



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309167-21

<b>Development</b>	Change of use of the first-floor level, second-floor level, and third-floor level from medical/healthcare to office use.
<b>Location</b>	The Forge (Block G), Smithfield Market, Smithfield, Dublin 7.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3356/20
<b>Applicant(s)</b>	Rocca Ventures Real Estate Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party vs. Grant
<b>Appellant(s)</b>	Charter Medical Diagnostic Imaging Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	15 <sup>th</sup> March 2021
<b>Inspector</b>	Stephen Ward

## **1.0 Site Location and Description**

- 1.1. The site is located at the northern end of Smithfield in the north inner city and bounds the southern side of King Street North. To the east and southeast of the site is the civic plaza known as Smithfield Square, and to the west and south are other blocks which surround a central pedestrian courtyard. The surrounding area contains a mix of uses including the Maldron Hotel, retail units, recreation, office space, restaurants, open space, parking, as well as a significant extent of upper-floor apartments.
- 1.2. The subject site hosts a 4-storey mixed-use building with a front ground level entrance off Smithfield Square to the east. The building comprises a reception area and leisure centre at ground floor level, which is not affected by the proposed development. The ground floor reception area provides access to the 3 upper floor levels which are currently used for various medical clinics and services.

## **2.0 Proposed Development**

- 2.1. In summary, it is proposed to change the use of the 3 upper floors from medical/healthcare use to office use, involving a total floor area of 1,545m<sup>2</sup>. It is not proposed to carry out any amendments to the ground floor level or the facades of the building. An additional 16 cycle parking spaces will be provided at basement level and it is stated that the proposed development will continue to avail of 20 designated car-parking spaces within the 'Parkrite' underground car park.
- 2.2. The application contends that this modern and serviced office space can be provided quickly and affordably and is paramount to supporting small/medium enterprises within the local economy. Furthermore, it is stated that the floorspace over 3 levels, with bathroom facilities at each level, will facilitate social distancing measures as advised by healthcare professionals.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated 14<sup>th</sup> December 2020, Dublin City Council (DCC) issued notification of the decision to grant permission for the development, subject to standard conditions.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The initial planner's report can be summarised as follows:

- Development Plan policies seek to encourage economic development through regeneration and development.
- It is proposed to provide good quality office space in a sustainable location.
- The proposed office use would result in a similar level of movements and disturbance compared to the existing use and it is not considered that there will be negative impacts on surrounding residential properties.
- Third-party concerns regarding the loss of the existing medical centre and the over-concentration of office use in the area are noted. However, the zoning objective supports both uses and the proposed change would continue to meet the objective to develop and maintain a sustainable employment location in the city centre.
- The proposal is acceptable in principle, but a Further Information request is recommended in relation to cycle parking concerns.

3.2.2. A Further Information Request was issued on 4<sup>th</sup> November 2020 and was responded to on 20<sup>th</sup> November 2020. The subsequent planner's report stated that the proposal to provide an additional 16 cycle parking spaces is acceptable and a grant of permission was recommended, subject to conditions. This recommendation forms the basis of the DCC decision.

### 3.2.3. Other Technical Reports

- Drainage Division: No objections subject to standard conditions.
- Transportation Planning Division: Requests clarification to demonstrate that a minimum of 16 secure cycle spaces would be available for the proposed development.

### 3.3. Prescribed Bodies

A submission was received from Transport Infrastructure Ireland which suggested that a Section 49 Supplementary Development Contribution may apply in relation to the Luas Cross City project.

### 3.4. Submissions / observations

Two third-party submissions were received on behalf of current occupiers of the building. The issues raised are covered in the grounds of appeal (see section 6.0 of this report)

## 4.0 Planning History

An extensive history relates to the subject block and the surrounding blocks in the Smithfield area, which involves a wide variation in permitted usage. The following is relevant to the subject floorspace:

**P.A. Ref. 4558/06:** Permission granted (December 2006) for a new medical minor injuries unit at the first-floor level and change of use from office to health care use.

**P.A. Ref. 3519/06:** Permission granted (September 2006) for a new health screening centre on the 3<sup>rd</sup> floor and change of use from office to health care use.

**P.A. Ref. 5264/05:** Permission granted (January 2006) for a new medical diagnostic centre at the second-floor level and change of use from office to health care use.

**P.A. Ref. 3565/02:** Permission granted (February 2003) for a mixed-use development with a total combined area (including basements) of 31,286 sq. m and comprises three blocks over basements.

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1 The operative Development Plan for the area is the Dublin City Development Plan 2016-2022. The site is zoned as 'Z5', the objective for which is *'To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen*

*and protect its civic design character and dignity*'. The primary purpose of this zone is to sustain life within the centre of the city through intensive mixed-use development. The strategy is to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night.

