



An  
Bord  
Pleanála

## Inspector's Report

**PL06S.247063**

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<b>Development</b>	16No. parking spaces for heavy vehicles, 36 carparking spaces and part change of use of warehousing building by installing 2No. portacabin structures for use as ancillary office at Knockmitten Lane, Western Indus. Est., Dublin 12
<b>Planning Authority</b>	South Dublin Co. Co.
<b>Planning Authority Reg. Ref.</b>	SD16A/0030
<b>Applicant(s)</b>	Calin Bogdan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Appellant(s)</b>	<ol style="list-style-type: none"><li>1. John Geoghegan &amp; Others (Third Party)</li><li>2. An Post (Third Party)</li><li>3. Calin Bogdan (First Party)</li></ol>
<b>Observer(s)</b>	Irish Soft Drinks Ltd.
<b>Date of Site Inspection</b>	14/11/2016
<b>Inspector</b>	Caryn Coogan

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The subject site is a total of 0.82hecatres within a long established industrial estate, Western Industrial estate, along Knockmitten Lane. The Industrial estate is bound to the north by the Nangor Road. The Western industrial estate mainly consists of industrial and warehousing units fronting onto a number of access roads such as Knockmitten Lane, Willow Road and Elm Road. The subject site is located on a 90 degree bend on Knockmitten Lane, and is an irregular shape consisting of two portions, the southern portion of the site includes the large warehouse building, and the western portion is a large hard standing area. There are also a number of bungalows to the north of the site along Knockmitten Lane, one of which adjoins the subject site along its northern boundary. There is a large warehouse type building on the site and the entire site area currently lies vacant with a 'To Let' sign along its road frontage. The building is a large portal frame structure circa 13metres in height. The site is bounded by typical palisade fencing and galvanised fencing.
- 1.2 An Post, Dublin's mail centre is to the west of the subject site. There are other industrial / warehouse units along the southern and eastern site boundaries.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 The proposed development consists of the provision of 16No. parking spaces for heavy vehicles and 36No. ancillary car parking spaces and part change of use of existing warehouse building by installing of 2No. portacabin structures within the building for use for ancillary office/ administration and for staff amenities for drivers, new window and door openings in west elevation of existing warehouse building and all associated site development works.

## **3.0 PLANNING AUTHORITY DECISION**

### **3.1 DECISION**

South Dublin County Council granted planning permission on 29<sup>th</sup> of July 2016 for 16No. parking spaces for heavy vehicles and 36No. ancillary car parking spaces for part change of use of existing warehouse building by the installation of 2 portacabins structures within the building for use for administration and staff amenities.

Condition No 2 is of particular note:

(a) No waste is permitted to be stored on site at any time or for any period, aside from waste products to be temporarily stored prior to authorised disposal as a result of the truck fleet.

(b) No washing down of refuse trucks shall take place on the site at any time or for any period

(c) The north-western site gate closest to the house to the north of the site shall be permanently shut.

(d) Hours of operation shall be restricted to not before 7.00 hours on weekdays and 9.00 hours on Saturdays nor after 19.00 on weekdays and 13.00 on Saturdays, and not anytime on Sundays, Bank holidays or Public Holidays. This shall include the period for arrival or crews.

### **3.2 TECHNICAL REPORTS**

Water Services: No objections

EHO: No objections

Irish Water: Further Information required

Roads: There should be no overspill into the public domain, and the site to the west shall be used for parking only.

**Additional Information** was requested on 31<sup>st</sup> of March 2016:

In terms of the adjoining dwelling the applicant shall state the hours of operation, operational measures to eliminate or reduce noise, closure of gate adjacent to dwelling. Details of foul and surface water drainage. A response was received on 1<sup>st</sup> of July 2016.

It is stated truck drivers will collect their trucks between 06:00 and 07:00 hours and return between 20:00 and 21:00hours. There will be limited weekend work.

Planning Report: The main points assessed are as follows:

- The proposal is acceptable within the zoning
- The visual impact will not be significant given the site context.
- The hours of operation are of concern, and the noise associated with trucks arriving at the site at 5.30am. A Noise Impact Study was submitted as part of the further information, and the mitigation measures were considered acceptable. The noise from the adjoining An Post and DHL facility indicated early morning activity. The hours of operation should be restricted from 6.00am-9.00pm Monday to Saturday.

### **3.3 THIRD PARTY OBSERVATIONS**

**Irish Soft Drinks Ltd.** submitted a detailed objection to the proposed development citing the applicants disregard for residents, other

landowners in the general vicinity and the planning conditions on permissions and EPA Waste Licences.

**Residents from the area** expressed hours of operation should be restricted to 7am to 6pm daily as they reside alongside and adjacent to the site. Traffic will impact on local cottages, and what is the business function of the site.

