



An
Bord
Pleanála

Inspector's Report ABP-309287-21

Development

Permission for retention of a change of use of approved ground floor warehouse/factory area (455 sq. m) to a disaster recovery/business continuity centre and change of use of approved ancillary offices at ground floor and first floor (459 sq. m) to office use, extension at first floor area (81 sq. m) to provide staff toilets and server room, external generator plant enclosure and all associated works.

Location

Unit G. Baldonnel Business Park
Baldonnel, Co. Dublin.

Planning Authority

South Dublin County Council

Planning Authority Reg. Ref.

SD20A/0272

Applicant(s)

Jepview Ltd.

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party v decision

Appellant(s)	Jepview Ltd.
Observer(s)	None
Date of Site Inspection	4th May 2021
Inspector	Fergal Ó Bric.

1.0 Site Location and Description

- 1.1 The appeal site comprises a unit within the Baldonnell Business Park. The unit is a former warehouse facility (including a roller shutter door) onto the front (east) elevation storage areas and some ancillary office space. Access to the site is off an internal spine road within the Business Park, which in turn is accessed off Clonlara Road, south-west of the site, and junction 3A on the N7 Motorway (Naas Road), located east of the site. Surface car parking is provided along each side of the internal spine road, west of the site and also south of the site within a fenced off area.
- 1.2 The warehouse units within the Business Park are all two-storey in height and comprise of glazing, a controlled own-door pedestrian access, a roller shutter door and each unit is finished externally in a silver metal clad material. To the north, south, east and west are other warehouse units within the Baldonnell Business Park.

2.0 Proposed Development

- 2.1 The development comprises the following:
- (i) Retention permission of a change of use of approved ground floor warehouse/factory area (455 sq. m.) to a disaster recovery/business continuity centre and change of use of approved ancillary offices at ground and first floor (459 sq. m.) to office use
 - (ii) extension at first floor area (81 sq. m.) to provide staff toilets and server room;
 - (iii) provision of an external generator plant enclosure; and
 - (iv) all associated ancillary works necessary to facilitate the development.
- 2.2 The gross floor area (GFA) of the completed works within unit number G is stated to 995 sq. m. The proposal involves the change of use of the warehouse floor area at

ground and first floor levels to office use and the retention of first floor level extension providing for staff toilets and a server room.

- 2.3 A supporting planning report has been submitted by Hughes Planning and Development Consultants. The report provides details of site context, planning history, planning precedents, zoning, planning policy and parking standards.

3.0 Planning Authority Decision

Decision

On the 21st day of December 2020, South Dublin County Council refused planning permission for the development for four reasons as follows:

Reason 1: The lands are zoned EE with an objective “To provide for enterprise and employment related uses, located in an area that is not proximate to or integrated with sustainable transport and other urban land uses, located a significant distance from closest town centre or regeneration lands and therefore, if granted, the proposed development would not support compact urban development and sustainable transport and would be contrary to policy objectives ETI-2 and ETI-6 of the South Dublin County Council Development Plan 2016-2020 and the proper planning and sustainable development of the area.

Reason 2: The proposed development to be retained, taken in conjunction with existing office space on site which combined comprises of 995 sq. m. gross floor office space and intensive in nature, at a location deficient in public transport or walking and cycling facilities and located a significant distance from existing residential areas and public transport services and would give rise to increased traffic movement to and from the site, especially at rush hour, that would tend to create traffic congestion close to a national road network, would set a precedent for similar type people intensive development and would be contrary to the proper planning and sustainable development of the area.

Reason 3: The proposed development to be retained, having regard to its location, within an industrial/Business Park, where no cafes, restaurants, shops are operating and taking into consideration the size of the proposed canteen (internal and without

windows) which is considered to be small to cater for the number of people working in the building (based on the number of desks in each of the drawings) is deficient in staff amenities to support the increased number of workers on site and would be contrary to the proper planning and sustainable development of the area.

Reason 4: The proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the growth of existing warehousing development in the area and the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

3.1 Planning Authority Reports

Planner's Report:

The basis for the Planning Authority decision include:

- The proposed development was screened for Appropriate Assessment and Environmental Impact Assessment. Both screenings concluded that due to the nature, modest scale, and absence of sensitive receptors, neither were required.
- The report had regard to the zoning of the site, its location in terms of accessibility, staff amenity, roads and car parking, planning history, Development Plan policy and the referral reports received. Overall, the A/Senior Executive Planner considered the change of use not to be acceptable in terms of the number of staff the office use could accommodate, the employment use not being located in proximity to a public transport corridor, poor quality amenity afforded to employees in terms of canteen space and open space and loss of amenity with the removal of trees to provide for the generator. .

3.2 Other Technical Reports:

Roads Department: No objections, subject to conditions.

