total of 118

number spaces exist. This is an increase of 32 car spaces on the original number stated (86 spaces) and it is not clear where these additional spaces have come from. The appellant raises concerns regarding same calculations. However, from an examination of the submitted site layout plans and an approximate count on site there would appear to be circa. 118 spaces available, though the accessibility of some of these spaces is questionable. The third-party appellant claims that the retention development provides an additional 24 car park spaces through the illegal removal of trees, hedgerows and wildlife habitat.

7.4.3. Section 16.38 of the Development Plan details the car parking requirements for various zones and developments within the Dublin City area. The subject site is located within Zone 2 and Table 16.1 of the plan sets the maximum car parking standards for various land uses. This table details that land uses in connection with '*Enterprise and Employment/Offices/ General Industry (including warehousing)*' require 1 car space per 200sq.m GFA under Zone 2. The current application proposes retention for change of use for a floor area of 5,620sq.m. This would require 28 car spaces for the retained uses and by the same standards a total of 68 car spaces for the entire development on the subject site (total GFA 13,665sq.m). The applicant states that the maximum car parking requirement for the entire development is 62 which appears to be an underestimation. However taking into account the required standards above and the fact that Section 16.38.1 Dublin Docklands of the Development Plan states the maximum car parking standards set out in Table 16.1 should not, as a general rule, be required for future commercial development in the Docklands area, I am satisfied that an adequate amount of car parking is to be provided on site for those uses seeking retention permission and that same required car parking will not reduce the availability of existing car spaces, used by other units on site, to a level that is below that required under the current Development Plan standards.

7.5. Other Matters

Separate Legal Code

7.5.1. The appellant states that the statutory obligations of Part M of the Building Regulations have not being met and that the application should be rejected by the Board. In response to this issue the appellant should note that the issue of

compliance with Building Regulations will be evaluated under a separate legal code and thus need not concern the Board for the purposes of this appeal. The appellant should also note that accidents reported to the Health and Safety Authority (HSA) on site also falls under a separate legal code and is not the responsibility of the Board to investigate or pursue. The focus of this de novo assessment is to concentrate on the planning and environmental matters under consideration only.

Public Notices

- 7.5.2. I note the third-party appellant's concerns in relation to the description of uses in the public notices and the subdivision of units on site. The appellant states that Unit 19 has been broken up into 10 separate units and that this subdivision has not been carried out to standard. The appellant also states that though a change of use to offices was applied for, a large part of the unit is used as a logistics centre for a courier service, as is similarly in place in Unit 15. Having visited the site, I noted the ground floor of Unit 19 is now in use as offices, as evidenced in my photos submitted with this report. I also note that the ground floor use for which retention is sought in Unit 15 is for warehouse use, again this was evidenced on site visit. In terms of procedural matters and the alleged irregularities in terms of the descriptions within the public notices, I note that these matters were considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned party from making representations. I therefore see no issue with the description as presented in the public notices, however if the Board are minded to grant permission, I would suggest inclusion of a condition to ensure no internal subdivision of units can occur unless authorised by a prior grant of permission.

Flood Risk

- 7.5.3. Concerns in relation to Flood Risk were raised by the Drainage Division of Dublin City Council as part of the assessment of the initial application. The applicant responded by submitting a Flood Risk Assessment (FRA) which stated that the site was at risk from 0.5% tidal flooding events only if the existing flood defenses at Spencer Dock fail. Section 5.3 of the flood risk assessment recommended an emergency action plan for the existing premises on site to ensure safe egress prior to a flood event. I note the appellant also raised concerns in relation to the removal of soil and replacement with hard surfaces on site, stating that these actions may

increase flood incidents in the area. I am satisfied that the FRA submitted in response to further information stage addresses all the above concerns and that the risk of flooding on site is adequately addressed and that the elements for which retention is sought on site would not further exacerbate the risk of flooding on site.

Change of Use of Units 2 and 7

- 7.5.4. In response to the planning authority's further information request the applicant stated that during the course of the application, the relevant use of Units 2 and 7 (dance studio) ceased. Therefore, as part of the further information response it was requested that the change of use of Unit 2 and Unit 7 be no longer considered. Condition no. 2 was therefore attached which retained light industrial use on site. I see no issue with this and would suggest that if the Board are minded to grant permission that a similar condition is attached which limits the units to light industrial uses.