**Diageo** were concerned about increase in vermin and odours.

**An Post** are concerned about intensification, odours, vermin, flooding, drainage and surface treatment, traffic, property, appropriate assessment, EIS.

#### **4.0 PLANNING HISTORY**

4.1 **S01A/0812:** The applicant., Reduce, Reuse and Recycle was granted temporary a temporary permission in 2002 for retention of existing use of 2622sq.m. site for carparking, storage of containers and skips. The use ceased under the permission by 08/10/2006.

4.2 **S01A/0725 (PL06S.130596)** Permission refused on appeal by An Bord Pleanála for a 1,365sq.m. waste recycling warehouse, carpark, parking of trucks, storage containers on a 0.68Ha site within the subject site, i.e. the western portion of the site. It was refused for two reasons:

*It represents a piecemeal development where there is an absence of rational for both sites in terms of throughout of waste, parking and the overall development.*

*The site is located within an industrial area but is close to residential properties and would by reason of scale and intensity result in a significant level of traffic and seriously injure the amenities of the property in the vicinity.*

4.3 **Reduce, Reuse and Recycle:** was granted temporary planning permission for retention of a two storey portacabin office on top of a steel container.

4.4 **S99A/0063 (PL06S/112004):** Change of use of a warehouse to a recycling centre materials treated on site were described as coming from building sites. A conditions of the permission states the annual throughput shall **not exceed 10,000 tonnes**.

4.5 There is a Waste Permit Facility history associated with the subject site also which are issued by the EPA. Reg. No. W0095-01, the applicant was Greyhound Recycling and Recovery where it was used as a waste management facility. The licence was superseded by Reg. No. W0095-02, where the site was used as a waste transfer facility.

- 4.6 **Planning Enforcement:** There are files relating to breach of planning conditions on S01A/0811, S01A/0812 and S99A/0063. From an inspection carried out on 19<sup>th</sup> of September 2012, the waste facility was working outside of the hours permitted under S99A/0063. Two entrances were utilised to the site in contravention of S99A/0063 and continued use of portacabins was in contravention of S01A/0811. There was an Enforcement Notice issued on 6<sup>th</sup> of February 2014.

## 5.0 POLICY CONTEXT

### 5.1 Development Plan

**South Dublin County Development Plan 2016-2022** (The relevant sections are included in the Appendix of this report)

The subject site is located in a zoned EE area *'to provide for enterprise and employment related uses*. The objective is *'to support and facilitate enterprise and employment uses (high-tech manufacturing, light industry, research and development, food science and associated uses) in business parks and industrial areas*.

#### 7.5.0 Waste Management

To implement European Union, National and Regional Waste and Related Environmental policy, legislation, guidance and codes of practice to improve management of material resources and wastes.

### 11.6.5 WASTE MANAGEMENT

#### **(ii) Design & Siting of Refuse Storage & Recycling Facilities in Developments**

The following criteria will be considered in the assessment of the design and siting of waste facilities and bring facilities:

The location and design of any refuse storage or recycling facility should ensure that it is easily accessible both for residents and/or public and for bin collection, be insect and vermin proofed, will not present an odour problem, and will not significantly detract from the residential amenities of adjacent property or future occupants,

Provision for the storage and collection of waste materials shall be in accordance with the guidelines for waste storage facilities in the relevant Regional Waste Management Plan and the design considerations contained in Section 4.8 and 4.9 of the DECLG Design Standards for New Apartments (2015). Refuse storage for houses should be externally located, concealed/covered and adequate to cater for the size and number of bins normally allocated to a household. For terraced houses the most appropriate area for bins to be stored is to the front of the house,

which should be located in well designed enclosures that do not detract from visual amenity, and

Access to private waste storage in residential schemes should be restricted to residents only.

### **11.6.3 ENVIRONMENTAL HAZARD MANAGEMENT**

#### **(i) Air Quality**

In considering development proposals for planning permission the Planning Authority will have regard to the Local Government (Planning and Development) General Policy Directive 1988 (as may be amended) issued by the Minister for the Environment and Local Government relating to air quality standards nationally, and to the Dublin Regional Air Quality Management Plan, Dublin Local Authorities (2009).

#### **(ii) Noise**

The Planning Authority will have regard to the Dublin Agglomeration Environmental Noise Action Plan 2013 – 2018, Dublin Local Authorities (2013) when assessing development proposals along major road and rail transport corridors, with a view to reducing noise from new sources and to identify and protect areas of low sound levels.

Development proposals with the potential to give rise to significant noise impacts may require a Noise Impact Assessment and mitigation plan to minimise noise disturbances and protect the amenities of the area.