Water Services & Drainage Section: No objection, subject to conditions.

3.3 Prescribed Bodies

Irish Water: No objection, subject to conditions.

3.4 Third Party Observations

None received.

4.0 Planning History

The most relevant permissions include the following:

On appeal site:

- Planning Authority reference number SD99A/0481-In 1999, planning permission was granted for the development of 13 advance warehouse/factory units with ancillary office space.
- Planning Authority reference number SD00A/0366, In 2000, planning permission was granted for the sub-division of the original units into two units (Units G & I) with additional first floor office accommodation and revised elevation treatment.

Adjacent units:

- Planning Authority reference number SD20A/0081-In 2020, planning permission was granted to extend the office use into the warehouse area at ground and first floor level to provide for offices at first floor level, canteen and toilets at ground floor level within unit F1.
- Planning Authority reference number SD20A/0013-In 2020, planning permission was granted to retain a mezzanine storage floor and to convert a first-floor mezzanine storage area to office use and install new windows to side and rear elevations, within unit A5.

5.0 Policy Context

5.1 Development Plan

5.1.1 South Dublin County Council Development Plan 2016-2022

The site is zoned EE-Enterprise and employment where the objective is: To provide for enterprise and employment related uses.

Chapter 4 pertains to Economic Development. Policy ET 3 pertains to Enterprise and Employment District Centres which: Seeks to support and facilitate enterprise and employment uses in Business Parks and Industrial Areas.

Policy ETI-2-To promote enterprise and employment developments at locations that are proximate to or integrated with transportation and other urban land uses, to promote compact urban development and sustainable transport.

Policy ET1-6-To direct people intensive enterprise and employment uses such as major office development (>1,000 sq. m gross floor area) into lands zoned Town Centre and Regeneration Zones, subject to their location within 400 metres of a high-capacity public transport node (Luas rail), quality bus service and/or within 800 metres walking distance of a train or Luas station, the latter requiring demonstration of required walking distance or provision of a permeability project.

Table 11.23-Maximum parking rates (non-residential)

5.2 Natural Heritage Designations

None relevant.

6.0 The Appeal

6.1 Grounds of Appeal

A first-party appeal by the owners and occupiers of Unit G, Baldonnel Business Park, raise a number of issues as follows:

Principle of Development:

- The development provides a temporary backup facility to any client experiencing a disaster event or incident, when an unplanned event causes the clients facilities to become inaccessible or the clients equipment to become inoperable. The unit comprises an area of office space, 995 sq. m., and is used irregularly.
- The highest level of occupancy within Unit G at any one time over the last 16 years (since the use commenced in 2005) has been twenty workers for a period of two weeks only.
- The nature of the use is such that the unit is mostly vacant and not used in contrast to a conventional office space which would typically be occupied on a daily basis by large volumes of workers.
- The use fully complies with the South Dublin County Council Development Plan in terms of land use zoning, where office-based industry is a use that is permitted in principle on EE (Enterprise and Employment) zoning, and with specific objectives ET1-2 and ET 1-6 as set out within the Development Pan in terms of suitable locations for enterprise and employment development.
- There are a number of precedents where Planning Authorities have permitted similar disaster recovery/business continuity centres in Business Parks and Industrial Estates. A similar type facility was permitted by South Dublin County Council on the Nangor Road, under Planning Authority reference number SD18A/0323 at Grange Castle Business Park. Although permitted as a Data Centre, the facility also provides emergency back-up office suites for use in the event of disasters. Another facility at Santry, was permitted by Fingal County Council, and a specific condition was

included regarding the occasional use of the office space. Therefore, the current proposal within Baldonnel Business Park is considered to be appropriately located.

- Given the nature of the use, the canteen and facilities provided within the unit are appropriate in size to cater for small numbers of people working within the premises.
- The use of the premises does not generate increased traffic generation, noting contractual agreements which require the business to provide a private bus or taxi service for workers to and from the unit.

Proposed use:

- The Council based its assessment of the development on a conventional office development which is a misrepresentation of the development as a disaster recovery/business continuity/back-up facility.
- The Planning Officer states within the planning report that “The office use is intensive”. This is based on the premise that the building is occupied on a day-to-day basis with all workstations occupied. The intensive office use, as assessed by the Planning Authority does not occur on this site.
- Due to the nature of the proposal having occasional/irregular use, the location within a Business Park is more suitable than within a city centre, where space is more valuable and in demand for people intensive uses.
- Clients are subject to contractual arrangements which include a maximum occupation period of 90 days and the facility does not function as a typical 9am to 5pm Monday-Friday office space. Each contractor is afforded a 400 sq. m exclusion zone which results in less desk space being available and ensures that the business continuity centre never operates at maximum capacity.
- The majority of occupiers are contracted to occupy no more than 22 workstations.
- A single disaster event (flooding, fire etc) cannot bring a concentration of employees to the site at the same time. The contractual requirements (22 workstations and 400 sq. m exclusion zone) greatly reduce the probability

of multiple occupancy and the maximum number of clients to be accommodated at any one time.

