



An
Coimisiún
Pleanála

Inspector's Report ACP-322854-25

Development	Change of use from warehouse to self-storage use
Location	Units A1 & A2, Oakfield Industrial Estate, Ninth Lock Road, Clondalkin, D22 WA24
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD25A/0082W
Applicant(s)	Towerbright Ltd.
Type of Application	Permission.
Planning Authority Decision	
Type of Appeal	Section 48 appeal
Appellant(s)	Towerbright Ltd.
Observer(s)	None.
Date of Site Inspection	None required.
Inspector	David Freeland

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1.0 Introduction

This is a first party appeal against financial contribution conditions which were attached to the Planning Authority's notification of decision to grant permission. As this is an appeal in respect of conditions requiring a financial contribution, the provisions of section 48 of the Planning and Development Act 2000 apply, and the Commission is restricted to considering this matter alone and cannot consider the matter de novo. I have therefore confined my assessment to the condition in question.

Having regard to the nature of the S.48 appeal before the Commission and the information available on file, a site inspection was not deemed necessary in this instance.

2.0 Site Location and Description

The subject site is located in the Oakfield Industrial Park accessed off the Ninth Lock Road, c. 80m east of the Mill Shopping Centre, c. 700m north of Main St Clondalkin and c.500m to the junction with the Nagor Road to the north.

The subject site comprises a warehouse unit (A1 & A2 with a stated area of 874.7sq.m) which form part of a larger Block A. This block is positioned immediately west of a parallel block of similar scale and character, Block B. These blocks constitute the core-built form of the estate arranged around an east-west access cul-de-sac with a turning circle. A third block comprising a number of commercial units and uses is positioned to the south side of the access road. An ESB substation and compound is positioned to the immediate south of the access road fronting onto Ninth Lock Road to the west of Block E.

To the west, the site adjoins a four-storey residential building (formerly the Clondalkin Towers Hotel) and the Clondalkin Service Station. To the north, the estate adjoins Elmfield Industrial Estate with the Grand Canal located further beyond.

3.0 Proposed Development

The proposed development comprises the change of use from warehouse to self-storage use. The development includes the following:

- The demolition of the existing mezzanine floor (c. 53 sqm);
- The construction of an additional floor measuring 797 sqm at 1st floor level; increasing the total gross floor area from 874.7 sqm to 1,618 sqm;
- Associated site signage measuring at 9 sqm;
- Minor internal and external alterations to facilitate the change of use from warehouse to self-storage use;
- All associated site development works including cycle parking provision.

4.0 Planning Authority Decision

4.1. Decision

On the 29th May 2025, the Planning Authority issued a notification of a decision to grant permission subject to nine conditions. Conditions of note include:

9. Financial Contribution. The developer shall pay to the Planning Authority a financial contribution of €187, 132.46 (One hundred and eighty-seven thousand and one hundred and thirty-two euro and fortysix 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.

REASON: The provision of such facilities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority and that is provided, or that is intended will be provided, by or on behalf of the Local Authority.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The planner's report considered that the proposed change of use from warehouse to self-storage is acceptable under the 'TC' zoning, would not adversely impact the town centre and raises no concerns in relation to visual impact, signage, access, car and bicycle parking, environmental health, drainage/services or green infrastructure. No requirement arises for appropriate assessment or environmental impact assessment.

The planner's report recommended a grant of permission.

The Planner's Report included an assessment of Development Contributions for the change of use and additional floor area summarised as follows:

- New Floor Area: 744.0sq.m (797sq.m – 53sq.m proposed to be removed)
- Change of Use to Existing: 821.7sq.m
- Amount of Floor Area, if any, exempt: 0sq.m
- Amount of development: 1,565.7
- Applicable Rate: 119.52
- Total development contribution due: €187,132.46

The assessment indicated that there is relevant exemptions applicable relating to change of use although indicated that no floor area was exempt.

