

The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1.

Monday 23rd August 2021
[By hand]

AN BORD PLEANÁLA	
LDG-	<u>042802-21</u>
ABP-	
23 AUG 2021 o.k	
Fee: €	<u>1500</u> Type: <u>Cheque</u>
Time:	<u>11:00</u> By: <u>Council</u>

RE: FIRST PARTY APPEAL AGAINST DECISION BY SOUTH DUBLIN COUNTY COUNCIL TO DECLARE THE PROPOSED DEVELOPMENT AT UNIT 14 FASHION CITY, BALLYMOUNT ROAD UPPER, DUBLIN 24 NOT EXEMPT UNDER THE PLANNING AND DEVELOPMENT REGULATIONS 2001.

South Dublin County Council Reg. Ref.: ED21/0051

Dear Sir, Madam,

This is a first party appeal, prepared by Woods Architecture & Project Management on behalf of the Applicants, Surf Accounts of Unit D6 South City Business Park, Tallaght, Dublin 24 against the declaration issued by South Dublin County Council on the proposed development at the abovementioned address.

South Dublin County Council were asked to determine:

whether the use of Unit 14, M50 Business Park (Fashion City), Ballymount Road Upper, Dublin 24, for light industrial use involving computer programming is or is not development, and is or is not exempted development

In determining the answer to the question put forward in the application the Chief Executive stated:

*It is considered that the current permitted use of a showroom fits the definition under Class 5, whereas the proposed light industry use fits the definition under Class 4. The proposed the proposed change of use does not consist of a change of use **within** any one of the classes of use specified in Part 4 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) and therefore is not exempted development.*

Conclusion

It is considered that the development is not exempted development having regard to the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

Recommendation

The applicant should be written to and informed that the proposed development would not be considered as exempted development and would require planning permission.

Before putting forward our argument against the declaration decision we draw the Board's attention to the fact that the Chief Executive has adjudicated that the process of software development, the activities which our client wishes to

carry out at the at the subject premises, unit 14 Fashion City, is considered an industrial process and so seeking permission for light industrial use on the unit is the correct usage befitting their business.

An 'industrial process' is defined as (emphasis added) "means any process which is carried on in the course of trade or business, other than agriculture, and which is-

(a) for or incidental to the making of any article or part of an article, or

(b) for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals,

and for the purposes of this paragraph, "article" includes-

(i) a vehicle, aircraft, ship or vessel, or

*(ii) a sound recording, film, broadcast, cable programme, publication and **computer program or other original database**".*

Having regard to the above it is considered that the proposed use is light industrial.

This appeal seeks to contest the opinion of the planning authority that the existing use of the subject unit is limited solely to showroom use and that a change to light industrial use will require planning permission. In support of this argument, we draw the Board's attention to the wording of parent grant of planning for the development within which the subject unit is located.

The development description on the parent grant reg. ref.: **SD01A/0173** states:

*Wholesale distribution centre for the clothing trade on a circa 3.8 ha. Site consisting of two buildings around a central courtyard containing a café/reception building (280 sq.m.). The buildings will contain single storey **wholesale distribution and light manufacturing units** (emphasis added)(14,289 sq.m.) and three storey ancillary agents offices (1,918 sq.m) all with...*

We would assert that the specific inclusion of both uses within the development description sought to ensure that both distribution and manufacturing uses could be carried out within the development without the requirement for further planning applications. No conditions were attached to the subsequent grant of planning permission for the development that precluded the ability for either use to be carried out within any of the units within the development.

We would also reiterate the argument put forward in the report submitted with the Declaration of Exemption application subject of this appeal that no conditions were attached to the parent grant restricting the use of units to that associated with the clothing trade.

We respectfully request that the Board overturn the Planning Authority's decision to declare the use of Unit 14 fashion City as light industrial not exempt.

We would also respectfully ask that the Board determine our appeal at its earliest convenience, our client, Surf Accounts is an indigenous technology-based company who are seeking to increase their employee numbers and create highly skilled tech jobs within the local community. We would be very glad to provide any additional information or clarification if this would assist the Board in its assessment of the issues raised.

We enclose the following documents in support of this appeal:

1.no. copy of a completed Planning Appeals Form.



- 1no. cheque for €1,500 as set out at A3 on the first party appeal fees table.
- 1no. copy of Declaration of Exemption application report to which this letter refers.
- 1no. copy of the Chief Executive's Order to which this letter refers.

