



An  
Bord  
Pleanála

## Inspector's Report ABP-316091-23

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### Development

Retention of works to a commercial warehouse to include demolition of an existing extension and ancillary accommodation and all associated alterations and works.

### Location

Unit 2A, Smurfit Packaging Systems,  
Ballymount Road Lower, Dublin 12.

### Planning Authority

South Dublin County Council

### Planning Authority Reg. Ref.

SD22A/0462

### Applicant(s)

Howden Joinery (Ireland) Limited

### Type of Application

Retention

### Planning Authority Decision

Grant Retention Permission

### Type of Appeal

First Party – Condition 4-Financial  
Contribution only

### Date of Site Inspection

3<sup>rd</sup> June 2023

### Inspector

Paul O'Brien

## **1.0 Site Location and Description**

- 1.1. The subject site on a stated area of 0.30 hectares, comprises of an industrial unit located on the northern side of Ballymount Road Lower. This site is located towards the centre of the Ballymount industrial area of Dublin 12. Unit 2A is occupied by Howdens, who are a joinery company who deal with trade only.
- 1.2. Unit 2A is a standard designed industrial/ warehouse unit, though it is noticeable that it does not include any windows in the front/ south elevation, only delivery and access doors to the unit. A number of advertising signs and the company name/ logo fill the front elevation. A low wall, with railings between pillars forms the front boundary.
- 1.3. The subject unit is located on the western side of this relatively narrow site. Car parking and delivery/ collection areas are located to the front/ south of the site. The entrance and side access are shared with this site and other industrial/ warehouse units located to the north/ rear of Unit 2A.

## **2.0 Proposed Development**

The development consists of retention works to an existing warehouse unit, as follows:

- Demolition of an existing extension and ancillary accommodation. The area to be demolished is stated to be 166.5 sq m.
- Internal alterations including the reconfiguration of the floor area and provision of partition walls etc.
- Reconfiguration provides for ancillary office space, trade counter, warehouse space and other ancillary uses.
- External works include recladding of the unit, new signage and revisions to the south and eastern elevations.
- All associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to grant permission subject to conditions. The conditions are generally standard. Condition 4, the condition under appeal is as follows:

‘Financial Contribution. The developer shall pay to the Planning Authority a financial contribution of €17,684.75 (Seventeen thousand, six hundred and eighty four euro and seventy five cent), in respect of public infrastructure and facilities benefiting development within 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 2021 - 2025, made under Section 48 of the Planning and Development Acts 2000-2011 (as amended). The contributions under the Scheme shall be payable prior to commencement of development or as otherwise agreed in writing by the Council. Contributions due in respect of permission for retention will become payable immediately on issue of the final grant of permission. Contributions shall be payable at the index adjusted rate pertaining to the year in which implementation of the planning permission is commenced.’

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planning report reflects the decision to grant permission subject to conditions. Included with the ‘Record of Executive Business and Chief Executive’s Order’ is a summary breakdown of the development contribution and I have copied this as follows. This table will be considered further under the assessment of this appeal.

### *Development Contributions*

Development Contributions	
Planning Reference Number	SD22A/0462
Summary of permission granted:	157.1sqm internal works, warehouse to ancillary office accommodation (Calculations from drawings)
Are any exemptions applicable?	No
If yes, please specify:	
Is development commercial or residential?	Commercial
Standard rate applicable to development:	
% reduction to rate, if applicable (0% if N/A)	0
Rate applicable	112.57
Area of Development (m2)	157.1
Amount of Floor area, if any, exempt (m2)	0
Total area to which development contribution applies (m2)	157.1
Rate applicable	€112.57
Total development contribution due	€17,684.75

#### 3.2.2. Other Technical Reports

**Water Services & Drainage:** No objection subject to conditions.

**Environmental Health Department:** No objection subject to conditions.

**Roads Department:** No objection subject to conditions.

#### 3.2.3. Prescribed Bodies Reports

**Irish Water:** No objection subject to recommended conditions.

#### 3.2.4. Objections

None.

### 4.0 Planning History

There are no recent, relevant, valid applications on this site.

## **5.0 Policy and Context**

### **5.1. South Dublin Development Plan 2022 – 2028**

- 5.1.1. Under the South Dublin County Development Plan 2012 – 2028, the site is designated with the zoning objective 'REGEN' with the objective to 'To facilitate enterprise and / or residential led regeneration subject to a development framework or plan for the area incorporating phasing and infrastructure delivery'.
- 5.1.2. Chapter 9 refers to 'Economic Development and Employment' and is the most relevant chapter to the development as submitted to the Planning Authority.
- 5.1.3. Chapter 10 refers to 'Energy' and I note E3 Objective 2 which states: 'To prioritise the retrofitting of buildings over demolition and reconstruction where possible to reduce the large quantities of embodied carbon energy generated from building materials when building from the ground up'.

