



An  
Bord  
Pleanála

## inspector's Report ABP-303176-18

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<b>Development</b>	Retention for change of use from a Store to a Paint Shop
<b>Location</b>	Garryduff East, Dundrum County Tipperary
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	18600105
<b>Applicant(s)</b>	O'Dwyer Steel
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	First / Third Party
<b>Appellant(s)</b>	Tom and Minnie Comerford
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	21/03/2019
<b>Inspector</b>	Caryn Coogan

## 1.0 Site Location and Description

- 1.1. The site is located in the centre of Dundrum village in South Tipperary. Dundrum is 10km northwest of Cashel.
- 1.2. The site is 0.626Ha right in the heart of the village. It is a large commercial steel enterprise with two large sheds running perpendicular to each other, containing the production line of the business.
- 1.3. The site is bounded by two roads to the north and east. The north site boundary is the most obvious O'Dwyer Steel road frontage, whereas the eastern roadside boundary provides the main public access to the site.
- 1.4. As stated, the main access and parking area associated with the site is from the eastern site boundary, and the road to Cashel. There are a number of portacabins at the entrance of the site which accommodate offices and staff facilities. Most of the activities are within 3No. large sheds on the site, which are the subject of extension proposals under this current application. The most relevant shed to this appeal, is the long shed running along the south-eastern site boundary. To the rear of this shed there is steel store in the open in small stockpiles.
- 1.5. The appellants dwelling house, stables and sheds are to south east of the site. The grounds are enclosed by a mature hedgerow.

## 2.0 Proposed Development

- 2.1. Permission was applied for
  - Retention of a change of use from a store to a paint store, single storey open store, steel sheeted localised boundary fence,
  - Construction of an infill Paint/ Drying shop and extension of CNC building and all associated work.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Tipperary Co. Co. granted planning permission for the proposed development subject to 11No. conditions.

##### Condition No.5

The operation of the development shall not give rise to noise levels off site at noise sensitive locations which exceed the following sound pressure

Daytime Noise Criterion (7.00-19:00)	Evening Noise Criterion (19:00 to 23:00Hrs)	Night-time Noise Criterion (23:00 to 07:00)
55dBA	50dBA	45dBA

There shall be no clearly audible tonal component or impulsive component in the noise emission from the development at any noise sensitive location (Any dwelling house, hotel or hostel, health building, educational establishment, place of worship or entertainment or any other facility or area of high amenity which for its proper enjoyment requires the absence of noise at nuisance levels). In the event of noise complaints, the Planning Authority may require the carrying out of a noise survey by a suitably qualified person whereby noise levels from the activity shall be monitored and the significance of noise levels relative to the limits above shall be determined. In the event the noise levels exceeding the limits, measures to reduce noise levels from the development shall be prepared and implemented by the developer to the satisfaction of the Planning authority.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports

**26/03/2018**

- Third party concerns submitted regarding noise form the site, and odours form paint store/shop. The evergreen hedge has been severely cut back on

applicant's side of hedge. Storage of steel outside. Working hours should be curtailed to 9am-5.30pm

- The proposal falls under a non-conforming use, Policy ED 10, and the development is long standing and will only be considered under this policy. The paint shop will only be considered under this policy also.
- The unit the subject of the retention was permitted under 07/1083sq.m. This is to be extended to slot between two existing units, which will not result in a loss of an amenity, and its extension of an existing paint use.
- The proposed extension to the workshop along the southern boundary is 437sq.m. There is an open storage area north west of the proposed extension that was permitted under 07/1083. The existing ridge height of 9.3metres is to be retained.
- Further Information was recommended regarding Noise, car parking and Landscaping

#### **Further Information response received on 19<sup>th</sup> of September 2018**

- There is a door facing the south east boundary which is a maintenance hatch, which is opened on occasions to service the hatch. The door facing the southwest is the main access door and is a roller shutter door to mitigate noise.
- 28No. carparking spaces have been added to site layout
- Boundary treatments are illustrated.

