

Comhairle Chontae Atha Cliath Theas

PR/1478/21

Record of Executive Business and Chief Executive's Order

Register Reference:	ED21/0067
Correspondence Name & Address:	Martin Labeledz Unit 20, Primeside Park, Ballycoolin, Dublin 15, D15 E393
Development:	Use of Unit 40)permitted as Unit 9 and constructed under Planning permission SD03A/0227) as a wholesale warehouse with ancillary showroom (not for public use, by invite only) & offices to the front (Incl. mezzanine) for the storage and distribution of (non-flammable) pre-fabricated light building components, i.e windows, doors, wall insulation, renders, paints etc.
Location:	Unit 40, Fashion City, M50 Business Park, Ballymount Avenue, Ballymount, Dublin 24, D24 HF63
Applicant:	Martin Labeledz

(CD)

Description of Site and Surroundings

The subject site is comprised of a single storey with mezzanine unit located within the Fashion City Wholesale Distribution Warehouse Outlet. The subject site is situated to the east of the M50 and north west of Greenhills Road. The permitted use for the unit under SD03A/0227 was for wholesale distribution and light manufacturing for the clothing trade. Under ED21/0041 the Change of Use of the unit to wholesale warehouse use with ancillary office space was declared Exempted Development. The stated use was solely as a wholesale warehouse (with ancillary offices) for the storage and distribution of packaged long shelf-life food products only. It is unclear from the drawings submitted by the Applicant whether this Change of Use was ever adopted.

Proposal

This is an application requesting a Section 5 Declaration to determine whether the following is considered Exempted Development:

Change of use of Unit 40 (permitted as Unit 9 under planning permission SD03A/0227) from:

wholesale warehouse with ancillary showroom (not for public use, by invite only) & offices to the front (incl. Mezzanine)

to

storage & distribution of (non-flammable) pre-fabricated light building components i.e. windows, doors, wall insulation, renders, paints, etc., ancillary showroom (not for public use, by invite only)

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The Section 5 Declaration application includes:

- Application form
- Site Location Map
- Ground Floor Plan
- Ground Floor Plan (As Built Services)
- Mezzanine Floor Plan
- Plans, Sections and Elevations.

Recent Relevant Planning History

Subject Site

ED21/0041 – Unit 40 Fashion City, M50 Business Park, Ballymount Road Upper, Ballymount, Dublin 24.

A Section 5 declaration sought to determine whether the change of use to wholesale warehouse use with ancillary office space is exempted development. **Declared Exempted Development.**

Parent Permission

SD03A/0227 – M50 Business Park, Ballymount Road Upper, Ballymount, Dublin 24.

Permission sought for 13 No. single height wholesale distribution and light manufacturing units for the clothing trade (8,291sq.m) and a single storey local shop (192sq.m) with ancillary landscaping, parking and circulation of a circa 1.88 hectare site at 'Fashion City'.

Permission Granted, subject to conditions.

The subject site of this application is located at Unit No. 40 (permitted as 'Unit No. 9') within the Fashion City Wholesale Distribution Warehouse Outlet permitted under SD03A/0227. The layout of the permitted unit is comprised of a ground floor level showroom and warehouse storage and distribution area with a mezzanine level resulting in a total Gross Floor Area of approximately 1,238sq m. The proposal, which is subject of this application requesting a Section 5 Declaration, does not appear to materially alter the originally permitted layout of the subject site. It would appear that the proposal is for the change of use from the originally permitted wholesale distribution and light manufacturing for the clothing trade to a wholesale warehouse with ancillary showroom (not for public use, by invite only) and offices for the storage & distribution of (non-flammable) pre-fabricated light building components.

Amendment to Parent Permission

SD06A/0468 - M50 Business Park, Ballymount Road Upper, Ballymount, Dublin 24.

The division of existing warehouse into five separate units and the addition of one entrance door and one personnel escape door to the front and three entrance doors, three personnel escape doors and a loading door to the side of warehouse unit 40 at the "Fashion City" wholesale distribution and light manufacturing centre for the clothing trade. Previous permission was granted under application No. SD03A/0227. **Grant Permission, subject to conditions.** The development permitted under SD06A/0468 does not appear to have been enacted.

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Adjacent and Surrounding Sites

SD20A/0144 – Unit 14 Fashion City, M50 Business Park, Ballymount Road Upper, Ballymount, Dublin 24.

Permission sought for the (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. **Grant Permission, subject to conditions.**

SD05A/0958 - P.E.I. Ltd., M50 Business Park, Ballymount Road, Dublin 24.

Change of use of part ground floor from storage use to office use (202.8sq.m.), the provision of additional office space internally at first floor level (168.8sq.m.) and elevational changes to include a new window at first floor level plus screen and door at ground level to the east elevation. **Grant Permission, subject to conditions.**

SD02A/0580 - M50 Business Park, Ballymount Road Upper, Ballymount, Dublin 24.

Change of use of 350m² first floor mezzanine storage area to ancillary office use, the change of use of 200m² of warehouse to ancillary office use, and the extension of first floor mezzanine storage area by 200m² at the 'Fashion City' wholesale distribution and light manufacturing centre for the clothing trade. Previous Permission was granted under application No. S01A/0173. **Grant Permission, subject to conditions.**

SD02A/0514- M50 Business Park, Ballymount Road Upper, Ballymount, Dublin 24.

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. **Grant Permission, subject to conditions.**

SD02A/0350 - M50 Business Park, Ballymount Road Upper, Ballymount, Dublin 24.

