



An
Coimisiún
Pleanála

Inspector's Report PL-500623-DN-26

Development

RETENTION PERMISSION: Change of use of Unit 13 from office use to gym use; and the change of use of Unit 14 from office use to educational and/or office use and all associated site works.

Location

Unit 13 and 14, Docklands Innovation Park, 128-130 East Wall Road, Dublin 3.

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

WEB5545/25

Applicant(s)

EWR Innovation Park Ltd.

Type of Application

Permission and Retention Permission

Planning Authority Decision

Grant permission

Type of Appeal

Third Party

Appellant(s)

Atlantic Diamond Ltd.

Observer(s)

None

Date of Site Inspection

8th May 2026

Inspector

Emer Doyle

1.0 Site Location and Description

- 1.1. The site which has a stated area of 0.087ha is located within the Docklands Innovation Park, 128-130 East Wall Road, Dublin 3.
- 1.2. The existing buildings are located at Unit Nos. 13 and 14 and are three story buildings.
- 1.3. The site is accessed off East Wall Road, via a gated entrance on the northern boundary. The site is located within the Dublin Docklands area and is well served by public transport including the Luas and DART.

2.0 Proposed Development

- 2.1. Permission is sought for the change of use of Unit 14 from office use to educational use and/or office use at first and second floor levels.

Retention permission is sought for the change of use of Unit 13 at first floor level from office use to gym use.

No additional floorspace is proposed in either of the existing units.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority issued a notification to grant permission and retention permission subject to 6 No. standard conditions for a development of this type.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Principle of Development acceptable. No objection subject to conditions.

3.2.2. Other Technical Reports

- **Transportation Planning:** This division considers the proposal to be negligible in nature and recommends permission subject to conditions.
- **Drainage Department:** No objection subject to conditions.

3.3. Prescribed Bodies

Traffic Infrastructure Ireland (TII)

No objection subject to conditions. Development falls within a Section 49 Levy Scheme for Light Rail (Luas C1). If the above application is successful and not exempt, please include for a Section 49 Contribution Scheme Levy.

3.4. Third Party Observations

- 3.4.1. One third party submission was made to the Planning Authority. The main concerns raised are similar to those raised in the appeal.

4.0 Planning History

- 4.1. There is a significant amount of planning history on this site including a Strategic Housing Development Decision by the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016 under ABP 306778-20. The Board's decision was quashed by Order of the High Court.

Relevant and recent planning history relating to Units 13 and 14 includes the following:

PA Reg. Ref. 4327/19/ ABP 308391-20

Retention permission granted by PA and by the Board on appeal for the retention of the existing uses of Units 2, 7, 9, 13, 14, 15, 17, and 19 as follows:

Unit 2 and 7: Cultural/Recreational use (Dance Studio)

Unit 9: Office use

Unit 13: Gym at ground floor level and office use at 1st and 2nd floor level

Unit 14: Educational use (Language School) at ground floor level and office use at 1st and 2nd floor level

Unit 15: Warehouse at ground floor level

Unit 17: Cultural/Recreational use (Dance Studio)

Unit 19: Office use

4.2. Enforcement by Dublin City Council includes the following:

E0977/24: Alleged change of use - Status: Open

E0976/24: Alleged change of use - Status: Open

E0975/24: Alleged change of use- Status: Open

5.0 Policy Context

5.1. Development Plan

I note the following provisions of the **Dublin City Development Plan 2022-2028**

- The land use zoning objective for the area is 'Z14' - Strategic Development and Regeneration Areas (SDRAs).
- Policy CEE32 Education and the City Economy
- Policy CEE33 Access to Education
- Chapter 15 Development Standards - Section 15.14.11 Dublin City Council supports the provision of gym uses within the city and these type of uses have the ability to add activity and animation to the streets outside of normal working hours.

5.2. Relevant Development Contribution Schemes include the following:

- Luas Red Line Docklands Extension (Luas C1) – Supplementary Development Contribution Scheme (Section 49)

- Dublin City Council Development Contribution Scheme 2023-2026 (Section 48)

5.3. **Natural Heritage Designations**

- None relevant.