Please address any future correspondence in this matter to Woods Architecture & Project Management.

Yours faithfully,



Kevin Woods MSc PM MRIAI

Encl.



Comhairle Chontae Atha Cliath Theas

Record of Executive Business and Chief Executive's Order

PR/1024/21

Register Reference:	ED21/0051
Correspondence Name & Address:	David Mulcahy Planning Consultants Ltd 67, Old Mill Race, Athgarvan, Newbridge, Co. Kildare.
Development:	Light Industrial Use
Location:	Unit 14, Fashion City, Ballymount Road Upper, Dublin 24
Applicant:	Surf Accounts

(COS)

Description of Site and Surroundings

The site is comprised of a two-storey unit located within the Fashion City wholesale distribution warehouse outlet. The unit comprises of showroom/warehouse areas and has surface car parking. Access to the site is via Ballymount Road Upper.

Proposal

This is an application requesting a Section 5 Declaration to determine:

whether the use of Unit 14, M50 Business Park (Fashion City), Ballymount Road Upper, Dublin 24, for light industrial use involving computer programming is or is not development, and is or is not exempted development

The Section 5 Declaration application includes:

- Application form
- Planning report
- Site location map
- Site layout plan
- Floor plans
- Elevations

Recent Relevant Subject Site Planning History

ED21/0003

Internal works comprising the installation of Internal wall finishes to external walls, protected stairways, lobbies, plant rooms & all associated services installations. Installation of louvres to rear elevation. Repairs to roof finishes including replacement of existing rooflights. Installation of additional windows at first floor level to the front elevation. **Declared exempt.**

SD20A/0144 & ABP Ref. PL06S.309002

(1) Change of use of the existing ground floor (411sq.m) and first floor (401sq.m) levels from **previously granted Showroom/Warehouse storage** under Reg. Ref. S01A/0173 and further extended under Reg. Ref. SD02A/0514 to office use. (2) Modifications to the front facade comprising the replacement of the main entrance doors at ground floor level with glazing to match the existing, the installation of a new window to match existing at first floor level and new signage (2sq.m). (3)

Comhairle Chontae Atha Cliath Theas

Record of Executive Business and Chief Executive's Order

Modifications to the rear facade comprising the replacement of the existing roller shutter at ground floor level with fixed curtain wall glazing to match existing and the installation of new fixed louvres to match existing at first floor level. **Permission refused by An Bord Pleanála.**

Permission refused due to intensification of employee activity, in the absence of sufficient high-frequency public transport serving the area, it was considered that the consequential increased car parking demand would exacerbate existing demand and lead to a reduction in the viability of the fashion warehouse and showroom outlet function by reason of inadequate car parking provision.

SD02A/0514

Change of use of 64m² of ground floor warehouse to showroom and the extension of first floor mezzanine showroom area by 328m² and addition of a door to ground floor level at front of warehouse at the 'Fashion City', wholesale distribution and light manufacturing centre for the clothing trade. Previous permission was granted under S01A/0173. **Permission granted.**

S01A/0173

Wholesale distribution centre for the clothing trade on a circa 3.8 ha. site consisting of two buildings around a central courtyard containing a cafe/reception building (280sq.m.). The buildings will contain single storey wholesale distribution and **light manufacturing units** (14289sq.m.) and three storey ancillary agents offices (1918sq.m.) all with landscaping, parking and circulation. Access will be by signalised junction on re-aligned Ballymount Road Upper. This will become a cul de sac on construction of the Greenhills Road re-alignment. **Permission granted.**

Recent Relevant Enforcement History

None recorded for subject site according to APAS.

Zoning and Council Policies

The subject site is subject to Zoning Objective 'EE': *'To provide for enterprise and employment related uses'* in the South Dublin County Development Plan 2016-2022.

Assessment

Consideration as to whether a development constitutes exempted development or not is governed by Sections 3, 4 and 5 of the Planning and Development Act 2000 (as amended) and Article 10 and Part 4 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

Is the proposal development?

Planning and Development Act 2000 as amended:

Section 3(1) defines 'development' as (emphasis added) *'the carrying out of any works on, in, over or under land or **the making of any material change in the use of any structures or other land**'.*

Comhairle Chontae Atha Cliath Theas

Record of Executive Business and Chief Executive's Order

The current permitted use is showroom. It is considered that the change of use from showroom to light industrial use involving computer programming is a change of use and is also a material change of use and therefore development.

