



Development

The demolition of an existing 1950's, 4 no. storey concrete framed vacant office building located adjacent to the southern boundary of the subject site, including associated outbuildings, walls and footpaths and amendments to the existing car parking area located to the north of the office building proposed for demolition, to provide for a modified car parking area and a HGV/truck parking and marshalling area.

Location

Mondelez Ireland, Old Malahide Road, Malahide Road, Coolock, Dublin 5, D05 T0H4

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

4485/22

Applicant(s)

Mondelez Ireland.

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal	First Party
Appellant	Mondelez Ireland
Observer(s)	None.
Date of Site Inspection	1 st September 2023
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The site is located within the Cadbury site in Coolock to the north east of Dublin City Centre. The site has a stated area of c. 11.087 hectares and is located to the west of the Malahide Road adjacent to Oscar Traynor Road. The building which is the subject of this application is a four storey office building that was constructed in c. 1957 and has been vacant since 2012.
- 1.2. The building has a stated area of 3964sqm and is of concrete frame construction. The building is not located within any ACA and is not of Protected Structure Status. It faces onto Oscar Traynor Road and is highly visible from the public road and is bounded by a palisade fence to the public road. The building is a concrete frame structure, flat roofed with vertical emphasis fenestration facing on to the Oscar Traynor Road.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - (i) The demolition of an existing 1950's, 4 no. storey concrete framed vacant office building located adjacent to the southern boundary of the subject site, including associated outbuildings, walls and footpaths and;
 - (ii) (ii) amendments to the existing car parking area located to the north of the office building proposed for demolition, to provide for a modified car parking area and a HGV/truck parking and marshalling area.

More specifically, the development will include the following:

- (a) a modified car parking area for staff parking including 55 no. parking spaces (including 2 no. accessible parking spaces and 6 no. electric vehicle charging spaces); and
- (b) a parking area for HGV's and trucks comprising 15 no. parking bays, together with space for loading and unloading of vehicles and a 'Pit' Type Weigh Bridge flush with the paved surface. The proposed development will also include all ancillary works necessary to facilitate the proposed development including hard and soft landscaping, a new bicycle shelter, footpaths, EV car charging stations and the removal of existing gates and the provision new electric sliding gates to the HGV/truck parking area.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council determined to refuse permission for the following reasons:

The subject building is of 'regional' significance and forms an integral part of the largely intact mid-to-late 20th century Cadbury's factory complex, which is the subject of a Ministerial Recommendation under the provisions of Section 53 of the Planning and Development Act 2000,(as amended). This site has been identified by the National Inventory of Architectural Heritage (NIAH) as being of special 'architectural', 'social' and 'technical' interest under the provisions of Section 51 of the Planning and Development Act,2000 (as amended). The proposed demolition of the building which represents a prominent landmark in the locality and designed in the International Style, considered to be an increasingly rare and at risk typology, without adequate justification would represent irreversible loss and would seriously injure the significance of the wider complex and would be in contravention of Section 16.10.17 of the Dublin City Council Development Plan 2016-2022,which provides that '...the planning authority will actively seek the retention and re-use of buildings/ structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city.' Therefore the proposed development, in itself or by the precedent it would set for the demolition of significant structures of special interest, would seriously injure the amenities of the area, contrary to the proper planning and sustainable development of the area

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The final planners report was consistent with the decision of the planning authority.

3.3. Other Technical Reports

3.4. Conservation Office: Report dated 31/08/22 recommends that the proposed development be refused permission.

3.5. Drainage Division: Report dated 02/08/22 indicates that Drainage Division recommends seeking Additional Information. Due to the lack of adequate information

it is not possible to state that satisfactory proposals for management of surface water can be provided for this development. Permission should be withheld until satisfactory information is submitted and approved.

3.6. Transportation Planning Division: Report received date 31/09/22 recommends that the applicant be requested to submit Further Information with regard to the proposal.

3.7. Archaeology: Report dated 31/08/22 concludes that a condition be attached to any grant of planning permission for this application with regard to monitoring of the site.