- The use is more appropriate at this location rather than within a city centre location, where people intensive offices would be better suited.
- The proposed use is as a disaster recovery facility/business continuity centre and therefore, would not establish an undesirable precedent within the Business Park.
- The development has been in operation at this location since 2005 and has not been harmful to the growth of the Business Park.

Accessibility & Car Parking:

- Access to the site is predominantly by shuttle bus/taxi.
- Businesses contracted to the site are required to provide transport arrangements to/from the site for their employees.
- The majority of the clients' avail of the bus/taxi service while a limited number would arrive to the facility individually.
- The unit has 27 car parking spaces assigned to it. These are never fully occupied. Therefore, the continued use of the premises does not adversely impact on traffic congestion in the area.
- The applicants would accept a condition from the Board regarding the submission of a Mobility Management Plan (MMP) to the Planning Authority which would include details of contractual requirements referred to above.
- The South Dublin County Council Roads Department outlined no objections to the development, subject to conditions, including the submission of an MMP.
- The use has been operating within the unit since 2005 and there has been minimal impact on the roads network since the use commenced in 2005.

Other Issues:

- The assessment of staff amenity is grounded on the assessment of a fully occupied office development and not in the context of a disaster recovery facility/business continuity centre use.

- Given the occasional use of the office space, the low numbers of clients, when in use, the scale of the canteen is appropriate to serve employee needs.
- Facilities are provided in the event that a business requires the physical use of the premises.
- A number of permitted developments within Baldonnell Business Park constitute more people intensive developments.

6.2 Planning Authority Response

South Dublin County Council issued a response to the appeal as follows:

- The Planning Authority confirms its decision.
- The issues raised within the appeal submission have been addressed in the planner's report.

7.0 Assessment

7.1 The principle of internal alterations to the warehouse building is not at issue in this instance, rather the specifics of the office use and its appropriateness within a Business Park, the traffic generated by the proposed use, the amenity afforded to occupiers of the unit and vehicular parking are the issues raised within the planners report and the reasons for refusal. The following are therefore, considered to be the core planning issues to be considered:

- Principle of Development.
- Precedent of Development.
- Traffic generation and car parking provision.
- Other Issues
- Appropriate Assessment.

7.2 Principle of Development and Planning Policy

- 7.2.1 As per the Land Use Zoning Objectives Map in the South Dublin County Council Development Plan, the subject site is zoned: Enterprise and Employment where the objective is to “To provide for enterprise and employment related uses”. An office use, up to an area of 1,000 sq . m. is permissible in principle under this zoning objective.

7.3 Precedent of Development

- 7,3,1 The development was permitted on site in 1999 as an advanced warehouse unit with ancillary office space and a number of amendments have been permitted and incorporated since. The applicants have made reference to a number of disaster recovery/business continuity centre developments permitted by South Dublin County Council on the Nangor Road in 2018 and by Fingal County Council in Santry in 2009. During my site inspection, it was apparent that the uses within the Business Park are principally not people intensive, and similarly so within Unit G, which was largely vacant on that particular date, except for a small number of support staff accommodated within the unit. Therefore, I am satisfied that the use of Unit G as a disaster recovery facility/business continuity centre is a use that does not constitute a people intensive one, and therefore, would not establish an undesirable precedent within the Baldonnel Business Park.

- 7.3.2 An office spaces/use would typically be located within a town/city centre or on a high frequency public transport corridor. The current proposal would not fall into the category of a typical office use, given that the disaster facility use is not a people intensive one and given that the facility is stated to be vacant for long periods of the year and is stated to be used on an irregular basis. On balance, I consider that the change of use involves the introduction of an office use, however, one which is not people intensive and therefore, appropriate to this location within a Business Park and would not establish an undesirable future precedent within the Baldonnel Business Park.

7.4 Traffic Generation and car parking provision

- 7.4.1 Access to the site is via an internal spine road within the Baldonnel Business Park which in turn is accessed off a local road (Clonlara Road) to the west of the site and

in turn off the N7, Naas Road, at junction 3A. No alterations to the access or parking arrangements are proposed.