Is the proposal exempted development?

Article 10 of the Planning and Development Regulations 2001 (as amended) relates to change of use and sets out what changes are exempted development by reference to Part 4 of Schedule 2 of Planning and Development Regulations 2001 (as amended). Article 10 (1) states (emphasis added):

“Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not

- (a) involve the carrying out of any works other than works which are exempted development,*
- (b) contravene a condition attached to a permission under the Act,*
- (c) be inconsistent with any use specified or included in such a permission, or*
- (d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned.”*

Under **Class 5** of Part 4 of Schedule 2, is ‘Use as a wholesale warehouse or as a repository’. The Regulations define ‘wholesale warehouse’ as *“a structure where business, principally of a wholesale nature is transacted, and goods are stored or displayed incidentally to the transaction of that business”*.

Additionally, **Class 4** is ‘Use as a light industrial building’. The Regulations define a ‘light industrial building’ as *“an industrial building in which the processes carried on or the plant or machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit”*.

An ‘industrial building’ is defined as *“a structure (not being a shop, or a structure in or adjacent to and belonging to a quarry or mine) used for the carrying on of any industrial process”*.

An ‘industrial process’ is defined as (emphasis added) *“means any process which is carried on in the course of trade or business, other than agriculture, and which is-*

- (a) for or incidental to the making of any article or part of an article, or*
 - (b) for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals,*
- and for the purposes of this paragraph, “article” includes-*
- (i) a vehicle, aircraft, ship or vessel, or*
 - (ii) a sound recording, film, broadcast, cable programme, publication and computer program or other original database”.*

Having regard to the above it is considered that the proposed use is light industrial.

Comhairle Chontae Atha Cliath Theas

Record of Executive Business and Chief Executive's Order

It is considered that the current permitted use of a showroom fits the definition under Class 5, whereas the proposed light industry use fits the definition under Class 4. The proposed the proposed change of use does not consist of a change of use within any one of the classes of use specified in Part 4 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) and therefore is not exempted development.

Conclusion

It is considered that the development is not exempted development having regard to the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations 2001 (as amended).

Recommendation

The applicant should be written to and informed that the proposed development would not be considered as exempted development and would require planning permission.

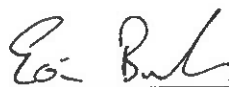


Jim Johnston

Senior Executive Planner

ORDER: That the applicant be informed that the proposed development of Light Industrial Use at Unit 14, Fashion City, Ballymount Road Upper, Dublin 24 is development and is not considered to be exempted development under the Planning and Development Act 2000 (as amended) and the Planning and Development Regulations, 2001 (as amended) and therefore does require planning permission

Date: 28th July 2021



Eoin Burke, Senior Planner



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PLANNING REPORT

TO SUPPORT SECTION 5 APPLICATION

CONCERNING

LIGHT INDUSTRIAL USE

AT

**UNIT 14, M50 BUSINESS PARK FASHION CITY,
BALLYMOUNT ROAD UPPER, DUBLIN 24**

29th June 2021

1.0 INTRODUCTION

David Mulcahy Planning Consultants Ltd have been instructed by **Surf Accounts** (the applicant) to prepare a planning report in support of a Section 5 application to South Dublin County Council concerning the use of Unit 14, M50 Business Park (Fashion City), Ballymount Road Upper, Dublin 24, for light industrial use.

The applicant seeks a declaration from the Council to determine "*Whether the use of Unit 14, M50 Business Park (Fashion City), Ballymount Road Upper, Dublin 24, for light industrial use involving computer programming is or is not development, and is or is not exempted development*".

This report will demonstrate that the use of Unit 14, M50 Business Park (Fashion City), Ballymount Road Upper, Dublin 24, for light industrial use is or is not development.

2.0 SITE LOCATION & DESCRIPTION

2.1 Site Location

The subject site is located on the east side of the M50 motorway within M50 Business Park (Fashion City) in Ballymount – see Fig No.1 below.