- 5.1.2 Section 2.2.4 of the Plan recognises Smithfield as an emerging location for employment and enterprise and Policy SC1 support the area as part of the consolidation and enhancement of the inner city.
- 5.1.3 Chapter 6 of the Plan deals with the 'City Economy and Enterprise' and outlines the need to develop Dublin as a dynamic city region and the national economic engine. Section 6.5.2 states that a choice of good quality cost-competitive commercial space is critical and there is a need to redevelop outdated office stock.
- 5.1.4 The following summarised policies and objectives are relevant to the current appeal:
- CEE1** promotes Dublin and the city centre as the national economic growth engine, promotes competitiveness and existing/new jobs.
- CEE3** promotes a pro-active approach to the economic impact of major planning applications with regard to economic development and employment.
- CEE4** promotes global links and competitiveness, jobs which provide quality of life.
- CEE5** recognises the importance of innovation and states that the Z5 zone and inner-city area, including the Docklands, is the crucial metropolitan and national resource for innovation, promoting the proximity and diversity of uses that foster innovation.
- CEE11** aims to promote and facilitate the supply of commercial space including offices, where appropriate, as a means of increasing choice and competitiveness, and to consolidate employment provision in the city.
- CEE20** recognises that the healthcare sector is crucial to the wellbeing of the city as a major source of employment, economic development and innovation, and aims to promote and facilitate its expansion.
- SN22** facilitates the provision of hospital / healthcare facilities and their consolidation or enhancement as an important resource for the city, region and state.

## **5.2 Natural Heritage Designations**

There are no designations of relevance to the current appeal case.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1 The decision of DCC to grant permission has been appealed by a third party, namely Charter Medical Diagnostic Imaging Limited. The appellants are stated to be current tenants of the building and requested that the Board consider holding an Oral Hearing. This request was considered by the Board and it was decided to determine the appeal without an Oral Hearing.

6.1.2 The appeal submission provides background on the company and its services. It refers to the concerns set out in the original submission to DCC and the grounds of appeal can be summarised as follows:

- The clinic has been operating here since 2006 and specialises in providing diagnostic imaging. It is the only private service available in this area of the city centre and provides a critical community service to local primary care GP's and hospitals (supporting letters are included). The loss of the service would have a material effect on hospital capacity and patient care.
- The proposals would contribute to a proliferation of office uses which would detract from the vibrant mix of uses envisioned for the area in the parent permission and the Development Plan. While there has been an increase in applications for office space, including previous proposals by the applicant, recent reports illustrate a down-turn in demand.
- Smithfield is identified in the Development Plan as an emerging employment centre and the existing healthcare facility supports aims regarding diversity in the employment sector.
- By alleviating pressure on the public healthcare system, the existing facility is an essential part of initiatives to suppress the spread of Covid-19.
- The planning authority's assessment did not place any weight on the loss of vital medical services and employment.

- The proposed development runs contrary to objectives CEE1, CEE3, CEE4, CEE11, CEE20 and SN22 of the Development Plan.
- No justification has been put forward as to the need to change the existing, successful medical use.
- There are concerns that the proposed development will render the existing use of the building to be unauthorised development.

## 6.2. Applicant Response

The applicant's response to the appeal can be summarised as follows:

- The tenancy issues raised by the appellant are not material considerations for the proper planning and sustainable development of the area. The applicant has set out a comprehensive rationale for the proposed development.
- The appellant exaggerates the impact of the development on the proliferation of office use at this location and ignores the fact that office use was previously permitted in the parent permission.
- The proposed office use is appropriate within the zoning objective of the Development Plan and medical uses are not prioritised over other uses.
- The appellant has misinterpreted the impact of Covid-19 on the workplace and has not provided any evidence of implications relating to the Dublin office market. The Development Plan has not been changed to reflect any implications of the pandemic and various articles / reports are referenced which outline an expected return to office space demand. The layout of the proposed development will facilitate social distancing.
- There are numerous other medical service facilities in the vicinity of the site and the existing facility has the option to relocate as it is not restricted to this particular building or location.
- The appellant has not provided any substantial reasons as to why permission for the change of use should not be permitted.

### **6.3. Observations**

None.