The Planning Authority will carefully consider the location of noise sensitive developments so as to ensure they are protected from major noise sources where practical. Furthermore, the provision of appropriate mitigation measures for existing areas adjacent to major noise sources is supported and will be considered having regard to the visual amenity and the proper planning and sustainable development of the area.

Where development sites adjoin residential properties, the Planning Authority will generally attach a condition to grants of planning permission restricting the operation of equipment or machinery (to include pneumatic drills, construction vehicles, generators, etc.) on or adjacent to the site before 7.00 hours on weekdays and 9.00 hours on Saturdays, after 19.00 hours on weekdays and 13.00 hours on Saturdays and at any time on Sundays, Bank Holidays or Public Holidays.

## **6.0 THE APPEALS**

### **6.1 An Post Appeal Against Decision**

A summary of the grounds of appeal is as follows:

#### **6.2 *Invalid Decision***

The planning application is for heavy vehicle parking and car parking, yet the planning history, the enforcement history and conditions attached to the permission relate to waste. There is no reference in the public notices to waste or the application forms. The planning authority has granted a use that is not applied for. The only reference to a use in the proposed development is that of a '*change of use of the existing warehouse building for ancillary office/ administration*'.

The enforcement history has shown that there is no waste transfer facility permitted on either of the two plots within the overall site area, and any use which did not comply was enforced against and subsequently abandoned and the waste licence was surrendered on 8<sup>th</sup> of April 2008. The warehouse is therefore not a transfer station. Condition No. 2 and note 3 on waste should not have been attached to the grant of permission.

As noted section 1.3.5.2 the owner of the site, Greyhound, applied for a waste facility permit in 2014 and one of the reasons for the invalidation was because the applicant did not have planning permission for the facility.

#### **6.3 *Insufficient Information Provided***

The proposed development only relates to parts of the site:

- The western plot is proposed to be used for car parking and heavy vehicle parking
- The north of the western plot is to be used for carparking
- Two portacabins totalling 146sq.m. are proposed within the warehouse

The warehouse is 1,853sq.m. It is not specified what the remaining area of the warehouse will be used for, will it be used for parking or waste handling. If the trucks are to be inside the warehouse then the submitted noise assessment is flawed.

#### **6.4 *South Dublin County Development Plan 2016-2021***

The proposal does not comply with the Plan's waste management policy. The plan notes that '*no new facilities will be permitted inside the M50*' (Section 11.6.5 (iii)). The previous use does not exist, the permission has lapsed, and the decision of the planning authority is in contravention of its own development plan.

The development plan is in breach of the development plan maximum standards. The lands are zoned EE 'Employment and Enterprise' Section 3.3.1.3 of this appeal outlines the parking standards in place for this specific area and proposed uses. The proposed use includes 146sq.m. of offices in the form of portacabins.

The following calculations should apply:

Offices: 1 per 75sq.m. GFA or 2 carparking spaces for the site

Warehousing 1 per 200 GFA or  $1853 - 146 = 1707$  sq.m. or 9 car parking spaces.

Therefore, the proposed development should include a maximum of 11No. spaces and not 36No. as proposed. There are no bicycle bays. The carparking provision is unnecessary especially since the site is beside a Quality Bus Corridor on Nangor Road.

## 6.5 ***Impact on Residential and Neighbour Amenities***

### ***Traffic***

Knockmitten Lane is a small local road heavily used by small businesses in the locality. Queuing of trucks on the local road will cause congestion, localise pollution, diminish carrying capacity of the road, impact on amenities and estate users. The applicant proposes to authorise only right turn movements into the site to minimise impact on the bungalow immediately to the north. At this point there is a very sharp turn into the site, and it is fairly trucks turning at this point will result in a traffic hazard especially if there are cars parked in the vicinity. There was no traffic impact statement submitted in accordance with Section 11.6.5 of the County Development Plan.

### ***Noise***

There is no calculation in respect of change in noise levels. Proper consideration for residential amenities for residents and workers of the western industrial estate should include noise impacts. The BS 4142 Method for rating and assessing industrial and commercial sound would determine the specific noise level, the rating level as appropriate, the background noise level and then subtract the background noise level from the specific noise level in order to calculate the assessment level. The greater the assessment level the greater the magnitude of potential impact. There is no indication in the noise report how the noise levels and projections were made or what the base level was as regards the adjoining dwelling. It is expected the noise levels would not be similar to a residential estate, the health and amenities of adjoining neighbours cannot be disregarded. The noise impact is expected to be severe for the employees of An Post, which is adjacent to the site along its western boundary where the large trucks are to be parked.

### ***Odours***

It is not possible to reclaim or recycle many organic substances without giving rise to offensive odours. The odours have affected the amenities of



the employees of An Post at the sorting office. These types of facilities should be located away from populated areas to allow adequate dispersion in the air.