Change of use of 74m² of ground floor warehouse to showroom, the extension of first floor mezzanine storage area by 425m² and the addition at second floor office area of 191m² with additional windows to front and side elevations and door to ground floor level of warehouse. Previous permission was granted under application number S01A/0173. **Grant Permission, subject to conditions.**

SD02A/0346 - M50 Business Park, Ballymount Road Upper, Ballymount, Dublin 24.

Change of use of 42m² of ground floor warehouse to showroom, extension of first floor mezzanine storage area by 197m² and the addition of a door to ground floor level at front of warehouse. Previous permission was granted under application number S01A/0173. **Grant Permission, subject to conditions.**

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SD02A/0345 - M50 Business Park, Ballymount Road Upper, Ballymount, Dublin 24.
Change of use of 74m² of ground floor warehouse to showroom extension of first floor mezzanine showroom and storage area by 158m² and 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 application no. S01A/0173. **Grant Permission, subject to conditions.**

SD02A/0344 - M50 Business Park, Ballymount Road Upper, Ballymount, Dublin 24.
Change of use of 148m² of ground floor warehouse to showroom/offices, extension to first floor mezzanine showroom and storage area by 122m², the addition of second floor office area of 252m² and additional windows to front and side elevations at the 'Fashion City' wholesale distribution and light manufacturing centre for the clothing trade. Previous permission was granted under application no. S01A/0173. **Grant Permission, subject to conditions.**

SD02A/0342 - M50 Business Park, Ballymount Road Upper, Ballymount, Dublin 24.
For the change of use of 77m² of ground floor warehouse to showroom, extension of first floor mezzanine showroom and storage area by 139m² and the addition of a door at 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 application no S01A/0173. **Grant Permission, subject to conditions.**

SD02A/0247 - M50 Business Park, Ballymount Road Upper, Ballymount, Dublin 24.
Combining of unit 13 & 14 and extension of first floor storage area by 720m², addition of escape door to front, removal of roller shutter door and addition of windows at ground and first floor to rear of warehouse at Fashion City wholesale distribution and light manufacturing centre for the clothing trade. Previous Permission was granted S01A/0173. **Grant Permission, subject to conditions.**

Recent Relevant Enforcement History

None recorded for the subject site.

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 Parts 1 and 4 of Schedule 2 of the Planning and Development Regulations 2001 (as amended).

Is the proposal development?

Section 2(1) and 3(1) of the Planning and Development Act 2000 as amended are relevant:

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Section 2(1) defines 'works' as:

'any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes any act or operation involving the application or removal of plaster, paint, wallpaper, tiles or other material to or from the surfaces of the interior or exterior of a structure.'

Section 2(1) defines a 'structure' as:

'any building, structure, excavation or other thing constructed or made on, in or under any land, or part of a structure so defined, and –

(a) Where the context so admits, includes the land on, in or under which the structure is situate'.

Section 2(1) defines a 'use' as:

'use' in relation to land, does include the use of the land by the carrying out of works thereon.

Section 3(1) defines 'development' as:

*'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**'. (Emphasis added)*

Having regard to the drawings submitted by the Applicant there do not appear to be any external elevational changes to the structure to facilitate the proposed Change of Use. The internal layout, including the ground floor warehouse, storage and distribution area and mezzanine level appear to be unchanged. As such it is considered that **the proposal does not include works.**

The question therefore arises, would the proposal result in a material change of use of the structures on the site. The current use is deemed to be wholesale warehouse, which comes under Class 5 of Part 4 of Schedule 2:

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

The proposed Change of Use refers to: *'the storage and distribution of (non-flammable) prefabricated light building components i.e. windows, doors, wall insulations, renders, paints, etc. i.e. windows, doors, wall insulation, renders, paints, etc., ancillary showroom (not for public use, by invite only)*

A "repository" is defined in the Planning and Development Regulations, 2001, as amended, as meaning 'a structure (excluding any land occupied therewith) where storage is the principal use and where no business is transacted other than business incidental to such storage. The proposal will continue to use the existing structure and mezzanine area for the

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storage and distribution of a product and for the ancillary showroom and office. This proposed use is deemed to be a wholesale warehouse and would also come under Class 5 and therefore no materially change would take place.

Is the proposal exempted development?

The proposal does not include any works or any material change of use and is therefore not deemed to be development.

Environmental Impact Assessment and Screening for Appropriate Assessment


Section 4(4) of the Planning and Development Act 2000 (as amended), de-exempts development that would require an Environmental Impact Assessment or Appropriate Assessment. Having regard to the nature and scale of the development, existing connection to public services, and distance from sensitive receptors and Natura 2000 sites, it is not considered that there is a requirement for an Environmental Impact Assessment nor a Stage 2 Appropriate Assessment.

Conclusion

The proposal is not considered to constitute development by virtue of the nature of the changes proposed and the proposed change of use would be exempted under Class 5 of Part 4 of Schedule 2 as it would remain a wholesale warehouse.

Recommendation

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



Tracy McGibbon,
A/Senior Executive Planner

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ORDER: That the applicant be informed that the proposed development of: **Use of Unit 40 (permitted as Unit 9 and constructed under Planning permission SD03A/0227) as a wholesale warehouse with ancillary showroom (not for public use, by invite only) & offices to the front (incl. mezzanine) for the storage and distribution of (non-flammable) pre-fabricated light building components, i.e windows, doors, wall insulation, renders, paints etc. at Unit 40, Fashion City, M50 Business Park, Ballymount Avenue, Ballymount, Dublin 24, D24 HF63** is 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 not** require planning permission.

Date: 16/4/21


Eoin Burke, Senior Planner