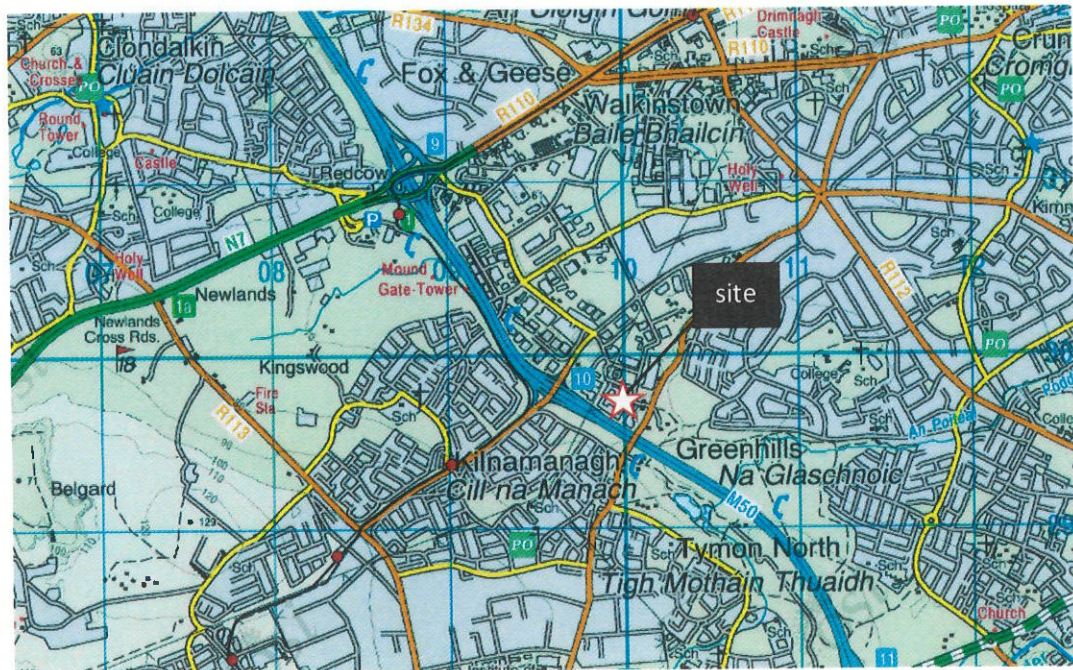


Fig No.1 Site Location (source: Myplan.ie - OSI Licence No.EN 0080915).

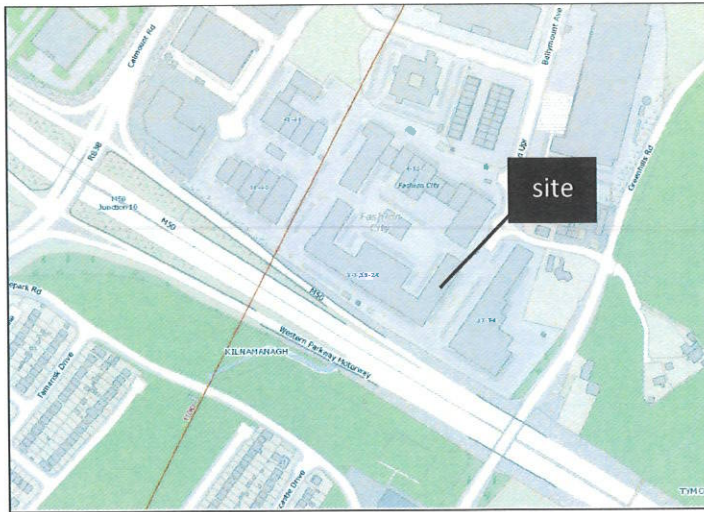


Fig No.1 Site Location (source: Myplan.ie - OSI Licence No.EN 0080915).

2.2 Site Description

At present the site consists of a two storey terrace unit with a gross floor area of 812 sq. m. There are 12 dedicated car park spaces associated with the unit. The unit was recently purchased by Surf Accountants in with some minor refurbishment works carried out to facilitate their relocation from their existing offices at Unit D6 Southcity Business Park, Whitestown Way, Tallaght, D24. The exterior works have the benefit of a Section 5 declaration - see details below. The unit is currently vacant.

M50 Business Park (Fashion City) is a cluster of wholesale units, services, boutiques specialising in the fashion industry i.e. clothes, jewelry, hair, accessories etc. There are however a number of units which appear to have no direct link to the fashion industry such as Base2Race (sporting goods), clubs for hire (golf), Unique day spa (source: Google Maps).