### ***Vermin***

The activities will attract vermin and exacerbate the problem in the area.

#### **6.6 Residents from the Cottages Verses the Decision**

The residents include John Geoghegan, Mary O Callaghan and Beire Garland has appealed this decision because the applicant, Mr. Bogdan is an agent for Greyhound Recycling. The residents live beside the site, and one home is contiguous to the subject site. There is nothing to protect them or their homes from noise, smells as the fence is very bad when they occupied the site a few years go. They could not open the window in their houses because of the smells. The trucks would move from 7 am and they could not sleep. They have lived all their lives in Kockmitten as did their parents and they are aged from 60 to 80 years. They want the Board to take in consideration their health and wellbeing.

#### **6.7 Applicant Against Condition 2(d)**

The applicant is not seeking an omission of Condition 2(d) rather an amendment to the hours of operation prescribed. The applicant requests the condition be amended to from 06:00hrs until 21:00hrs as opposed to 07:00hrs until 19:00hrs as conditioned. Given the zoning of the site, and its location within the heart of an industrial estate, the conditions hours are unreasonable and unnecessary. The adjoining An Post and DHL facility operates 24/7, and in conjunction with other conditions attached to the permission such as Condition 2(c) relating to closure of gates, there would be no negative impact on residential amenity. In addition, the hours included in the conditions do not correspond with the hours of operation recommended in the Planning report on file. There is an inconsistency between the report and the conditions. The proposed hours of operation set out in the Noise Report were deemed acceptable to the reporting planning officer.

The applicant in the further information submission was very clear about the hours of operation. It was stated in the submission of the 1<sup>st</sup> of July 2016 that truck drivers will collect their trucks and depart between 06:00-07:00 and return between 20:00-21:00hrs, then return home in their cars. There will be very little weekend activity, with a few trucks going out as normal day.

The trucks are involved in the collection of refuse for the Dublin area and typically collections start early to pick up before rush hour traffic. Flexibility is required to facilitate refuse collection during public holiday periods such as Christmas and Public holiday weekends and this is the reason the applicant requests the words 'other than with prior agreement of South Dublin County Council' are inserted into Condition No. 2.

The hours of operation imposed by the condition represent a reduction of 3hours per day or 15 hours per week initially sought by the applicant.

With 16No. trucks to be parked on the site, this equated to a reduction of 240Hours, and with the potential of peak hour delays it could account for weekly operational delays of 400hours.

## 6.8 OBSERVATIONS

Irish Soft Drinks Limited submitted an observation.

The Board had state din a previous appeal that is was concerned about the scale of development and the throughput of waste of the site. Although the site is zoned for light industrial use cognisance must be given to the adjoining residents.

As response to further information Openfield Ecological Services submitted an 18-page report and only 5% of same report relates to Knockmitten Lane site. The report is a copy and paste of another report relating to Dublin Bay, Bull Island etc. there is no relevance to the subject site or the local area. It states in the report that they did not do a site visit.

The other report prepared by Noise and Vibration Services, the author states a noise reduction of +12dBA will be provided by a 2metres concrete wall, and fails to state how he came this this conclusion without surveying the truck movements. The survey is over 8 years old and was completed prior to M50/ Red Cow interchange upgrade.

## 6.9 Planning Application submission

There were previous breaches of planning at the subject site by Reduce, Reuse and Recycle Limited, Greyhound Recycling and Recovery. The applicants operated in a reckless manner showing a complete disregard for the local residents, local businesses, planning and environmental authorities at the site. The applicants have a history of breaching planning conditions and restrictions. The applicants should have been refused planning permission when they did not respect their neighbours.

M/s Buckley/ Greyhound Waste is trying to hide he is the applicant and using Mr. Bogdan as an agent. In 2014 the site was shut down because it was operating without planning permission. At that time the site was a foul smelling eyesore within a clean light industrial estate. Loose waste from passing trucks littered the streets and the foul smell came from the contaminated waste. There were 60-70 trucks stored on the site at that time, the site was running 24hours a day. The staff parked their cars on the street, blocking houses, busy junctions and causing a general nuisance. Photos of the levels of staff is appended to the submission.

There are enforcement orders outstanding ENF S3179 and ENF S6939.

## 6.10 Operating outside of permitted hours:

Condition No. 3 of the Board's previous grant of permission was restricting the operating hours to between 7.30 and 6.00pm Monday to Friday and 8am to 1pm on Saturday with no operation on Sundays and Bank holidays.

Noise sampling by the EPA re 23/1/03 showed there was clear evidence that the facility was operating 24hours per day. Noise from trucks and machinery was recorded at 2am, 3am, 4am, 5am and 6am. This is in clear breach of the operating hours placed on the site by the planning permission.