3.8. Environmental Health: Report dated 10/08/22 indicates that the Air Quality Monitoring and Noise Control Unit advise that the developer must adhere to Dublin City Council's Construction and Demolition Good Practice Guide for Construction Sites.

3.9. **Prescribed Bodies**

- None

3.10. **Third Party Observations**

- None

4.0 **Planning History**

4.1. There are numerous planning applications on this site the most relevant to this appeal is as follows:

- DCC 2905/21 permission was refused for the demolition of an existing 68m x 16m x 18m high 4 no. storey concrete framed unoccupied office building and associated outbuildings, walls & footpaths and the construction of a replacement 62m x 20m staff car parking area and associated works at Mondelez Ireland, Old Malahide Road (subject site).

Reason for refusal: The National Inventory of Architectural Heritage (NIAH) has identified the Cadbury's factory complex as being of special 'architectural', 'social' and 'technical' interest under the provisions of Section 51 of the Planning and Development Act, 2000 (as amended) and determined that the buildings are of 'Regional' architectural heritage significance. The proposed demolition of the building – situated in a prominent location and integral to architectural heritage significance of this industrial complex which is an underrepresented 20thC typology,

without justification in the first instance, would seriously injure the significance of the complex and would be in contravention of Section 16.10.17 of the Dublin City Council Development Plan 2016-2022, which provides that "...the planning authority will actively seek the retention and re-use of buildings/ structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city. Therefore, the proposed development in itself and by the precedent it would set for similar development, would seriously injure the amenities, and depreciate the value of property in the vicinity, contrary to the proper planning and sustainable development of the area.

- DCC 3696/15 refers to the decision to grant planning permission to construct two roof extensions: one at B-Block and one at C-Block. Each extension is 9.4 X 9.2m in plan and extends to 16.3 m approx. above the ground floor level. Permission is also sought for an external sugar silo, 4m diameter and 20m high and associated pump house and supply-pipe bridge and associated site works at the Mondelez Ireland Production Limited, Malahide Road, Coolock.
- DCC 3535/11 refers to the decision to grant permission for a surface car park which will cater for 40 cars, with associated storm water drainage, storm water attenuation, public lighting and landscaping at site
- DCC 4397/09 refers to the decision to grant permission for change of a use from first floor canteen block to new offices, an extension of existing building to incorporate a pedestrian link at first floor level approx. 4.5m high, a new passenger elevator with lobbies servicing all floors approx. 13.2m high, the provision of a new Cadbury sign to the north elevation and all associated ancillary site works.
- DCC 4783/08 refers to the decision to grant permission for the construction of a new lean-to, single storey, wash house at the north side of C Block.
- DCC 5386/06 refers to the decision to grant permission for a change of use of the ground floor canteen block into new offices.
- DCC 2140/01 refers to the decision to grant permission for a new vehicular entrance and an extra 62 car spaces.

- DCC 2139/01 refers to the decision to grant permission for office use with alterations and additions within the existing former canteen building for purposes ancillary to the main use of the site for industrial activity carried out by Cadbury's unless a separate use is authorised by the planning authority.
- DCC 1105/00 refers to the decision to grant permission for an above ground gas installation (AGI) in a small single storey building (8.775m x 6.075m floor area) using existing vehicular entrance from the Old Malahide Road.
- DCC 3042/97 refers to the decision to grant permission to construct a roof enclosure increasing roof heights from 6m to 16m approximately over part of an existing annex at the side of K Block to house replacement process plant at their factory premises.
- DCC 0116/94 refers to the decision to approve a factory extension to their existing premises and for alterations to existing car park and circulation routes.
- DCC 0650/92 refers to an application withdrawn for a car park extension to the existing car park at the subject site.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2022-2028

The appeal site is subject to the Z6 which seeks to provide for the creation and protection of enterprise and facilitate opportunities for employment creation.