Section 49 Levy scheme for Light Rail

- 7.5.5. Transport Infrastructure Ireland in their submission on the application dated 27th November 2019 highlighted that the development is located within an area set out in a Section 49 levy scheme for light rail. This is an issue which is pertinent to the determination of the conditions to be attached to the development in an instance where the Board are minded to grant permission. The scheme referred to is the *DCC Supplementary Development Contribution Scheme – Luas Red Line Docklands Extension (Luas C1)*. TII did not specifically state whether the scheme applies to the current application but instead stated that if the application is successful and not exempt, a condition of the grant should include for the Section 49 contribution scheme levy.
- 7.5.6. The Board should note that no condition relating to the Section 49 levy scheme was attached by the planning authority to the grant of permission. Section 11 of the scheme contains details of exemptions which can be applied in certain cases, the current proposal does not fall under any of those listed. Section 13 of same contribution scheme states that '*Exemptions and reductions shall not apply to permissions for retention of development*'. Having examined the scheme, I note under Section 10 that only 3 specified land uses are defined, these being Commercial, Retail and Residential. A rate of €38.00 per sq.m applies to commercial

development as a specified land use. However, given that the previous uses within the subject units would have also fallen under commercial use, using a strict interpretation of the scheme there does not appear to be a justification for applying a development contribution levy, as no additional floor space is proposed and there has been no change in land use on site as defined under the scheme. Therefore, I do not believe that the Section 49 levy scheme should apply in the case of the current development, however, if the Board are minded to grant the development and differ in this opinion they may wish to attach a condition regarding levies.

7.6. Environmental Impact Assessment

- 7.6.1. The development is for retention for the change of use of 8 no. units on the subject site and does not include for any physical works to the existing buildings. On site visit it was noted that the only area of vegetation exists to the north east of the central block, where two deciduous trees and short hedge are located, the applicant does not propose to impact this vegetation in anyway.
- 7.6.2. The appellant raises concerns in relation to EIA in both of their submissions. In the submission dated 3rd December 2020, the appellant refers to a recent judgement of 19th June 2020 (2020 No. 44 JR) in which ‘*the threshold at the stage 1 screening stage*’ is mentioned and the trigger for which stage 2 Appropriate Assessment (NIS) would be required. The appellant states that ‘*the development is clearly subthreshold development where an EIAR is mandatory*’. There appears to be some confusion here on the appellant’s behalf in relation to the difference between the two processes i.e. the AA process and the EIA process, as these are defined under separate legislation. The appellant queries the trigger for AA as outlined under previous judgments by the Advocate General yet applies same trigger it would appear to the requirement for EIA. Section 7.8 below provides an Appropriate Assessment to satisfy Article 6 (3) of the Habitats Directive, under part XAB, section 177U of the Planning and Development Act 2000 (as amended), a separate examination of possible likely significant effects considered under the EIA Directive is carried out under this section.
- 7.6.3. The proposed development falls under none of the relevant categories set out in Part 2 of Schedule 5 of the Planning and Development Act 2000 (as amended) for which mandatory EIA are required, therefore the development is sub-threshold. Having

regard to the nature of the development on a serviced site in an urban area and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the development which seeks the retention for the change of use to existing units and the provision of additional bicycle parking. The applicant states that there is to be no removal of existing vegetation on site to accommodate the proposed new bicycle parking and having examined the revised plans submitted (DRW. No. PL61, Revision1) I consider the proposed location acceptable. In response to the appellant's concerns in relation to the illegal felling of trees, removal of hedgerows and destruction of habitat, the applicant states in Section 5.31 of their response that this occurred prior to their purchase of the site in 2017. While I note the appellants concerns, the current application relates to the retention of uses within 8 no. units on site only, which involves no removal or destruction to any vegetation site.