- 6.11 The applicants are currently using both entrances to access the site. A permanent solution should be given to ensure only one entrance is used. It is estimated there will be 104 traffic movements per day from the site, and five times increase to what was previously permitted on the site. There will be a significant breach of noise restrictions as a result of this level of traffic. The portacabins granted planning permission under S010/0182 for a period of three years only, and they are still in place. There had been very strong odours from the site previously when in use, and an increase in vermin in the area.
- 6.12 Planning permission was granted by the board under PL06S: 112004 for 10,000 tonnes of throughput of waste. The full extent of waste throughput permitted by the EPA licence in December 2000 is 17,000 tonnes which was in breach of the original permission. The annual environmental report indicated the facility had exceeded both the local authority and EPA throughput permitted by having a throughput of 25,000 tonnes. The greyhound facility was running illegally.

#### 6.13 **RESPONSES**

The planning authority has stated that no additional use has been permitted on the subject site. The permitted use is for a Heavy Truck Park. Condition 2 (a) is relevant to the operation of the site as a heavy Track Park. Any waste referred to in the condition relates to waste which may be generated as a result of servicing the truck fleet such as oil change and worn parts.

In relation to the conflicting hours specified in the Planning report on file and the planning authority's decision, the hours specified in the relevant condition are the stated position of the planning authority.

#### 6.18 **APPLICANT'S RESPONSE TO THIRD PARTY APPEALS**

The planning history of the site demonstrates the area is an established industrial area, there are already high HGV traffic movements in the area. There is already early morning activity in the area by Dublin Mail Centre and DHL which adjoins the subject site. A number of other industrial premises in the area have unrestricted hours of operation.

- 6.19 Garland/ Geoghegan/ O'Callaghan does not state an address therefor the validity of the appeal is questioned. In terms of impact on residential amenity. The site is to be accessed via an existing site entrance off Knockmitten Lane, and heavy duty vehicles can move easily into and out

of the site. One of the residents lives beside the site and the other two reside beside other industrial premises. The appellant abutting the site has large industrial buildings within the curtilage of the dwelling, and advertises a car and commercial vehicle repair business at the site. The proposed layout intentionally places the lorries away from neighbouring properties to minimise any potential adverse impact. Trucks coming and going from the site will not pass the dwellings. An Post has stated the development will impact on their employees in terms of noise, without substantiating this statement and it operates 24/7 with trucks coming and going from the site.

## 7.0 ASSESSMENT

7.1 The proposed development as stated in the public notices is for the provision of 16No. parking spaces for heavy vehicles and 36No. ancillary car parking spaces for staff, and the installation of two portacabins into the existing warehouse on the subject site for staff use and administration. The subject site a brownfield site within an existing industrial estate along Knockmitten Lane in close proximity to Nangor Road and the M50. The site is 0.8Hectares, and consists of two components and large concrete yard area to the west, and a large warehouse building on the southern portion of the site. It is evident from Knockmitten Lane the primary land use is Light Industrial and this is reflected in the development plan zoning which is:

**EE;** *To provide for Enterprise and Employment related uses.*

The applicant, Calin Bogdan, has stated in the original submission documents submitted to South County Dublin Co. Co. on 10<sup>th</sup> of February 2016, that the *'first intended use of the development will be for the overnight parking of refuse trucks and for the parking of operatives cars while they are driving the trucks. The planning application does not propose bringing or storing of waste at the site'*.

7.2 The site was previously associated with waste collection and transfer. There is a planning history and a waste permit history associated with the subject site dating back to the 1990s, and there is also a planning enforcement history associated with the site and the previous applicants (current owners). The previous applicants on this site were Reduce, Reuse, and Recycle. According to the current application, the owners of the subject site are, Mr. M. Buckley and Mr. B. Buckley of Crag Industrial Estate, Clondalkin, who according to the appeal file are the Directors of Greyhound Recycling. They have given their consent to the applicant Mr. C. Bogdan to make this planning application. However, I note in another documents submitted with the original planning application in February 2016, AECOM has prepared a Traffic Impact Statement, it states the report has been commissioned on behalf of Greyhound Waste.

7.3 The applicant submits that having a secure location for the parking of trucks involved in the waste/ recycling stream in close proximity to the area within which they operate is an important element of the waste management system, and in line with the development plan policies

associated with Waste Management. The applicant states the development is to make a practical contribution towards achieving the waste policies of the current development plan for the area. It is emphasised by the applicant that no waste will be brought or stored at the site.