- 7.4.2 Car parking spaces are set out to the front (west) of the unit and also to the south of the unit within a fenced-off area. There are twenty-seven spaces allocated to Unit G, and 8 of these spaces were occupied on the date of my site inspection, giving a vacancy parking space rate of approximately 70%. I noted that there was considerable vacancy in car parking spaces outside many of the units within Baldonnel Business Park.
- 7.4.3 The applicants have stated that there are contractual requirements that require employees to be dropped to/collected from the site by shuttle bus/taxi on a daily basis and that only a small number of employees would drive to the facility. They also state that since 2005 (when the business commenced), the maximum number of employees accommodated within the facility at any one time was twenty, for a period of two weeks. On that basis, I am satisfied that the disaster recovery/business continuity centre office use would not generate any greater parking demand, above that of the permitted warehouse facility on the appeal site. I appreciate from the floor plans submitted; it is apparent that approximately 150 employees could be accommodated on site within the extended office space. However, it is also set out within the planning documentation that contractual requirements limit the number of employees on site to a maximum number of 22, in addition to a 400 sq. m exclusion zone requirement, factors that limit the numbers of clients permissible to be accommodated within Unit G at any one time. I am satisfied that the specific use, as a disaster recovery/business continuity centre does not generate a car parking demand that is greater than that associated with the current permitted use within unit G.
- 7.4.4 I note that the Roads Department within South Dublin County Council outlined no objections to the development from a traffic and parking perspective. They did recommend that a number of conditions be included within any planning decision, including the submission of a Mobility Management Plan. The inclusion of such a condition, for agreement with the Planning Authority would be another tool for the Local Authority to manage the traffic generated by the development and to afford the Local Authority some comfort with regard to the type of office use that would be

conducted on site. I am satisfied that the car parking requirement associated with business disaster recovery/continuity office use is not excessive and would not be greater than that associated with the permitted warehouse use (as per Table 11.23 of the Development Plan). It is considered that the proposed office use would not exacerbate the demand for car parking spaces within the development and not result in the creation of a traffic hazard.

7.4.5 I note that the nearest Luas stop, is at Saggart, which is located approximately 1.6 kilometres south-east of the site, and therefore, there would be limited opportunity for clients to use the Luas to access the site, given the separation distance involved. There is a bus stop at Saggart Cross of the M7, which is approximately 1 kilometre south-east of the appeal site. Although, the site is not proximate to public transport corridors, the use as a business disaster/continuity facility, is not one which is people intensive. When in use as a business disaster facility, it is largely served by shuttle bus/taxi services and therefore, the accessibility to public transport modes is not considered to be particularly relevant to the current proposal.

7.4.6 In conclusion, it has been demonstrated that the use to be retained within Unit G as a disaster recovery/business continuity office unit, represents an appropriate use within the Baldonnell Business Park. The use would not generate a car parking demand, greater than the existing permitted warehouse use, such that it would exacerbate the pressure on car parking demand.

7.5 Other Issues

7.5.1 The Planning Authority raised concerns regarding the amenity that is afforded to staff on site. Given the use sought to be retained, is one that is infrequently used, I am satisfied that the canteen area is adequate to cater for the low level of staff numbers that attend the site on an irregular basis. In terms of an external amenity area, there is a narrow strip of land to the rear (east of the building), approximately 30 metres long and 5 metres wide, which it is proposed to landscape. This level of amenity is consistent with the neighbouring units within Baldonnell Business Park. There were also two picnic benches in the car park area to the south of the building. The landscaping of the area to the rear (east of the building) and the incorporation of picnic benches in that area would afford any occupants of the unit a level of amenity, and this is a matter that could be conditioned.

7.6 Appropriate Assessment

Having regard to the minor nature of the development in the form of a change of use, its location in a serviced suburban area, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that permission be granted for the following reasons:

9.0 Reasons & Considerations

It is considered that, subject to conditions set out below, the disaster recovery/business continuity office facility would be in accordance with the Enterprise and Employment land use zoning for the site, and in accordance with the policies and objectives set out with the South Dublin County Council Development Plan 2016-2022, and therefore, represents an appropriate use within the Business Park. The proposal would thus accord with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained in accordance with the plans and particulars lodged with the application to the Planning authority on the 27th day of October 2019 and particulars submitted to the Board 26th day of January 2021, 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 unit shall be used for the purpose of as a disaster recovery/business continuity centre only as set out within the planning documentation received by the Planning authority on the 27th day of October 2019 and particulars submitted to the Board 26th day of January 2021. No additional floorspace shall be formed by means of internal horizontal division within the building hereby permitted unless authorised by a prior grant of permission.

Reason: [In order to control the intensity of development and ensuring that adequate car parking and service facilities will be provided within the development.

- 3 Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for all units within the [development] [retail centre] [office park]. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

- 4 The eastern part pf the site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than [1:500] showing –

- (i) The species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder] [which shall not include prunus species]

(ii) Hard landscaping works, specifying surfacing materials, furniture and finished levels.

(b) A timescale for implementation [including details of phasing]

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

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

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

Fergal Ó Bric
Planning Inspectorate

11th day of May 2021