- 7.6.4. Based on the above assessment the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.7. Protected Species - Bats

- 7.7.1. The appellant also raises concerns in relation to bats and their use of the site. Reference is made to CJEU case C127 /02 Waddenzee 2004 ECR 1-07405 and the appellant claims that the applicant fails to mention any removal of flora and fauna prior to the application for retention. In particular, the appellant refers to feeding grounds for protected species on site and the need for a full appropriate assessment. It is noted that bat species are not identified as qualifying interests of any of those Natura 2000 sites within the zone of influence outlined under Section 7.8 below. Therefore, these are not considered under the appropriate assessment for this site. I do however acknowledge that all Irish bats are protected under national and EU legislation and that both the animals themselves and their roosts are protected and it is an offence to disturb or interfere with them without a licence.
- 7.7.2. The applicant has submitted a bat survey and separate screening report for AA in response to the submitted appeal. The appellant argues that both documents were submitted after the case had been decided by the planning authority, stating that this is an obvious breach of the Aarhus convention, given that the public were not

afforded the opportunity to comment on either report. The Board should note that the planning authority raised no concerns regarding any AA issues or the requirement for bat surveys. In addition, no submissions were received on either of these issues apart from those raised by the appellant. I am therefore satisfied that this did not prevent the concerned party from making representations. The bat survey which was submitted in support of the application, was in fact carried out to meet the requirements under Condition no.10 of Board Order ABP. 306778-20 (SHD development) on site. Although in relation to a different application, the survey carried out is for the subject site and was carried out in September 2020 and is therefore considered up to date and appropriate.

- 7.7.3. I have considered the details in the submitted bat survey and the conclusion reached in same report. The Board should note that this survey related to the SHD development (ABP. Ref. 306778-20) which proposed the demolition of structures on site. Therefore, measures such as the provision of alternative roosting opportunities with bat boxes and the planting of vegetation which would enhance pollinator success (to provide appropriate insects to attract bat species to the site) were proposed for that development. The current proposal on site involves no demolition or additional construction (other than the addition of 20 no. bicycle parking spaces) and is for the retention only of 8 no. Units, therefore no mitigation measures in relation to bats are proposed. I am satisfied that the retention of the uses within the 8 Units on site will not result in any significant impacts on any bat species.

7.8. Appropriate Assessment - Screening

- 7.8.1. The requirements of Article 6(3) of the Habitats Directive as related to screening the need for Appropriate Assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section. The applicant has submitted a screening report for AA as part of the response to the appeal, dated November 2020 and completed by Openfield Ecological Services.
- 7.8.2. The applicant's Stage 1 Screening Report for AA was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. A Hydrological Assessment prepared by AWN consulting was also attached to the

Screening Report (Appendix 1). This report was submitted as part of the SHD application on site (ABP. Ref. 306778-20) but has been included as an appendix to the Screening Report to provide additional information.

- 7.8.3. The AA Screening Report concluded that *'possibility of any significant impacts on any European sites, whether arising from the project itself or in combination with other plans and projects, can be excluded beyond a reasonable scientific doubt on the basis of the best scientific knowledge available'*.
- 7.8.4. Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment- Test of likely significant effects

- 7.8.5. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

Brief description of the development

- 7.8.6. The applicant provides a description of the project on pages 6 to 8 of the AA screening report. In summary, the development comprises:
- Retention for change of use of existing buildings on site at Units 2, 7, 9, 13, 14, 15, 17 and 19.
 - The change of use required no construction works to the existing structures nor any change to foul or surface water drainage infrastructure.

The development site is described on page 7 of the AA Screening report. It is described as comprising predominantly *'surfaces that are sealed with tar macadam and concrete'*. The site comprises a developed urban site and is not located within and does not directly adjoin any environmentally sensitive sites.