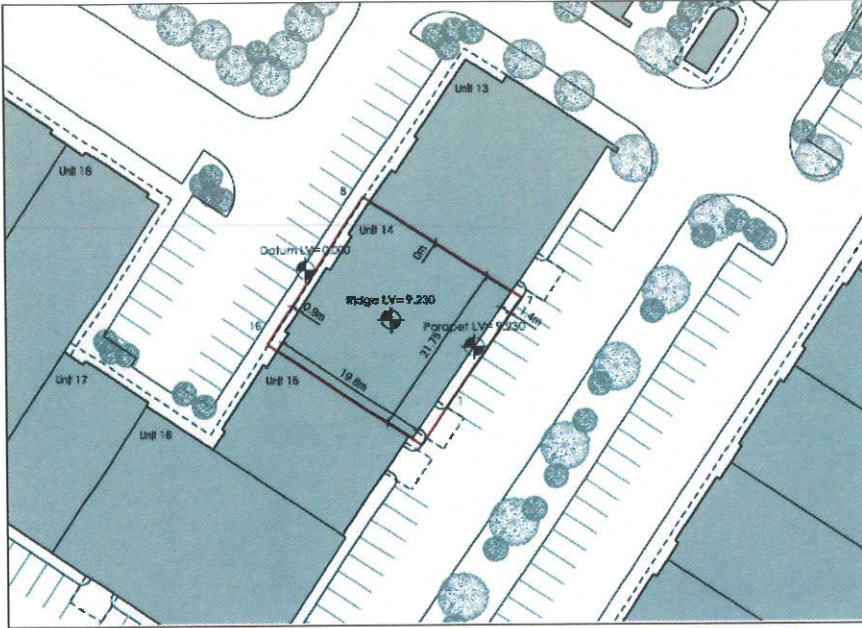


Fig No.3 Extract from Site Location Plan prepared by Wood Architecture and Project Management.



Fig No.4 Aerial Photograph (Source: Google Earth Pro, April 2021).

3.0 PLANNING HISTORY

3.1 Subject Site

A review of the planning history on the South Dublin Co. Co. on-line planning enquiry system revealed that

Reg. Ref. S01A/0173

In 2001, planning permission was granted for a **wholesale distribution centre for the clothing trade** on a site of 3.8ha, consisting of two buildings around a central courtyard containing a café/reception building. The public notices states that the buildings will contain single storey **wholesale distribution and light manufacturing units** and ancillary agents' offices, with landscaping, circulation, and parking with access off realigned Ballymount Road Upper. Conditions relating to use are as follows:

Conditions and Reasons

- 1 The development to be carried out in its entirety in accordance with the plans, particulars and specifications lodged with the application, save as may be required by the other conditions attached hereto.
REASON:
To ensure that the development shall be in accordance with the permission and that effective control be maintained.

- 2 That the proposed development shall not be used for the purpose of the retail sale or display of goods to visiting members of the public unless a planning permission for any such use is first granted by the Planning Authority or by An Bord Pleanala on appeal.
REASON:
To enable effective control to be maintained in the interest of the proper planning and development of the area.

The conditions of the permission do not restrict the use of the unit to uses associated with the clothing trade.

Reg. Ref. SD02A/0514

In 2002, planning permission was granted for a **change of use** of 64 sq. m. of **ground floor warehouse to showroom** and the extension of the first-floor mezzanine showroom by 328 sq. m. and addition of a door onto the front elevation at ground floor level.

This permission has been implemented.

Reg. Ref. SD20A/0144

South Dublin Co. Co. granted conditional permission for (1) Change of use of the existing ground floor (411sq.m) and first floor (401sq.m) levels from previously granted Showroom/Warehouse storage under Reg. Ref. S01A/0173 and further extended under Reg. Ref. SD02A/0514 to **office use**. (2) Modifications to the front facade comprising the replacement of the main entrance doors at ground floor level with glazing to match the existing, the installation of a new window to match existing at first floor level and new signage (2sq.m). (3) Modifications to the rear facade comprising the replacement of the existing roller shutter at ground floor level with fixed curtain wall glazing to match existing and the installation of new fixed louvres to match existing at first floor level.