### **5.2. Natural Heritage Designations**

None.

## **6.0 The Appeal**

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

- 6.1.1. The applicant has engaged the services of Tony Bamford Planning (TBP) to appeal condition no.4 of the grant of permission for this development. This condition results in a requirement for the applicant to pay a contribution of €17,684.75. The applicant considers that the Planning Authority have incorrectly calculated this figure. The development was for demolition and also for internal works that resulted in reconfiguration of the interior floor space.
- 6.1.2. The applicant notes this and points out that the internal works did not result in any increase in floor area and should not have been included in the calculation. The demolition of part of the building resulted in a reduction of 166.5 sq m of floor area and an additional mezzanine area was removed from the proposed development. The Planning Authority calculated that 157.1 sq m of floor area was to be included in the calculations for contributions.

- 6.1.3. The applicant questions why any contribution was levied at all as the works undertaken did not result in any additional floor area. The internal works only related to the removal and revision of partition walls and did not increase the overall floor area. As already stated, the development resulted in a reduction in floor area from what was there prior to the commencement of development.

## 6.2. Planning Authority Response

- 6.2.1. No additional comments to make to what was already provided in their report.

## 7.0 Assessment

- 7.1. This is an appeal made under the provisions of Section 48(10)(b) of the Planning and Development Act, 2000 as amended, and therefore the Board is restricted to consideration of Condition No. 4 only and cannot consider the proposed development *de novo*. The assessment is therefore confined to the application of the terms of the South Dublin County Council Development Contribution Scheme 2021 – 2025 and any index related increase that may be in place in February 2023.
- 7.2. Condition no. 4 required that a financial contribution of €17,684.75 be paid in respect of public infrastructure and facilities benefiting the development as provided for in the Development Contribution Scheme. The Planning Authority applied this contribution on the basis of the area of the development at 157.1 sq m and at a levy rate of €112.57. I note that the Chartered Surveyors of Ireland Construction Tender Price Index was at 11.5% in 2022 and at a similar rate so far this year. The main issue here is the area that the contribution was levied on.
- 7.3. I refer to Section (xix) of the South Dublin Count Council Development Contribution Scheme 2021 – 2025 and which states:
- ‘Internal layout alterations where no additional floor area is created and external walls are not being removed shall be exempt’.
- 7.4. As already reported, the application was for the retention of works and the Planning Authority granted permission for the development in full. No issues of concern were raised about the nature or scale of development that was carried out. From the submitted plans it is clear that footprint of the building has not increased and in fact, the development resulted in a reduction in floor area as the ancillary office space to

the front was removed. Two mezzanine areas were also removed from the development and no new mezzanine areas were proposed. The floor area as stated was previously 1,398.5 sq m and post development is stated to be 1,232 sq m. There is no change in the nature of development that would result in a change in use and the need for an assessment of such a change.

- 7.5. From the available information including the submitted floor plans and the appeal statement, it is clear that the development did not result in any additional floor area. I refer to (xix) of the contribution scheme and which clearly states that internal works shall be exempt. This does not refer to any specific use or type of development and the listed exemption would therefore be applicable to the proposed development.
- 7.6. The subject application relates to the alteration and revisions to an existing unit which resulted in a reduction in the overall floor area and a reconfiguration of the internal floor area but did not result in the creation of any additional floor area or a change in use of the floor space. I therefore consider that the Planning Authority in condition a contribution under Section 48 have incorrectly applied the terms of the South Dublin County Council Development Contribution Scheme 2021 – 2025. This condition therefore, should be omitted.

## **8.0 Recommendation**

- 8.1. It is considered that the planning authority incorrectly applied the terms of the South Dublin County Council Development Contribution Scheme 2021 – 2025 in requiring a contribution towards 157.1 sq m of floor area, however, no additional floor area was proposed by the applicant. It is therefore recommended that the planning authority be directed to omit Condition no. 4 of SD22A/0462.

## **9.0 Reasons and Considerations**

- 9.1. Having regard to the nature of the application which is for external alterations in the form of new cladding, the demolition of an ancillary office area and for modifications and internal alterations to an existing light industrial unit, but which does not result in the creation of any new additional floor area, I consider that the Planning Authority have incorrectly applied the terms of the South Dublin County Council Development

Contribution Scheme 2021 – 2025 by conditioning a contribution for 157.1 sq m of floor area, when no additional floor area has been created by this development. The alterations within the inside of this unit primarily relate to the reconfiguration of the floor area and the relocation of partition floors within this floor space.

9.2. Therefore, Condition no.4 of SD22A/0462 shall be omitted.

I confirm that the report represents my professional planning assessment, judgment and opinion on the matter assigned to me and that no person has influenced or tried to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

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Paul O'Brien

Inspectorate

6<sup>th</sup> June 2023