5.4. **EIA Screening**

- 5.4.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- 6.1.1. The third party appeal is summarised as follows:
- Dublin City Council ignored the objection submitted by the third party. This practice is unacceptable.
 - The retention permission granted for Unit 13 does not include the requirement to pay S48 and S49 fees as requested by TII.
 - The application relating to Unit 14 ought to be a retention permission. This unit has been used as a school for a number of years. It is absurd to attempt to pause its use and then apply for permission rather than retention permission. As with Unit 13, if permission is granted, please ensure that the appropriate fees are charged.
 - The application is also deficient in that it does not specify what exact use is being applied for: 'educational and/or office use' is not a defined category. It is one or the other. Any permission should specify which use is permitted.

- The unit does not meet the building regulations for use as a school. Any decision on its use as a school should await evidence from the applicant that the unit has been upgraded to meet the minimum statutory requirements for use as a school.

6.2. Applicant Response

6.2.1. The response submitted on behalf of the applicant can be summarised as follows:

- The Planning Authority did engage with the third party submission and specifically referred to it in the planner's report.
- In relation to development contributions for Units 13 and 14, it is stated that the development proposal constitutes a change of use from one commercial use to another and is therefore exempted from Section 48 Development Contributions.
- In relation to Section 49 Development Contributions, it is stated that both units retain a commercial use as existing and the development does not involve any increase in floor area, significant intensification of use, or material increase in demand on public infrastructure and therefore the Supplementary Development Contribution Scheme Luas Scheme does not apply.
- The history file on the site under ABP 308391-20 is referred to as no condition was attached requiring a Section 49 Development Contribution.
- In relation to Unit 14, the educational use on the first floor was ceased further to enforcement notices. It is now appropriate to seek permission. The Planning Authority report is satisfied that a new application for permission is warranted.
- Concerns regarding building regulations are assessed under a separate process.
- Both education and office uses are permissible in principle under the Z14 zoning objective. The description does not give rise to any ambiguity that would result in adverse planning impacts. The provision of flexibility between

educational and/or office use within Unit 14, facilitates that adaptable re-use of existing floorspace to accommodate a range of prospective tenants and therefore the proposal will enhance the vibrancy, functionality, and economic resilience of the Docklands area, consistent with the Key Opportunity Site designation and the wider regeneration and employment objectives of the SDRA 6 – Docklands Framework.

6.3. **Planning Authority Response**

- None submitted.

6.4. **Observations**

- None.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the planning authority, and inspected the site, and having regard to relevant local/ regional/ national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Development Contributions
- Other Matters

7.2. **Principle of Development**

7.2.1. The proposed development seeks permission for the retention of a change of use of Unit 13 at first floor level from office use to gym use and permission for the change of use of Unit 14 from office use to educational use at first and second floors.

- 7.2.2. The site is zoned as ‘Z14 Strategic Development and Regeneration Areas’ in the current Development Plan with the objective to ‘seek the social, economic and physical development and/or regeneration of an area with mixed-use, of which residential would be the predominant use’.
- 7.2.3. The appeal makes the case that the application is deficient as it does not specify what exact use is being applied for ‘educational and/or office use’ for Unit 14. It is stated that either ‘educational’ or ‘office’ use should be specified.
- 7.2.4. The appeal response sets out that both education and office uses are permissible in principle under the Z14 zoning objective. The description does not give rise to any ambiguity that would result in adverse planning impacts. The provision of flexibility between educational and/or office use within Unit 14, facilitates that adaptable re-use of existing floorspace to accommodate a range of prospective tenants and therefore the proposal will enhance the vibrancy, functionality, and economic resilience of the Docklands area, consistent with the Key Opportunity Site designation and the wider regeneration and employment objectives of the SDRA 6 – Docklands Framework.
- 7.2.5. I share the view set out above in terms of flexibility and I do not consider that there is ambiguity in that the site and newspaper notices refer to both uses. Further I note that all the uses set out above – education, office, sports facility and recreational uses have previously been granted in Units 13 and 14 and all are permissible uses as set out in Chapter 14 of the current Development Plan. As such, I consider that the principle of development is acceptable at this location.