An Bord Pleanála overturned this decision on appeal (PL06S.309002) and refused permission for one reason as follows:

Having regard to the scale of the proposed office development, the material intensification of employee activity proposed in the change of use from warehouse to office use, and in the absence of sufficient high-frequency public transport serving the area, it is considered that the consequential increased demand for car parking generated by the proposed change of use would exacerbate demand within the existing restricted circulation and parking space

and lead to a reduction in the viability of the fashion warehouse and showroom outlet function by reason of inadequate car parking provision on the site. The proposed development would, therefore, establish an undesirable precedent for future changes of use and would be contrary to the proper planning and sustainable development of the area.

It is clear that the Board's concern was the intensification of employee activity arising from the office use and the associated car parking that would result.

Section 5 Ref. ED21/0003

On 9th February 2021 South Dublin County Council determined that the proposed development of Internal works comprising the installation of Internal wall finishes to external walls, protected stairways, lobbies, plant rooms & all associated services installations. Installation of louvres to rear elevation. Repairs to roof finishes including replacement of existing rooflights. Installation of additional windows at first floor level to the front elevation. at the above address is **DECLARED EXEMPT.**

SUMMARY

- Planning permission for use of buildings in M50 Business Park (Fashion City), for wholesale distribution and light manufacturing was granted in 2001 and this permission has been implemented.
- Planning permission for a change of use of 64 sq. m. of ground floor warehouse to showroom and the extension of the first-floor mezzanine showroom by 328 sq. m was granted in 2002 and was implemented.
- Planning permission was refused for change of use to office.

4.0 PLANNING CONTEXT

4.1 Zoning

The subject site is zoned 'EE' - 'to provide for enterprise and employment related uses'.

5.0 LEGISLATION

5.1 Planning and Development Act, 2000 (as amended)

Section 3 (1) states as follows:

"In this Act, 'development' means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land."

Section 4 (2) provides for the making of Regulations. The main Regulations are the Planning and Development Regulations, 2001.

6.2 Planning and Development Regulations, 2001

Light Industrial

Under the Planning and Development Regulations 2001 as amended "light industrial building" means an industrial building in which the processes carried on or the plant or machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

"industrial process" means any process which is carried on in the course of trade or business, other than agriculture, and which is-

(a) for or incidental to the making of any article or part of an article, or

(b) for or incidental to the altering, repairing, ornamenting, finishing, cleaning, washing, packing, canning, adapting for sale, breaking up or demolition of any article, including the getting, dressing or treatment of minerals,

and for the purposes of this paragraph, "article" includes-

(i) a vehicle, aircraft, ship or vessel, or

(ii) a sound recording, film, broadcast, cable programme, publication **and computer program¹ or other original database** - bold emphasis added.

Part 4 of Schedule 2 Exempted development- Classes of Use includes the following classes:

CLASS 4 Use as a light industrial building.

CLASS 5 Use as a wholesale warehouse or as a repository.

Article 10 (1) relating to changes of use states as follows:

"Development which consists of a change of use within any one of the classes of use specified in Part 4 of Schedule 2, shall be exempted development for the purposes of the Act, provided that the development, if carried out would not—

(a) involve the carrying out of any works other than works which are exempted development,

(b) contravene a condition attached to a permission under the Act,

(c) be inconsistent with any use specified or included in such a permission, or

(d) be a development where the existing use is an unauthorised use, save where such change of use consists of the resumption of a use which is not unauthorised and which has not been abandoned."

¹ Collins English Dictionary definition: a set of instructions for a computer to perform some task

6.0 CASE LAW

Fingal County Council v. William P. Keeling & Sons Ltd. 29/07/2005, [2005] IESC 55

The Supreme Court held in July 2005 that where a developer has made an application for permission to retain a development, this will **not prevent him from claiming at a later stage that the development is exempt**. In doing so, it overruled the 1983 Supreme Court case of *Dublin v. Tallaght Block Company*, where it had been stated that if a developer applies unsuccessfully for retention planning permission, he is stopped by that fact alone from resisting a later application for an order to desist unauthorised development.