- BHA16 - Industrial Heritage - To have regard to the city's industrial heritage and Dublin City Industrial Heritage Record (DCIHR) in the preparation of Local Area Plans and the assessment of planning applications. To review the DCHIR in accordance with Ministerial Recommendations arising from the National Inventory of Architectural Heritage (NIAH) survey of Dublin City.
- BHA17 - Industrial Heritage and the RPS - To identify and protect further sites of industrial heritage; to categorise, prioritise and, where appropriate, add to the RPS.

5.2. Natural Heritage Designations

The nearest Natura 2000 sites are North Dublin Bay SAC and North Bull Island SPA which are located c. 3km south east of the site. Baldoyle Bay SAC is located c. 4.4km north east of the site and directly adjacent to Baldoyle Bay SPA. The South Dublin Bay and River Tolka Estuary SPA is located c.3.7km to the south of the site.

5.3. EIA Screening

5.4. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.2. The grounds of appeal have been prepared by Hughes Planning on behalf of the applicant which is summarised hereunder:

- Building is not a protected structure.
- Building is not located within a Conservation Area or Architectural Conservation Area.
- Upgrade of building to modern requirements would be costly.
- Owners have no use for building and land is required for logistical reasons.
- Structural survey recommends demolition.
- Building is deteriorating and impacting the streetscape.
- The building has not been included within the recently adopted City Development Plan as a Protected Structure.
- The building was built in 1957 and was used for 55 years and has been vacant since 2012.
- Structure of building has exceeded its natural life span

- There are a number of precedents of buildings of high architectural value being demolished within the city, locations are provided within the grounds of appeal.

6.3. **Planning Authority Response**

- None

7.0 **Assessment**

The appeal site is located in an area subject to the Z6 zoning objective which seeks to provide for the creation and protection of enterprise and facilitate opportunities for employment creation, car parking is accepted with this zoning objective. The main issues relating to this appeal are those which are raised within the grounds of appeal, the acceptability of the demolition of this building and its heritage value, appropriate assessment is also considered. I am satisfied that no other substantive issues arise. The issues raised can be summarised as follows:

- Viability of maintaining and repairing the existing structure
- Heritage value of property
- Appropriate Assessment.

Viability of maintaining and repairing the existing structure

- 7.1. There are a number of factors that the Board should note in relation to the existing building. Firstly, the building has been vacant since 2012 and it is stated by the applicant that it has not been maintained since this time. Photographic evidence within the structural survey report of the building demonstrates the level of dereliction within the building and it is clear that water damage is extensive throughout. In addition, it is clear that substantial undermining of the buildings structural integrity has occurred, and it is outlined within the structural engineers report provided with the appeal, that the structural integrity of the office element of the building has the potential to fail. This is a serious health and safety concern.
- 7.2. I note that the applicant, within the grounds of appeal has indicated and shown photographic evidence of concrete spalling. The Board should note that concrete spalling can occur due to natural weathering and erosion or as a chemical reaction to the reinforced steel rusting within the concrete. This reaction causes the concrete to effectively crumble. I note that the applicant has had to install protective fencing in order to protect people from falling debris.

- 7.3. It is also important to note that the life span of such concrete structures is 50 to 100 years if maintained. The persistent ingress of water into any concrete building can have significant implications for structural stability which is apparent in the building in question.
- 7.4. The applicant contends that the refurbishment of this building to current standards is not economically viable. Given the level of dereliction and based on the composition of the buildings construction it is very likely that a refurbishment would result in significant demolition and rebuilding.
- 7.5. I have considered the evidence provided by the applicant in relation to the structural condition of the building and I have also considered the current requirements for buildings in terms of energy efficiency, it is of note that the current building is of poor energy efficiency and would not comply with modern energy efficiency standards. Significant resources would be required to bring this building up to present day standards and given the level of repair structurally and externally it is clear that the level of investment could be substantial.
- 7.6. In the context of climate change and present day requirements and based on the information provided by the applicant, I am satisfied that a reasonable justification for the demolition of the building in terms of economic viability in the context of the current structural stability and integrity and energy rating of the building has been provided. I therefore consider in terms of the structural concerns relating to the building that demolition is justified in this regard.