7.3. Development Contributions

- 7.3.1. The appeal makes the case that Section 48 and Section 49 Development Contributions are applicable to Units 13 and 14.
- 7.3.2. The Planning Authority did not include any conditions relating to Section 48 or Section 49 Development Contributions.
- 7.3.3. A submission on file from Transport Infrastructure Ireland highlighted that the development is located within an area set out for a Section 49 levy scheme for light rail. TII did not specifically state whether the scheme applies to the current

application but instead stated that if the application is successful and not exempt, a condition of the grant should include for the Section 49 contribution scheme levy.

- 7.3.4. The appeal response stated that in relation to Section 48 development contributions, the development proposal constitutes a change of use from one commercial use to another and is therefore is exempted from Section 48 Development Contributions.
- 7.3.5. In relation to Section 49 Development Contributions, it is stated that both units retain a commercial use as existing and the development does not involve any increase in floor area, significant intensification of use, or material increase in demand on public infrastructure and therefore the Supplementary Development Contribution Scheme Luas Scheme does not apply.
- 7.3.6. I have reviewed the relevant Dublin City Council Section 48 Development Contribution Scheme 2023-2026. Sub-section (1) of Section 48 of the Planning and Development Act 2000 as amended, enables a planning authority, when granting a planning permission under Section 34 of the Act, to 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). The scheme may allow for the payment of a reduced contribution or no contribution in certain circumstances. Section 10 sets out circumstances where no contribution or a reduced contribution applies and includes the following:

Change of use from one commercial use to another. Any net additional floor space will be charged at the commercial rate

I note that Section 12 of the Scheme sets out that no reductions in whole or in part shall apply for retention of development. I am of the view that as there is no net additional increase in floorspace in this case no contribution is applicable, and as such, I share the view of the Planning Authority that no Section 48 development contribution is applicable in this case. Further, I note that there is established precedent in the Docklands Innovation Park towards similar applications for both permission and retention permission for change of use where no additional floorspace is proposed, and in this regard, I refer the Commission to PA Reg. Ref. 4327/19 and ACP 308391-20, PA Reg. Ref. 3885/09 and PA Reg. Ref. 3974/00

where no Section 48 contribution has been applied by the Planning Authority or the Commission.

- 7.3.7. The relevant Section 49 Development Contribution Scheme is the Luas Red Line Docklands Extension Scheme (Luas C1). TII did not specifically state whether the scheme applies to the current application but instead stated that if the application is successful and not exempt, a condition of the grant should include for the Section 49 contribution scheme levy.
- 7.3.8. Section 11 of the Scheme sets out exemptions. None of the exemptions set out are relevant to this application.
- 7.3.9. Section 13 of this scheme sets out that 'Exemptions and reductions shall not apply to permissions for retention of development'.
- 7.3.10. Under the history application directly relevant to this site- ABP-308391-20, the Inspector considered that *'that having examined the scheme, I note under Section 10 that only 3 specified land uses are defined, these being Commercial, Retail and Residential. A rate of €38.00 per sq.m applies to commercial development as a specified land use. However, given that the previous uses within the subject units would have also fallen under commercial use, using a strict interpretation of the scheme there does not appear to be a justification for applying a development contribution levy, as no additional floor space is proposed and there has been no change in land use on site as defined under the scheme. Therefore, I do not believe that the Section 49 levy scheme should apply in the case of the current development, however, if the Board are minded to grant the development and differ in this opinion they may wish to attach a condition regarding levies.'*
- 7.3.11. I note that the Commission shared the view of the Inspector in this case and did not apply a Section 49 Development Contribution. I consider that having regard to the established precedent in the Docklands Innovation Park, and the case set out previously as set out above, it would be inconsistent to apply a Section 49 Development Contribution in this case. However, if the Commission are minded to grant permission and differ in this opinion, they may wish to attach a condition regarding levies.