In this case, the developer, William P. Keeling & Sons Limited, had partially built a bungalow when Fingal County Council applied for an order that the bungalow be demolished. The company applied three times unsuccessfully for permission to retain the development. In its arguments against the order for demolition, the company claimed that the development was exempt. The Supreme Court found that, since the statement of the law in the 1983 case was made where it had already been decided that the development was not exempt and where there was no considered argument or citing of relevant authority, the statement of the law in the 1983 case was not binding on it and the developer was permitted to argue that the development was exempt. The court mentioned that there may be many reasons for applying for planning permission, where it might also have been argued that the development was exempt. Such reasons included oversight, mistake, caution or an attempt to ensure that the planning position was clear where a property was being sold.

This case law in the Keeling case establishes that a refusal of permission does not prevent an applicant from subsequently seeking an exemption. However, we consider that the Keeling case relates to a situation where the refusal and

subsequent exemption related to the exact same development, whereas in this case the situation is slightly different in that the change of use involved is different i.e. light industry as opposed to the office use that was refused. Nonetheless, the case is still considered important to highlight as it demonstrates that a refusal does not preclude a subsequent section 5 declaration relating to the same building.

7.0 APPLICANT BUSINESS

7.1 Description

Surf Accountants are a cloud-based, accounting software and customer relationship management business aimed at serving small and medium sized businesses. Essentially, they are software engineers involved in software production or digital manufacturing.

8.0 ANALYSIS

8.1 Introduction

The question before the Council is *"Whether the use of Unit 14, M50 Business Park (Fashion City), Ballymount Road Upper, Dublin 24, for light industrial use involving computer programming is or is not development, and is or is not exempted development"*.

Development?

The applicant seeks to use Unit 14 for the purpose of light industry, specifically software production or digital manufacturing. Unit 14 has the benefit of planning permission for use as a wholesale distribution or light manufacturing unit. It is submitted to the Council that software production or digital manufacturing

equates to a form of computer programming and is therefore a light industrial use. No material change of use will occur. The use of the unit will remain Class 4 Light Industrial. It is our opinion therefore that no development has occurred in this instance.

It is also important to consider the issue of potential intensification. Our clients (the applicant) have advised us as follows: They currently employ 43 people in their existing office in Tallaght which has a total of 6 dedicated parking spaces.

9 staff are permanently remote with 21 others 'Hybrid' staff i.e. they work some days in the office and some days at home each week. It is important to note that following COVID 19 the amount of staff working from home will increase further, particularly as the nature of the business lends itself to same. The only truly office based staff moving forward will be the client services team who are the cohort of employees that utilise bike to work and public transport the most.

There is generally 13 staff in the office at any one time (primarily involved in development - software manufacturing). This equates to one person per 62.46sq.m based on the gross floor area of 812sq.m which is considered to be quite a low employment density. The average floorspace requirement per Full-Time Equivalent (FTE) employee according to the UK Employment Densities Guide, 2015 prepared by the Homes and Communities Agency is 47sq.m.

Of these 13 staff only 2 drive. The profile of these 13 staff is quite young with an average age of 23 and typically leads to staff cycling or public transport.

Of the current 34 staff (excluding the 9 permanently remote workers) 76% live within a 5km radius of the office which promotes cycling to work and use of public transport.

Unit 14 in Fashion City was purposely chosen due to its close proximity to the Kingswood Luas stop and the bus routes along the Greenhills road.

Given that Unit 14 has double the amount of dedicated parking spaces compared to the current office in Tallaght, it is submitted to the Council that car parking is highly unlikely to generate any material planning issues.

It should also be noted that there have never been any car parking issues associated with their existing unit in Tallaght since their arrival in 2006 - see letter enclosed from the landlord.

Of the 12 spaces available at Unit 14 it is expected that the car park spaces will be allocated on the basis of 4 spaces for client services, 3 for sales, 1 for CEO, 2 for tech/dev and 2 to be used by hybrid workers on any day. Typically, however, only 2 sales and 1 tech/dev are in the office on any day so 4 spaces will be available at any time.

There are no visitors to the office in terms of customers. The only visitor would be for post.

On the basis of the above it is submitted to the Council that there is not expected to be any material intensification of Unit 14 in terms of material planning implications.

It is highlighted for comparison that a fashion type light industrial use could potentially include a clothing company involving a significant amount of staff including seamstress, reception staff, administration, sales staff etc.

Exempted Development

On the basis that the use of Unit 14 is not development the issue of exempted development does not arise.

9.0 CONCLUSION

The applicant seeks a declaration from the Council to determine "*Whether the use of Unit 14, M50 Business Park (Fashion City), Ballymount Road Upper, Dublin 24, for light industrial use involving computer programming is or is not development, and is or is not exempted development*".