Submissions and Observations

- 7.8.7. The Appellant has raised concerns over AA screening for the subject development and states that the submission of this document post decision is an obvious breach of the Aarhus convention given that the public were not afforded the opportunity to comment on either report. This concern has been previously addressed under Section 7.7.2 above.
- 7.8.8. The report submitted screened out all designated sites from further assessment and therefore concluded that no NIS was required. The appellant queries the trigger for appropriate assessment as outlined under previous judgments by the Advocate General and claims that the development is clearly subthreshold development where any EIAR is mandatory. Reference is made to CJEU case C127 /02 Waddenzee 2004 ECR 1-07405 and the applicant claims that the report fails to mention any removal of flora and fauna prior to the application for attention. As stated previously there appears to be some confusion here between the two processes i.e. the AA process and the EIA process, which are defined under separate legislation. This section of my assessment provides an AA to satisfy Article 6 (3) of the Habitats Directive, under part XAB, section 177U of the Planning and Development Act 2000 (as amended), a separate examination of possible likely significant effects considered under the EIA Directive is carried out under Section 7.6 of my assessment.

European Sites

- 7.8.9. The development site is not located in or immediately adjacent to a European site. The closest European site is the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), approx. 560m north of the appeal site. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1 below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

Table 7.1 – European Sites within the zone of influence

European Site (Site code)	Distance from proposed development
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South Dublin Bay and River Tolka Estuary SPA (004024)	560m
South Dublin Bay SAC (000201)	2.1km
North Dublin Bay SAC (000206)	3.1km
North Bull Island SPA (004006)	3.1km
Baldoyle Bay SPA (004016)	8.2km
Baldoyle Bay SAC (000199)	8.2km
Howth Head SAC (000202)	8.9km
Rockabill to Dalkey Island SAC (003000)	9.2km
Howth Head Coast SPA (004113)	11.5km

Identification of likely significant effects

7.8.10. The application site is on serviced land, within the existing built up area of the city. The units for which retention is sought are served by the city's water supply and foul sewerage network and by the municipal surface water drainage system for Eastwall. Having regard to the separation distances between the subject site and Natura 2000 sites, the receiving environment, the nature and scale of development, it is considered appropriate and reasonable in this instance to exclude a number of Natura 2000 sites and to carry out AA screening of 4 Natura 2000 sites. These sites have been identified based on hydrological links via surface and wastewater flow to the estuaries of the River Tolka and the River Liffey, as well as to Dublin Bay. Due to the great dilution factor of any potential pollution source there is no pathway to any Natura 2000 site beyond Dublin Bay. Its impact at the outfall of the foul drainage network systems would be negligible, given the scale of the development in the context of the city. Table 7.2 hereunder details the identified sites qualifying features of interest. In order to measure whether effects are significant or not these must be measured against the conservation objectives of the relevant SAC or SPA detailed for each site on <https://www.npws.ie/protected-sites>.

Table 7.2 – Examination of likely significant effects on relevant European Sites				
European Site (Site code)	List of Qualifying Interests/Special conservation interest	Distance from proposed development	Connections (source, pathway, receptor)	Considered further in screening (Y/N)
South Dublin Bay and River Tolka Estuary SPA (004024)	Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Roseate Tern (<i>Sterna dougallii</i>) [A192]	560m	No direct connections – there is no pathway for loss or disturbance of habitats or other semi natural habitats that may act as ecological corridors for the qualifying interests of this site. Indirect pathway identified from the site via surface and wastewater flows to Dublin Bay via the Ringsend wastewater treatment plant. No construction phase as part of change of use	N - Additional loading to the Ringsend plant arising from the operation of this project are not considered to be significant, as the evidence shows that nutrient input into Dublin Bay from Ringsend is not affecting the conservation objectives of this site.

	<p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Arctic Tern (<i>Sterna paradisaea</i>) [A194]</p> <p>Wetland and Waterbirds [A999]</p>		therefore no construction related effects identified.	
<p>South Dublin Bay SAC (000201)</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Embryonic shifting dunes [2110]</p>	2.1km	<p>No direct impacts identified on habitats listed.</p> <p>Indirect pathway identified from the site via surface and wastewater flows to Dublin Bay via the Ringsend wastewater treatment plant.</p> <p>No construction phase as part of change of use therefore no construction related effects identified.</p>	<p>N - Additional loading to this plant arising from the operation of this project are not considered to be significant as the evidence shows that nutrient input into Dublin Bay from Ringsend is not affecting the conservation objectives of this site.</p> <p>In addition no possibility of effects due to the distance from and lack of connections to the habitat for which this site is designated</p>
<p>North Dublin Bay</p>	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p>	3.1km	<p>No direct impacts identified on habitats listed. Indirect pathway</p>	<p>N - No possibility of effects due to the distance from and lack of connections to the habitats</p>