4.2.2. Other Technical Reports

- Public Realm: no objection.
- Environmental Health: no objection.

4.3. Prescribed Bodies

None.

4.4. Third Party Observations

None.

5.0 Planning History

There is no recent planning history relating to Block A of which the subject is located. Unit B4 of Block B, a parallel building located to the immediate east, was recently granted permission for a ground level extension (Ref. SD25A/0069W) and was previously refused permission for a change of use from light industrial to retail warehouse (Ref.SD07A/0913).

The appellant has provided documentation relating to the historic planning history of the subject site and wider Oakfield Industrial Estate including the parent permission. These are set out below in addition to other relevant applications to allow an understanding of the planning history, associated development contribution conditions and the layout of the Oakfield Industrial Estate (in order of oldest to newest):

Reg. Ref. WA 849 (Parent Permission): Permission Granted (03/07/1981) for the erection of industrial units at Ninth Lock Road – Applicant: SIAC Limited.

Condition 11 attached to the permission required payment of a financial contribution. However, the submitted record and those available on the SDCC website are illegible relating to the required amount.

The appellant submitted subsequent correspondence from Dublin County Council relating to the permission under Ref. WA.849 as follows:

- A letter from the Building Control Department of Dublin County Council (stamped received date 24/11/1981) indicated that plans submitted were approved.
- A letter from the Planning Department of Dublin County Council dated 27/11/1985 stated the following:

I wish to confirm that condition no. 11 of Order No PA/449/81 dated 3/7/81 which required the payment of a financial contribution has been complied with in respect of Blocks A & B.

Note: the above record refers to 449/81 which may be a clerical error.

- A letter dated 15/10/1987 indicate that Dublin County Council Refused Permission to extend the period of the permission under WA.849 for the following 2 reasons:
 1. The Planning Authority is not satisfied that development will be completed within a reasonable time.
 2. It would not be possible to carry out the development in accordance with permission granted under WA.849 due to the petrol filling station already constructed on foot of subsequent planning application Reg. Ref. 85A/1546 and 86A/740

Ref. WA 1905: Ninth Lock Road – Permission Granted (19/11/1981) for free standing E.S.B. Sub-station – Applicant: SIAC Limited.

Ref. XA. 412: Ninth Lock Road – Permission Granted (29/04/1982) for relocation of already approved block E, due to E.S.B. requirements – Applicant: SIAC Limited.

Ref. 85A/1546: Ninth Lock Road - Permission Granted (11/02/1986) for filling station and motor factors shop – Applicant: Ninral Ltd.

ABP Ref. PL6/5/71676 / PA. Ref. 86A/70: Site Opposite Clondalkin Paper Mills – Ninth Lock Road – Permission Granted for 11 Bedroom motel, lounge bar & restaurant – Applicant: Ninral Limited.

Ref. 86A/740: Permission Granted (15/08/1986) for self-service filling station – Applicant: Irish Shell Limited

Ref. 88A/1703: Permission Granted (14/06/1989) for erection of 3 industrial terraced units – Applicant: Clondalkin Builders Providers

Condition 11 required the following:

That arrangements be made with regard to payment of the balance of the financial contribution in the sum of £8,560, required in respect of the overall development by planning permission granted under Reg. Ref. WA 849.

Reasons: the provision of such services in the area by the Council will facilitate the proposed development. It is considered reasonable that the developer should contribute towards the cost of providing the services,

Ref. 88A/1704: Permission Granted (14/06/1989) for erection of 3 industrial terraced units – Applicant: SIAC Construction

Condition 11 required the following:

That arrangements be made with regard to payment of the balance of the financial contribution in the sum of £8,560, required in respect of the overall development by planning permission granted under Reg. Ref. WA 849.