This report has demonstrated that the use of Unit 14, M50 Business Park (Fashion City), Ballymount Road Upper, Dublin 24, for light industrial use involving computer programming is not development on account of the fact that such use falls under the definition of an article associated with light industrial use in the Planning and Development Regulations 2001.

The issue of potential intensification has also been examined. The key issue is considered to be car parking. The applicant's business already operates a hybrid work model which means that there is only ever a limited number of staff required to be in the office at any time and this is expected to reduce even further post Covid-19 as work practices change. The nature of the applicant's business means that they can be very flexible in this regard. Their current operation in Tallaght operates without any parking concerns even though only half the car park spaces are available compared to Unit 14.

The issue of exempt development does not arise as no development is involved.

We seek for the Council to issue a declaration confirming that this use of Unit 14 for light industrial use involving computer programming by Surf Accounts is not development.

Signed:



David Mulcahy BA (Mod), MRUP, MSc. Urban Design, MRUP, MIPI

David Mulcahy Planning Consultants Ltd

CHARTERED PLANNING CONSULTANTS

Enclosed

1. Site Location Map and Plan/Elevation Drawings of Unit 14 prepared by WoodsArchitecture and Project Management.
2. Letter from landlord in SouthCity Busienss Park Tallaght.



Rohan Estate Management Limited

4th Floor, Block 2, Harcourt Centre, Harcourt Street, Dublin 2.
Phone: +353 1 662 4455. Fax: +353 1 676 5404

Surf Accounts / Relate Software
Unit D6
South City Business Park,
Tallaght,
Dublin 24

1st July 2021

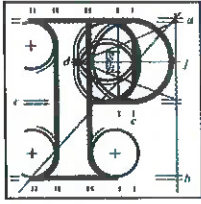
To whom it concerns,

Surf Accounts / Relate Software have been a tenant of Unit D6 South City Business Park, Whitestown Way, Tallaght since 2006 and over that time we have not had any complaint or issue with this company or its employees in relation to either parking or any other behaviour.

They have been model tenants have always paid service charges and fees over the years.

Kind regards,

Ray Keohane
Estate Manager
Rohan Estate Management Ltd.



An
Bord
Pleanála

AN BORD PLEANÁLA	
LDG-	<u>042802-21</u>
ABP-	
23 AUG 2021 O.K	
Fee: €	<u>1500</u> Type: <u>Cheque</u>
Time: <u>11:00</u>	By: <u>Conor Keenan</u>

Planning Appeal Form

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Surf Accounts

(b) Address

Unit D6 South City Business Park, Tallaght, Dublin
24.

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please also provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Woods Architecture & Project Management

(b) Agent's address

94 Ardcollum Avenue, Artane, Dublin 5.

Postal address for letters

3. During the appeal we will post information and items to you or to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the address in Part 1

The agent at the address in Part 2

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

South Dublin County Council

(b) Planning authority register reference number

(for example: 18/0123)

ED21/0051

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Unit 14 Fashion City, Ballymount Road Upper, Dublin 24.

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

Please see attached letter.

Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you must include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You must make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

Oral hearing request

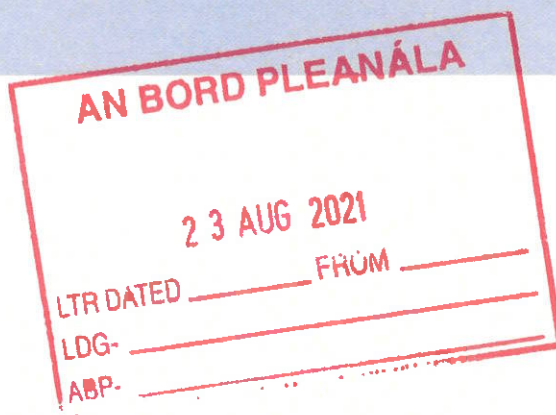
9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the “yes, I wish to request an oral hearing” box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on our website or by contacting us.

If you do not wish to request an oral hearing, please tick the “No, I do not wish to request an oral hearing” box.

Yes, I wish to request an oral hearing

No, I do not wish to request an oral hearing



NALA has awarded this document its Plain English Mark

Last updated: April 2019.