- 7.4 There are 3No. appeals relating to the planning authority's decision to grant planning permission for the development. I intend dealing with the third party appeals first and then address the applicants appeal of one condition attached to the permission. The issue of the validity of the planning authority's decision, is a matter for the courts. The planning authority considered the description of the proposed development to be an accurate description of the proposed development. Having regard to the content of the submission documents, I believe the applicant was very clear in stating the site is for the parking of refuse trucks, which shall exit the site between 6:00 – 7.00 each day and return 20.00-21.00 each evening Monday to Friday, with very occasional weekend use of the site around Christmas time. It has been clearly stated there will be no waste brought to or stored on the site, and the planning authority reinforced this issue by way of condition.
- 7.5 The proposed development does not specify the intended use for the residual area of the existing warehouses on the subject site apart from locating the 2No. portacabins within the structures which will only consume a small footprint within the overall internal space. The applicant has stated he does not propose any changes to the permitted and established use of the warehouse building. From the planning history, the temporary permission relating to the warehouse which expired in 2002, I cannot establish the '*permitted and established use*' of the warehouse. It is currently vacant, and I believe there is potential for the applicant to utilise the residual area for a use associated with the trucks if the use of the warehouse is not restricted to the current 'vacant' use by way of condition.
- 7.6 The Waste Management Policies of South Dublin County Development Plan 2016-2022 state under Section 11.6.5 (iii) that no new facilities will be permitted inside the M50. An Post, the third party appellants, claims the decision to grant permission for this facility contravenes the development plan. The applicant has argued on appeal that the development plan policy relates to new waste recovery and disposal facilities. The proposed development is not for waste recovery or disposal but for the provision of 16No. parking spaces for heavy good vehicles and 36 car parking spaces, with a part change of use of the existing warehouse building for ancillary office/ administration and staff amenities. Therefore, one asks the question is this a new waste facility? The applicant has clearly stated the truck parking is associated with waste collection in the Dublin area. Although there will be no waste brought to the site. I would consider it to be subsidiary use associated with waste collection. However, this can be dealt with by way of condition as the planning authority has done to prevent any form of waste facility on the site which would reinforce the specified policy in the newly adopted development plan.

- 7.7 I am not concerned about the level of traffic on the local road at Knockmitten Lane. The traffic generated by the proposal will enter and exit the subject site at non-peak times, and it will not materially impact on the existing level of traffic within the Western Industrial estate. The surrounding road network, namely Nangor Road and the M50 are in close proximity of the subject site. According to the Traffic Impact Statement prepared by Aecom Limited, the site will generate a low number of trips. It is proposed to only utilise one of the two entrances to the site off Knockmitten Lane. The Noise Impact Report recommended certain noise mitigation measures which included that there will be no authorised movements of trucks going past the cottage to the north of the site either existing or accessing. Trucks movements will be via the access to the east off Knockmitten Lane. I consider the daily 36No. truck movements into and out of the site outside of peak times to be acceptable in terms of traffic management within the industrial estate.
- 7.8 The noise impact of the development is a serious cause for concern. I accept the site is zoned for industrial use, within an industrial estate. I note the previous planning history associated with the site and the waste disposal business. I also acknowledge there are adjoining businesses which operate almost 24/7 such as An Post and DHL with vehicular movements through the day and night. However, I am also highly aware of the residents within the industrial estate, adjoining the subject site, which is a highly irregular occurrence. I am also conscious of the fact the site has experienced ongoing enforcement issues for the planning authority. I would advise the Board, having regard to the planning enforcement associated with the site, and clear linkages to the applicant and the former waste operators on the site, that a cautious approach must be taken in giving positive consideration to this development. It is clear from the planning history that very little regard was given to planning conditions attached to planning permission in terms of hours of operation, and the amenities of the adjoining residents. Therefore, in order to mitigate against the potential of noise nuisance on the subject site, reasonable hours of operation should be prescribed by way of condition, which is discussed in greater detail in the First Party appeal against Condition 2 (d) below. Essentially, I am recommending the hours of operation prescribed by the planning authority i.e. the hours of operation shall be restricted not before 07:00 on weekdays nor after 19.00 on weekdays, and this includes the periods for the arrival of crews. I consider the Board has to have regard to the planning enforcement history relating to this site and the ongoing complaints from adjoining third parties regarding the noise and hours of operation on the site.
- 7.9 In terms of odours and vermin, I believe the third party claims regarding an increase of vermin and odours to be unfounded. There will be no waste brought to the site, the development is purely associated with the overnight parking of refuse trucks. I accept there may be a certain level of odour from the trucks, however, the majority of the employees from surrounding sites will not be working during the night time when the trucks are parked at the site. Furthermore, the trucks will be parked within the western portion

of the site along the southern site boundary, which affords the greatest separation distance from adjoining dwellings. The trucks will not be serviced or cleaned on the subject site and this can be reinforced by conditions.