Heritage Value of property

- 7.7. With regard to the conservation and heritage concerns of the Council, I have had regard to the current Dublin City Development Plan 2022-2028, the appellants conservation report and the precedents referred to within the grounds of appeal. It is contended by Dublin City Council within the planners report that the proposed development is of significant heritage value within the Cadbury complex and should therefore be retained and refurbished by the applicant. It is important to note at the outset that the building is not a Protected Structure and is not within an ACA. I note that the Council contends that the building is of industrial heritage and has been the subject of a Ministerial recommendation in 2021 to be included within the Record of Protected Structures. I also note that the development plan and the associated Record of Protected Structures were reviewed at this time and were adopted in 2022. The subject structure was not included within the reviewed Record of Protected Structures list.

- 7.8. Whilst I acknowledge the Council's contentions in relation to the heritage value of the property, it is clear that no Protection has been afforded to the building which is decaying directly adjacent to the public road. The degradation of this building will not positively contribute to the visual aesthetic of this area and will only negatively affect the appearance of the street at this location. This is not acceptable. It is unclear in the absence of any response from the Council to the appeal, as to why adequate protection has not been afforded to this building. In the absence of any justification in this regard from the Council, I do not consider it reasonable to restrict the development and use of this commercial site. In order to retain industrial uses within such sites, it is important to retain flexibility in order for businesses to respond to changing requirements unless specific protections or designations are applied which would restrict development in some manner. I note that the applicant has outlined the need for the additional parking is a direct result of Brexit whereby delays to shipments have been imposed by other agencies due to additional checks and procedures for goods. This is not an uncommon issue for businesses at present and I acknowledge that within the current economic environment businesses need to be dynamic in their response to this uncertainty and changing environment.
- 7.9. Overall whilst I recognise that this building forms part of an iconic business park at this location, I am cognisant of the fact that there are no restrictions imposed on the building in terms of preservation and it has not been included within the Record of Protected Structures within the recently adopted Dublin City Development Plan 2022-2028. I am also cognisant that the structure of the building is significantly undermined and is not being maintained, and the resultant health and safety issues that this presents. Overall, having regard to the foregoing and having regard to policy BHA16 - Industrial Heritage I am satisfied that the applicant has provided a robust argument for the demolition of this building and has adequately demonstrated that the building due to its construction is not viable in terms of its reuse and refurbishment.

Appropriate Assessment

- 7.10. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the distance to the nearest Natura 2000 sites, 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.

Conclusion

7.11. Having regard to the foregoing assessment, I consider the proposed development to be acceptable and in compliance with the provisions of Dublin City Development Plan 2022-2028 in terms of the suitability of the proposed development in relation to the zoning objective for the site and the level of car parking proposed to cater for the existing use on site and HGV operations.

8.0 Recommendation

8.1. Having regard to the foregoing assessment, I recommend that permission is granted subject to conditions.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Dublin City Development Plan 2022-2028, the Z6 zoning objective, which seeks to provide for the creation and protection of enterprise and facilitate opportunities for employment creation, and the building's current and advancing state of disrepair I am satisfied the development would not seriously injure the amenities of the area or 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 carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Construction and demolition waste shall be managed in accordance with a Construction Waste and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Resource and Waste Management Plans for

Construction and Demolition Projects”, published the EPA 2021. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interests of sustainable waste management.

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

Reason: In the interest of public health.

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

Reason: To protect the visual amenities of the area.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 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.

6. The construction of the development shall be managed in accordance with a comprehensive Demolition and Construction Management and Demolition and Construction Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall include details of intended demolition and construction methodology, traffic management and control of noise and dust management measures for the development.

Reason: In the interest of orderly development public safety and convenience and the amenities of the area

7. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interests of visual and residential amenity.

8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall – (a) notify the relevant planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

All archaeological pre-construction investigations shall be carried out in accordance with the details specified with the EIAR submitted with the application.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

9. All lighting shall be operated in such a manner as to prevent light overspill to areas outside of compounds and works areas.

Reason: In the interests of visual and residential amenity and protection of local biodiversity.

10. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of streets, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development

Sarah Lynch
Planning Inspector

3rd September 2023