7.4. Other Matters

Retention Permission

- 7.4.1. The appeal makes the case that the application relating to Unit 14 ought to be a retention permission. It is stated that this unit has been used as a school for a number of years and that it is absurd to attempt to pause its use and then apply for permission rather than retention permission.
- 7.4.2. On my inspection of the site, I noted that only the ground floor of Unit 14 is used for educational purposes. It is clear from the documentation submitted with the planning application and appeal that the first floor of this building was previously used for educational purposes. The information submitted with the application stated that this use was discontinued, with the result that no unauthorised use remained.
- 7.4.3. Given these circumstances, I concur with the appeal response that a retention application was no longer required or warranted. I am satisfied that it is appropriate for the applicant to seek permission for this use in accordance with the details submitted to the Planning Authority.

Separate Legal Code

- 7.4.4. The appeal states that Unit 14 does not meet the building regulations for use as a school. Any decision on its use as a school should await evidence from the applicant that the unit has been upgraded to meet the minimum statutory requirements for the use as a school.
- 7.4.5. The appeal response states that compliance with the Building Regulations is a separate statutory process and does not fall within the remit of the planning system.
- 7.4.6. I share this view and note that compliance with the Building Regulations will be evaluated under a separate legal code and is not a matter for the Commission.

8.0 AA Screening

- 8.1. I have considered the proposed retention permission for change of use and permission for change of use of existing buildings within the Docklands Innovation Park.

No nature conservation concerns were raised in the planning appeal. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site.

The reason for this conclusion is as follows:

- The nature and scale of the development to be retained.
- The location and distance from the nearest European site and the lack of any hydrological connectivity between the application site and the SAC/SPA.
- Taking into account the screening determination by Planning Authority. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 **Water Framework Directive (WFD) Screening**

- 9.1. The subject site is located the Docklands area of Dublin within an existing business park. Permission is sought for change of use of Unit 14 from office use to educational use and/or office at first and second floor levels and retention permission is sought for the change of use of Unit 13 at first floor level from office use to gym use. There are existing mains water and sewerage connections.
- 9.2. No water deterioration concerns were raised in the planning application or appeal. I have assessed the project and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is due to the small scale and nature of the development, the treatment of waste and surface water to the public mains

and the location and distance of the site to the nearest waterbody and lack of hydrological connections.

- 9.3. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

10.0 Recommendation

- 10.1. I recommend that retention permission and permission be granted for the reasons and considerations set out below.

11.0 Reasons and Considerations

Having regard to the Z14 zoning objective for the area, the provisions of the Dublin City Development Plan 2022-2028, the scale and nature of the proposed development for which permission and retention permission is sought, it is considered that the proposed development would not seriously injure the amenities of the existing buildings on site or the amenities of property in the vicinity. The proposed development would therefore, be in accordance with the proper planning and sustainable development at this location.

12.0 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows); advertisement structures, banners, canopies, flags, or other projecting element shall be displayed or erected on any of the units or within their curtilage, or attached to their glazing without the prior grant of planning permission.

Reason: To enable the planning authority to assess the impacts of any such changes on the amenities of the area.

3. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

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.

Emer Doyle
Planning Inspector

11th May 2026

Form 1 - EIA Pre-Screening

Case Reference	PL-500623-DN-26
Proposed Development Summary	Retention of change of use and permission for change of use
Development Address	Units 13 and 14 Docklands Innovation Park
In all cases check box /or leave blank	
<p>1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA?</p> <p>(For the purposes of the Directive, “Project” means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)</p>	<p><input checked="" type="checkbox"/> Yes, it is a ‘Project’. Proceed to Q2.</p>
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<p><input type="checkbox"/> Yes, it is a Class specified in Part 1.</p> <p>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</p>	<p>State the Class here</p>
<p><input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3</p>	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<p><input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road</p>	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	

<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>N/A</p>
<p>No <input type="checkbox"/></p>	

Inspector: _____ Date: _____