- 7.10 Having considered in detail the planning history relating to the site, in particular the Board's assessment and previous refusal under PL06S.130596, there is a strong argument to refuse the proposed development, particularly having regard to the enforcement history associated with the site. Although the applicant is linked to the former occupier of the site, the enforcement history is not linked to the applicant, Mr. Calin Bogdan.
- 7.11 The visual impact of the area will not be materially affected by the proposal. The warehouse is the prominent feature on the subject site and it is visible from Knockmitten Lane. The portacabins will be located inside the warehouse and the parking of the trucks is located on the backland portion of the subject site to the west, and this area is not clearly visible from Knockmitten Road. There are no proposals to alter boundaries or revise the existing boundary treatment which is consistent with industrial areas. The planning authority carried out a detailed assessment of foul and surface water collection and disposal on the subject site. There were details submitted by way of further information stating that no attenuation is proposed for the subject development, and the post development rate or surface water will not exceed the pre-development rate. However, the planning authority was not satisfied with that response and conditioned attenuation measures to be imposed because the site is in close proximity to the Camac River which was the subject of significant flooding in the recent past. The required attenuation will provide a remedy to the current unsatisfactory conditions on site in terms of the extensive hard surfacing and the large warehouse.
- 7.12 The Heritage Officer noted the Screening report for Appropriate Assessment which was prepared by Openfield Ecological Services. It has been found that significant effects are unlikely to arise, either alone or in combination with other plan or projects. The site is located at least 10km from the Natura 2000 site within Dublin Bay, and there is no clear pathway from the site to an SPA or SAC.

**7.11 First Party Against Condition 2 (d)**

The wording of Condition No. 2 attached to the decision to grant permission is as follows:

*(a) No waste is permitted to be stored on site at any time or for any period, aside from waste products to be temporarily stored prior to authorised disposal as a result of the truck fleet.*

*(b) No washing down of refuse trucks shall take place on the site at any time or for any period*

*(c) The north-western site gate closest to the house to the north of the site shall be permanently shut.*

*(d) Hours of operation shall be restricted to not before 7.00 hours on weekdays and 9.00 hours on Saturdays nor after 19.00 on weekdays and 13.00 on Saturdays, and not anytime on Sundays, Bank holidays or Public Holidays. This shall include the period for arrival or crews.*

The relevant section been appealed is section (d) which specifically relates to the hours of operation. The applicant is satisfied with the principle of prescribing the hours of operations associated with the activities associated with the proposed development. However, it is not possible or feasible for the proposed development to operate within the hours prescribed in the condition. There are a number of points made by the applicant on appeal, to have the hours of operation amended from 06:00 to 21:00 hrs Monday - Friday, with certain exceptional cases made for weekends around Christmas. The business of waste collection only occurs during weekdays.

- Given that the site is within an industrial area and the site is zoned industrial, the condition is unreasonable.
- The adjoining An Post and DHL facility operates 24/7, with no negative impact on residential amenities. There are trucks on the adjoining site during the night.
- The hours of operation specified in the conditions do not correspond with those in the Planning report on file.
- The Noise Report on file deemed the proposed hours of operation to be acceptable.
- The trucks are involved in the collection of refuse for the Dublin area and typically collections start early to pick up before rush hour traffic. Flexibility is required to facilitate refuse collection during public holiday periods such as Christmas and Public holiday weekends and this is the reason the applicant requests the words 'other than with prior agreement of South Dublin County Council' are inserted into Condition No. 2.
- The hours of operation imposed by the condition represent a reduction of 3hours per day or 15 hours per week initially sought by the applicant. With 16No. trucks to be parked on the site, this equated to a reduction of 240Hours, and with the potential of peak hour delays it could account for weekly operational delays of 400hours.

7.12 The planning authority has confirmed to the Board in response to the appeal that the hours of operation specified within the relevant condition are the stated position of the planning authority. I accept the site is located on industrial zoned lands within an industrial estate. However, the property cannot be given a carte blanche industrial status because there is a residential property positioned along the northern site boundary and alongside one of the main egresses from the site onto Knockmitten Lane. There are additional dwellings to the north in close proximity to the