## **7.0 Assessment**

- 7.1. No exterior alterations to the building are proposed and, therefore, there will be no impacts on the visual amenity or character of the area. Similarly, I do not consider that there would be any significant intensification of use that would impact on the amenities of surrounding properties. Having regard to the nature and limited scope of the proposed development, I consider that the appeal can be determined almost exclusively through the consideration of its impact on the mix of uses in the area.
- 7.2. The proposed office use is permissible in principle under the Z5 zoning objective that applies to the site and I consider that an office use would continue to attract people to the area, which would add to its vibrancy and attractiveness. A significant presence of office workers also tends to provide custom for restaurants, bars and cafes, which would further enliven the area during the day and early evening, but in a manner that would be compatible with residential use in the vicinity. Having regard to the above, I consider that the principle of the proposed office use would normally be consistent with the Development Plan objectives for this Z5-zoned area.
- 7.3. The main arguments of the appeal are that the proposed development involves the loss of a valuable healthcare facility which adds to the diverse mix of uses in the area, and that it would result in an over-concentration of office space. In this regard I would acknowledge the value of healthcare services, but also highlight that Development Plan policy does not indicate any priority in terms of suitable uses. A proposed use should be acceptable if it is consistent with the zoning objective for the site, without having to demonstrate that it is preferable to the current use. That being said, I would agree that there is a need to avoid an over-concentration of any particular use and to maintain an appropriate mix of uses.
- 7.4. I acknowledge that several recently permitted developments in the area have involved large volumes of office accommodation. At the southwest end of Smithfield Square, the Haymarket site (currently under construction) has been granted permission for approximately 7,000m<sup>2</sup> office space following the latest amendment



permitted under P.A. Ref. 2742/20 (one additional floor permitted). Furthermore, at the southeast end of the Square, the Former Irish Distillers Building site (also under construction) has been granted permission for c. 21,000m<sup>2</sup> following its latest amending permission under P.A. Ref. 2827/20.

- 7.5. However, rather than significantly contributing to an over concentration of office space, I consider that the cumulative extent of recently permitted office space (c. 21,800m<sup>2</sup>) serves to highlight the relatively insignificant scale of the proposed development (1,545m<sup>2</sup>). Of course, any such significance would be further diluted when considered in the context of the already established office spaces in the area.
- 7.6. Ultimately, I consider that the Smithfield area retains a dominant proportion of residential use, which is supported by other office, retail, leisure, entertainment and hospitality services. I do not consider that the proposed development would undermine the mixed-use character of the area or lead to an undue predominance of offices. Furthermore, I would contend that office use, in itself, can potentially accommodate a wide range of businesses and services, and that, increasingly, new models of office development cater for a more diverse client base, including innovative start-ups and collaborative spaces. The nature and volume of the proposed uses would therefore make a positive contribution to the area and would be in keeping with the applicable zoning objective under the Development Plan.
- 7.7. I note the contentions of the appeal regarding the loss of healthcare space and the potential impacts on the Covid-19 pandemic response. However, I consider this to be a matter for the relevant health authorities and that the Board is restricted to considering the proper planning and sustainable development of the area. Similarly, I consider that it would be premature at this stage to make any conclusions on the impact of Covid-19 on the demand for office space and I note that planning policy has not been amended in this regard.
- 7.8. The tenancy issues raised by the appellant are considered to be matters for resolution between the relevant parties. The applicant has put forward a reasonable proposal to revert to the office use originally envisioned in the parent permission and, while I acknowledge that this may be a significant inconvenience for the appellant, there is clearly an option to retain jobs and services through relocation and I do not consider that the proposed development would contravene policy objectives CEE20

and SN22 of the Development Plan. Furthermore, I do not consider that any question of unauthorised development would arise unless the change of use is implemented, in which case the appellant would have already vacated the premises.

7.9. I note that an additional 16 cycle parking spaces will be provided within the basement and I consider this to be sufficient to deal with any potential transport requirements associated with the proposed development. I do not consider that there will be any other relevant impact on services and infrastructure.

7.10. I conclude that the proposed development involves reverting to the office use originally permitted, which would be in keeping with the zoning objective for the area, would not result in an over-concentration of office uses, and would not otherwise detract from the proper planning and sustainable development of the area. No Development Contributions shall be payable given that the proposal involves the change of use from one commercial use to another.

## **8.0 Appropriate Assessment**

8.1 Having regard to the minor scale of the proposed development, and to the location of the site in a serviced urban area and the separation distance to the nearest European sites, I conclude that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

## **9.0 Recommendation**

I recommend that planning permission should be granted, subject to conditions, for the reasons and considerations outlined below.

## **10.0 Reasons and Considerations**

Having regard to the pattern and character of existing development in the area, the planning history on the site and the provisions of the Dublin City Development Plan 2016-2022, it is considered that the proposed development, subject to compliance

with the conditions set out below, would not detract from the mixed-use character of the area, would not detract from the residential amenity of adjoining properties, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be 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, as amended by the further information submitted on the 20th 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. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including, serving access arrangements, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and amenity.

3. 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 amenities of property in the vicinity.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, and any statutory provision replacing or amending them, no additional plant, machinery or telecommunications structures shall be erected on the roof of the building nor shall any external fans, louvres or ducts be installed without a prior grant of planning permission.

**Reason:** In the interest of visual amenity.

5. No signage, advertising structures/advertisements, security shutters or other projecting elements, including flagpoles, shall be erected on the building or within the site unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

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Stephen Ward  
Senior Planning Inspector

6th April 2021