Reasons: the provision of such services in the area by the Council will facilitate the proposed development. It is considered reasonable that the developer should contribute towards the cost of providing the services,

Ref. S99A/0877: Jensen Hotel – Permission Granted to demolish existing hotel and the erection of three-storey hotel complex comprising of 52 en-suite bedrooms, lounge, restaurant, dining room, night club/function room, conference rooms, service areas and ancillary works – Applicant: Cavvies Ltd.

It is understood the constructed hotel operated as the Clondalkin Towers Hotel before transitioning to residential use.

6.0 Policy Context

6.1. Planning and Development Act 2000, as amended

Section 48 of the Planning and Development Act 2000, as amended provides as follows:

48.—(1) A planning authority may, when granting a permission under section 34, include conditions for requiring the payment of a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority and that is provided, or that it is intended will be provided, by or on behalf of a local authority (regardless of other sources of funding for the infrastructure and facilities).

(2) (a) Subject to paragraph (c), the basis for the determination of a contribution under subsection (1) shall be set out in a development contribution scheme made under this section, and a planning authority may make one or more schemes in respect of different parts of its functional area.

(b) A scheme may make provision for payment of different contributions in respect of different classes or descriptions of development.

(c) A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

(3) (a) A scheme shall state the basis for determining the contributions to be paid in respect of public infrastructure and facilities, in accordance with the terms of the scheme.

(b) In stating the basis for determining the contributions in accordance with paragraph (a), the scheme shall indicate the contribution to be paid in respect of the different classes of public infrastructure and facilities which are provided or to be provided by any local authority and the planning authority shall have regard to the actual estimated cost of providing the classes of public infrastructure and facilities, except that any benefit which accrues in respect of existing development may not be included in any such determination.

(c) A scheme may allow for the payment of a reduced contribution or no contribution in certain circumstances, in accordance with the provisions of the scheme.

Section 48(10) provides:

(10) (a) Subject to paragraph (b), no appeal shall lie to the Board in relation to a condition requiring a contribution to be paid in accordance with a scheme made under this section.

(b) An appeal may be brought to the Board where an applicant for permission under section 34 considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the planning authority.

(c) Notwithstanding section 34(11), where an appeal is brought in accordance with paragraph (b), and no other appeal of the decision of a planning authority is brought by any other person under section 37, the authority shall make the grant of permission as soon as may be after the expiration of the period for the taking of an appeal. provided that the person who takes the appeal in accordance with paragraph (b) furnishes to the planning authority security for payment of the full amount of the contribution as specified in the condition.

6.2. South Dublin County Council Development Contribution Scheme 2021-2025

The South Dublin County Council Development Contribution Scheme 2021-2025 (under Section 48 of the Planning and Development Act, 2000, as amended) came into effect on 1st January 2021.

Section 9 of the Scheme relates to the 'Level Of Contribution' with an indicated rate of €91.11 per sq.m applied to Industrial/Commercial class of Development, except where an exemption or reduction applies. An indicated rate of €119.52 per square metre for Industrial/Commercial development is effective from 1st January 2024.

Section 11 of the scheme sets out circumstances where no contribution or reduced contribution apply. Section 11(i)(xxvi) relating to change of use is relevant to the subject appeal which states the following:

Change of use: In respect of a permission for change of use, where development contributions were paid in respect of the former use the contribution payable on the new use will be net of the quantum of development previously paid for. Where a contribution was not previously paid or the original development was carried out before 1963 it shall be treated in its entirety as new development and assessed accordingly. The Development Contribution Scheme does not provide for any rebate or refund in this regard. Agents/applicants should provide evidence of prior payment at application stage to expedite assessment and avail of this exemption.

6.3. Natural Heritage Designations

Not relevant.

6.4. EIA Screening

Not relevant.