site boundaries. Therefore, the residential amenities of the adjoining dwellings is a key issues in the assessment of the proposed development. The An Post site and DHL facility may operate through the night, however the traffic associated with the activities on the site is dispersed overtime. The traffic associated with the proposed development will commence each morning Monday to Friday at 5.30 am with drivers arriving at the site to leave between 6.00-7.00. There is no further traffic until the trucks return that evening which will not conclude until 21.00hours according to the appeal documents. The traffic and the noise associated with the proposed development is concentrated between two fixed daily timelines, and the noise will be intense and in my opinion, disruptive given the volume of trucks existing the site at 6.00 am onwards. As stated, my main concern is the breach of planning conditions associated with the hours of operation on the site previously, which result in planning enforcement cases been initiated. The applicant can argue that he is not the previous occupant or indeed landowner of the site. It is clear from the correspondence on the planning file and related reports, that the applicant Calin Bogdan, is connected with the former occupier of the site, Greyhound Waste. I note from the previous Board's decision relating to the subject site, PL06S.112004, there were no hours of operation specified. I also note from an Inspector's Report relating to PL06S.130596 which was an application by Reduce, Reuse and Recycle for the development of 0.68Ha for a waste recycling warehouse, car parking and parking of trucks and storage containers, that the inspector considered it unnecessary to restrict the hours of operation to enable the collection of waste at night. However, the Board refused the development for two reasons one of which was the significant number of heavy goods vehicles, and the associated noise related to such movements in an industrial area where light industrial uses predominate and where there are existing residential properties, it was considered the proposal would be injurious to residential amenities and depreciate property in the vicinity. In my opinion, a consistent approach is to restrict the hours of operation of the proposed development having to those hours prescribed by the planning authority in condition 2(d). I accept that the nature of the business requires early access to roads prior to peak time traffic to collect refuse, however, in my opinion, it is advisable that the applicant considers alternative sites located away from residential properties. It is not acceptable to permit this level of noise and activity on the site prior to 7.00 am each morning, and after 19:00 hours each evening.

- 7.13 Finally the Board should be aware under the Implementation Chapter of the new South County Dublin Development Plan 2016-2022 section **11.6.3 (ii) Noise** its states:

*Where development sites adjoin residential properties, the Planning Authority will generally attach a condition to grants of planning permission restricting the operation of equipment or machinery (to include pneumatic drills, construction vehicles, generators, etc.) on or adjacent to the site before 7.00 hours on weekdays and 9.00 hours on Saturdays, after 19.00 hours on weekdays and 13.00 hours on Saturdays and at any time on Sundays, Bank Holidays or Public Holidays.*

The development will be consistent with the development plan policies if Condition 2(d) remains as per the planning authority's decision. I strongly advise the Board to uphold the restrictions imposed by the planning authority in Condition 2(d) of the permission.

## 8.0 RECOMMENDATION

Overall, the development is acceptable in principle on the subject site, and the planning authority's decision to grant planning permission for the proposed development should be upheld by the Board.

## REASONS AND CONSIDERATIONS

Having regard to the Enterprise and Employment zoning objective in the current South Dublin County Development Plan, the planning history of the site, and the location of the subject site within an established light industrial estate it is considered that subject to the conditions set out hereunder, the proposed development would not contravene the policies and objectives of the said development plan, would not be seriously injurious to residential amenity, would be acceptable in terms of traffic safety and convenience, and would be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS.

1. The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the drawings (or further plans and particulars) received by the planning authority on 1<sup>st</sup> of July 2016 except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity.

2. (a) The use of the subject site is for the parking of heavy duty vehicles and cars ONLY, and the provision of two portacabins for staff and office use ONLY. There will be no waste brought to or stored on the subject site or within the existing warehouse except waste associated with permitted office use on site.  
  
(b) There will be no servicing of vehicles on or within the subject site.  
  
(c) There will be no washing down of trucks on or within the subject site.

**Reason:** In the interests of clarity in terms of the permitted use and activities on the subject site.

3. The hours of operation which shall include the arrival and departure times of the crew/ drivers, shall be restricted to between 7.00 -19.00 hours on weekdays and 9.00 -13.00 hours on Saturdays, and at any time on Sundays, Bank Holidays or Public Holidays.

**Reason:** In the interests of residential amenity, and in order to comply with the provisions of the development plan.

4. The access/ exit to the subject site adjacent to the dwelling positioned along the northern site boundary shall be closed permanently. ALL traffic associated with the proposed development shall be use the existing access at the eastern extremity of the site along Knockmitten Lane.

**Reason:** In the interests of residential amenity.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services which shall include the submission prior to the commencement of the development, of comprehensive details of proposals for:

- (a) Fully detailed foul and surface water drainage plans and watermain layout for the proposed development showing all locations of manholes located within the site boundary up to and including the point of connection to the public sewer.
- (b) Design calculations and proposals for attenuation of the entire site area
- (c) An attenuation similar to the storm tech type or equivalent should be provided which shall indicate the site area to be drained, hard standing, building grassland if any and permeability factors of each area, with hydrobrake and silt traps provides on the submitted drawings, along with petrol interceptors (Class 1 Type).

**Reason:** In the interest of public health and to ensure a proper standard of development.

6. All service cables associated with the proposed development (such as electrical, communal television, telephone, broadband infrastructure and public lighting cables) shall be run underground.

**Reason:** In the interest of orderly development and the visual amenities of the area.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in 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 made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a Condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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**Caryn Coogan**

**Planning Inspector**

**16/11/2016**