

Comhairle Chontae Atha Cliath Theas

PR/0523/22

Record of Executive Business and Chief Executive's Order

Register Reference:	ED22/0003
Correspondence Name & Address:	Rory Kissane Architects 1, Old Fair Green, Dunboyne, Co. Meath
Development:	First floor extension of existing office space (c.17.6m.sq.)
Location:	Unit F2, South City Business Centre, Killinarden Link Road, Whitestown, Tallaght, Dublin 24
Applicant:	Mr Cathal Conefrey

Description of Site and Surroundings

The subject site is an existing double height/two-storey light industrial unit located in an industrial estate of similar units. The unit is located in the middle of a terrace of similar units within South City Business Centre, Tallaght.

Proposal

This is an application requesting a Section 5 Declaration on whether the proposed development is or is not exempted development. The development consists of an internal first floor extension to provide 17.6 sq.m additional office space, infilling an existing void, and associated external elevation alterations including the reduction in height of existing rolling door and the placing of additional fenestration at first floor level.

The Section 5 Declaration application includes:

- Application form
- Site location map
- Site plan
- Existing floor plans and section
- Proposed floor plans
- Existing and proposed elevations

Recent Relevant Planning History

There is no recent relevant planning history for the site.

Neighbouring sites

SD06A/0649: Erection of a first-floor mezzanine area & provision of additional staff facilities and alterations at ground floor level along with additional fenestration at both ground floor and first floor levels to the rear. **Permission granted.**

SD05A/0745: 1 no additional office space at first floor, the installation of a mezzanine level for storage purposes and associated additional stair and exit door to rear of existing Unit F1. **Permission granted.**

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SD05A/0073: Amalgamation of previously approved units D3, D4 and D5 into one single unit; internal and external alteration to office area of previously approved Unit E5; Alteration to increase office area of previously approved Unit E20 and external alteration to elevation of previously approved Unit F4. **Permission granted.**

SD04A/0135: The development will consist of three blocks comprising 38 new light industrial/warehouse units with a total gross internal area of 8,600sq.m of which 1,426sq.m will be ancillary office space; 226 car parking spaces, estate roads, landscaping, drainage, E.S.B. substation and associated site works. **Permission granted.**

Recent Relevant Enforcement History

There is no record of relevant enforcement history for the site.

Zoning and Council Policies

The subject site is subject to zoning objective 'EE' - *'To provide for enterprise and employment related uses'*.

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 Part 2 of the Planning and Development Regulations 2001 (as amended).

Is the proposal development?

Planning and Development Act 2000 as amended (emphasis added):

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'*.

Section 2(1) in this Act, except where otherwise requires –

'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 situated.

'use' in relation to land, does not include the use of the land by the carrying out of any works thereon.

It is considered that the change of use from warehouse void to offices is a change of *'use'* and is also a material change of use and is therefore development.

Assessment - 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

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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. **internal construction works would be required to facilitate the change of use. These works would result in elevational changes.***
- (b) contravene a condition attached to a permission under the Act. **Condition 7 of permission Reg. Ref. SD04A/0135 states:***

‘The units shall be used as a light industrial buildings and their use shall comply with the definition provided in Section 5(1), Part 2 of the Planning and Development Regulations 2001. This states ‘light industrial building means an industrial building in which the processes carried on of the plant or machinery installed are such as could be carried on or installed in any residential area without detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust, or grit’

It is noted that under Reg. Ref. SD05A/0073, condition 2 restricts the areas of the original development permitted under Class 3, office. Furthermore, additional office floor area has only been facilitated subject to further planning applications, of note, Reg Ref. SD05A/0745 and SD06A/0649, relating to a nearby unit.

The 17.6sq.m extra office floor area would be additional to that granted under the parent permission and would not fall under Class 4, light industrial. Therefore, the proposed extension would contravene a condition attached to a permission under the Act and would not be considered exempt.

- (c) be inconsistent with any use specified or included in such a permission, or **The development would be inconsistent with the light industrial use permitted under Reg. Ref. SD04A/0135.***
- (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.” **The existing use is authorised as per Reg. Ref. SD04A/0135.***

It is considered that the current use of the space comes under Class 4 of Part 4 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) which includes:

Use as a light industrial building.

It is considered that the proposed change of use to office would come under Class 3 of Part 4 of Schedule 2 of the Planning and Development Regulations 2001 (as amended) which includes:

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Use as an office, other than a use to which class 2 of this Part of this Schedule applies.

Based on the above, it is not considered that the development meets the requirements of Article 10 (1), it is therefore considered to **not** be exempted development.


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

It is considered that the proposed development would not be 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 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 First floor extension of existing office space (c.17.6m sq.) at Unit F2, South City Business Centre, Killinarden Link Road, Whitestown, Tallaght, 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: 22/4/22


Eoin Burke, Senior Planner