7.0 The Appeal

7.1. Grounds of Appeal

A first party appeal against the inclusion of condition 9 of the Planning Authority decision to grant permission. The grounds of the appeal can be summarised as follows:

- The appellant welcomes the positive decision of SDCC to issue a decision to Grant Permission, however, the planning authority has not applied the terms of the South Dublin County Council Contribution Scheme 2023-2028 correctly.
- The permitted development provided for a change of use of the existing floor space and the construction of an additional floor, measuring 797sq.m at 1st floor level, increasing the total area from 874.7sq.m to 1,618sq.m.
- The appellant is of the view that development should not be the subject to the financial contributions have already paid in respect to the subject building under Ref. 88A/1703 and WA849. The appellant has attached these decisions as part of the appeal.
- The appellant requests that condition 9 be dismissed in its entirety and attach a new condition which attached an appropriate financial levy commensurate with the only additional floorspace provided.
- The grounds of appeal refer to relevant parent permissions relating to the site and unit, 88A/1703, 88A/1704 and WA 849 and states that relevant contributions associated with WA 849, Condition 11 and 88A/1703, 88A/1704 Condition 11 were discharged in full at that time.
- The grounds of appeal specifically refers to Section 11(xxvi) of the SDCC Development Contribution Scheme 2021-2025 which relates to circumstances where no contribution or a reduced contribution comply and specifically those relating to a change of use. In this regard, the grounds of appeal refers to an

attached document (Ref. 3572) from Dublin County Council where it confirmed that “condition no. 11 of Order No. PA 449/81 dated 3/7/81 which required the payment of a financial contribution has been complied with in respect of Blocks A & B”.

- The grounds of appeals contends that the existing floorspace (874.7sq.m), wherein a change of use only is proposed demands no additional requirements from existing or future infrastructure in the vicinity of the site. By way of Condition 9, a double levy (€187,132.46) has been incorrectly applied.
- Based on the proposed new floor area of 797sq.m and a contribution rate of €119.52/m², the appellant estimates that the appropriate level of contribution is €92,257.44.

7.2. Planning Authority Response

- 7.2.1. South Dublin County Council made a submission (dated 02/07/2025) to the Commission regarding the issues raised in the First Party appeal which stated the following:

“As per the South Dublin County Council Development Contributions Scheme 2021-2025, a contribution was applied to the full area of the development as the applicant had not provided proof of previous payment. The scheme was thus correctly applied as per its own merits. As the applicant has provided evidence of previous payment in their appeal, SDCC is amenable to a lower contribution being applied by the Commissioners”.

7.3. Further Responses

A First party response to the planning authority's comments was received which is summarised as follows:

- SDCC's amenability to a lower contribution being applied by the Commissioners is welcomed.
- As noted by SDCC, evidence of previous payment has been provided as part of the appeal, therefore contributions have been paid in full in respect of its former use.

- The development contribution to be placed on the application should only apply to the proposed new floor area of 797sq.m at a rate of €119.52/m² which totals €92,257.44.

8.0 **Assessment**

- 8.1. This appeal relates solely to Condition 9 of the planning authority's decision under Ref. SD25A/0082W which requires the payment of a financial contribution of €187,132.46 under the South Dublin County Council Contribution Scheme 2021-2025. Having regard to Section 48(10)(b) of the Planning and Development Act, 2000, as amended, the remit of the Commission is confined to considering whether the terms of the scheme have been applied in this case.
- 8.2. Section 48 of the Planning and Development Act provides for the attachment of financial contributions conditions, the basis for which must be set out within a Development Contribution Scheme. Section 11(i)(xxvi) of the SDCC DCS 2021-2025 is relevant in the consideration of the appeal. It provides for circumstances where no contribution or a reduced contribution applies and, in this instance relates to a change of use. Where development contributions were paid in respect of a former use, the contribution payable on the new use will be net of the quantum of development previously paid for.
- 8.3. The planning authority applied the levy (€119.52 for Industrial/Commercial development) to the entire floor area (1,565.7sq.m) which included the original floor area proposed for a change of use and proposed additional floor area (797sq.m). The planning authority indicated this levy was applied on the basis of no evidence of previous payment been submitted with the application. The resulting contribution amounted to €187,132.46. In its response to the appeal, the planning authority acknowledged that the appellant has provided evidence of previous payment in their appeal and SDCC is amenable to a lower contribution being applied by the Commissioners.
- 8.4. The appellant relies on historic permissions for the Oakfield Industrial Estate, notably the parent permission under Reg. Ref. WA.849 and subsequent applications under Reg. Ref. 88A/1703 & 88A/1704. Condition 11 attached to Ref. WA.849 required the payment of a contribution, albeit the available documentation relating to the