<p>SAC (000206)</p>	<p>Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] <i>Petalophyllum ralfsii</i> (Petalwort) [1395]</p>		<p>identified from the site via surface and wastewater flows to Dublin Bay via the Ringsend wastewater treatment plant. No construction phase as part of change of use therefore no construction related effects identified.</p>	<p>for which this site is designated.</p>
<p>North Bull Island SPA (004006)</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] Shelduck (<i>Tadorna tadorna</i>) [A048] Teal (<i>Anas crecca</i>) [A052]</p>	<p>3.1km</p>	<p>Indirect pathway identified from the site via surface and wastewater flows to Dublin Bay via</p>	<p>N - Additional loading to this plant arising from the operation of this project are not considered to be significant as the evidence shows that</p>

	<p>Pintail (<i>Anas acuta</i>) [A054]</p> <p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Oystercatcher (<i>Haematopus ostralegus</i>) [A130]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Sanderling (<i>Calidris alba</i>) [A144]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>		<p>the Ringsend wastewater treatment plant.</p> <p>No construction phase as part of change of use therefore no construction related effects identified.</p>	<p>nutrient input into Dublin Bay from Ringsend is not affecting the conservation objectives of this site.</p>
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7.8.14. The site is in a built-up area and is not directly adjacent to any Natura 2000 sites. As evidenced in Table 7.2 there are indirect hydrological links via surface and wastewater flow to the estuaries of the River Tolka and the River Liffey as well as to Dublin Bay via the Ringsend Treatment Plant. Due to the great dilution factor of any potential pollution source, there is no pathway to any Natura 2000 site beyond Dublin Bay. While there is a potential surface water pathway between the development site and coastal European sites associated with Dublin Bay, via the local surface water drainage network, no significant impacts on water quality are predicted as no construction is proposed on site. The installation of the additional cycle parking area is considered insignificant in this case.

In-combination effects

7.8.15. Having regard to the size of foul and surface water discharges from the site and the fact that there is no open water hydrological linkage with Dublin Bay located farther down gradient, and having regard to the assessment of the indirect impacts of the proposed development in terms of foul and surface water drainage as set out above, there are no projects or plans which can act in combination with the proposed application which can give rise to significant effect to Natura 2000 sites within the zone of influence.

Mitigation Measures

7.8.16. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Screening Determination

7.8.17. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on South Dublin Bay and River Tolka Estuary SPA [004024], South Dublin Bay [000201], North Dublin Bay SAC [000206] and North Bull Island SPA [004006] or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required. In making this screening determination no account has been

taken of any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be **granted**, subject to conditions as set out below.

9.0 Reasons and Considerations

Having regard to the Z14 zoning objective for the area, the provisions of the Dublin City Development Plan 2016-2022, the scale and nature of the proposed development for which retention is sought it is considered that the proposed development would not seriously injure the amenities of the existing buildings on site or the amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on 19th day of August 2020 and by the further plans and particulars received by An Bord Pleanála on the 09th day of November 2020, 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. Unit 2 and Unit 7 shall be restricted to light industrial uses only.

Reason: In the interests of orderly development and clarity.

3. No additional floorspace shall be formed by means of internal horizontal division within the units hereby permitted unless authorised by a prior grant of permission.

Reason: In order to control the intensity of development in the interest of amenity and to ensure that adequate car parking and service facilities will be provided within the development.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows); advertisement structures, banners, canopies, flags, or other projecting element shall be displayed or erected on any of the units or within their curtilage, or attached to their glazing without the prior grant of planning permission.

Reason: To enable the planning authority to assess the impacts of any such changes on the amenities of the area.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. The developer shall comply with the following conditions from the Transportation Planning Division

a) Cycle parking, shall be secure, sheltered and well lit with key/fob access. The additional cycle parking shall be in situ within 6 months of the date of the final decision.

b) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

c) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: To ensure a satisfactory standard of development

7. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

8. The site development works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

Máire Daly
Planning Inspector

03rd February 2021