application is illegible with regards to the required levy. A letter dated 27 November 1985 from the Planning Department of Dublin County Council confirms that the payment of a financial contribution in respect of Blocks A & B has been complied with. The appellant submits that this demonstrates the contributions have been discharged in full including those attached to the permissions under Reg. Ref. 88A/1703 & 88A/1704. On this basis, the appellant argues that the levy should apply only to the additional floor area of 797sq.m.

- 8.5. I have reviewed the documentation submitted. While the historic records are partially illegible and would appear to contain clerical inconsistencies, the 1985 letter from Dublin County Council provides clear confirmation that the financial contributions condition attached to Reg. Ref. WA.849 was complied with for Blocks A and B which includes the subject site. Having regard to the evidence provided and the bona fide statement of the appellant, I accept that all relevant development contributions have been discharged in respect of the existing floorspace.
- 8.6. The planning authority's acknowledgement of the appellant's evidence and their stated amenability to a reduced levy reinforces this conclusion. Having regard to Section 11(i)(xxvi) of the SDCC DCS 2021-2025, I am satisfied that the proof of prior payment has been met.
- 8.7. I therefore consider that the levy should be confined to additional new floor area only and that condition 9, as currently worded represents a misapplication of the Scheme.
- 8.8. Having regard to the plans and particulars of the application and information provided as part of the appeal, to establish the applicable floor area for the levy, I note the following:
- Gross floor area of existing building: 874.7sq.m (including mezzanine)
 - Gross floor area to be retained: 821.7sq.m
 - Gross floor area of proposed demolition (existing mezzanine): 53sq.m
 - Gross floor area of proposed first floor level: 797sq.m.
 - Total gross floor area (to be retained and proposed): 1618.7sq.m

- 8.9. Based on the above, I consider that the applicable floor area relates to the additional floor area proposed (797sq.m) minus the mezzanine proposed to be demolished (53sq.m), a total area of 744sq.m.
- 8.10. I consider that the appropriate contribution is €88,922.88 calculated on a floor area of 744sq.m at the applicable commercial rate of 119.52 per sq.m. Condition 9 as currently worded, therefore represents a misapplication of the scheme.
- 8.11. I recommend that Condition 9 be amended to require a financial contribution of €88,922.88 in compliance with the SDCC Development Contribution Scheme 2021-2025.

9.0 AA Screening

Not relevant.

10.0 Recommendation

I recommend that Condition 9 is amended having regard to the reasons and considerations below.

Amend Condition 9 as follows:

9. Financial Contribution. The developer shall pay to the Planning Authority a financial contribution of €88,922.77 (eighty-eight thousand and nine hundred and twenty-two euro and eighty-eight 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.

REASON: The provision of such facilities will facilitate the proposed development. It is considered reasonable that the payment of a contribution be required, in respect of public infrastructure and facilities benefiting

11.0 Reasons and Considerations

Having regard to Section 48 of the Planning and Development Act 2000, as amended, the provisions of the South Dublin County Council Development Contributions Scheme 2021-2025 and in particular Section 11(i)(xxvi) relating to the exemptions for a change of use where contributions have previously been paid, together with the evidence submitted by the appellant, it is considered that the terms of the Scheme were not correct in application under Condition 9 and that the contribution should apply only to the net 744sq.m of additional floor area.

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

David Freeland
Planning Inspector

24/09/2025