#### **12/11/2018**

- The noise technical report predicted the noise emissions from the proposed warehouse extension are within the established criteria and measures have been proposed including the provision of additional steel liner and acoustic roller doors to ensure noise levels do not exceed 55dB.
- The site layout drawing illustrated 28No. carparking spaces
- Permission is recommended.

#### **3.2.2. Other Technical Reports**

No objections from the District Engineer or the Fire Officer.

Environment: Conditions recommended for noise level, and Air/ dust Emissions.

### 3.3. **Third Party Observations**

The third-party appellants objected to the proposed development. They cited noise and odours as their main concerns.

## 4.0 **Planning History**

### **10/530**

Permission granted to redesign existing car parking area and extend same to increase from four to nine carparking spaces.

### **07/1083**

Planning permission granted to O'Dwyer Steel to demolish existing sheds/ outhouses and to erect an extension to the paint room, and extension to the steel fabrication workshop and extension to the fabrication/ plant, a new site entrance, parking, and storage.

### **04/546**

Permission granted to retain building erected for the storage and loading of steel to premises.

## 5.0 **Policy and Context**

### 5.1. **Development Plan**

South Tipperary Development Plan 2009 (as Varied)

The subject site is zoned for village centre uses with a stated objective

*To provide and enhance the service base of the town through the provision of mixed land use developments including retail, office, service and community facilities.*

The Land Use zoning does not permit Light Industrial on lands zoned Village centre.

### **Policy ED10: Non-Conforming Uses**

It is the policy of the Council, where commercial, industrial/ agricultural enterprises exist as non-conforming but long established uses, to support their continued operation and expansion provided such does not resulting loss of amenity to adjoining properties, adverse impact on the environment, visual detriment to the character of the area or creation of a traffic hazard.

### **9.8 Noise and Light Emissions**

In accordance with the EU Directive 2002/49/EC (known as the Environmental Noise Directive, or “END”), which was transposed into Irish Law by the Environmental Noise Regulations 2006, SI No. 140 of 2006, the Council must prepare a Noise Action Plan as a means to prevent and reduce the impact of environmental noise in certain designated areas (Action Planning Areas).

Environmental noise is defined by the Regulations as unwanted or harmful outdoor sound created by human activities, including noise emitted by means of transport, road traffic, rail traffic, air traffic and noise in urban areas over a specified size. Types of noise not included in the regulations include noise caused by neighbours, construction sites, night clubs, pubs, etc.

## **5.2. Natural Heritage Designations**

The Lower River Suir SAC is over 1.5km from the site.

Philipston Marsh SAC is over 8Km form the site.

The Angelsy Road, Lower River Shannon are over 10Km from the site.

## **5.3. EIA Screening**

The proposed development is an extension to an existing long established light industrial use within an built up area. The proposed development is below the threshold for an EIA.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The third-party appellants, Tom and Minnie Comerford have lived at their house for over 30 years and believe the development will have a serious impact on their residential amenity.

In particular, the extension to the CNC building which is located almost directly to the south of the proposed development is just 25metres from their façade. They have endured increasing noise levels at O'Dwyers with increased production. The impulsive noise is the worst aspect in the range of 80-90 dB. Under planning register 07/1083a condition stated that daytime noise levels should not exceed 55dB, and this noise level is constantly been breached on site by O'Dwyers.

The Board should note the applicant surveyed noise levels from the appellants property, while no steel was being moved around on site. The noise survey was not representative of the noise coming from the steel works.

They are not opposed to the development but feel there was no heed given to their concerns. Abatement measures could be put in place, and noise controls could be put in place to ensure noise levels are kept to an acceptable level during hours of operation.

A summary of the grounds of appeal is as follows:

- The CNC building is to be extended a further 30metres to the rear of the appellants garden. Therefore, noise levels will increase. There was a condition attached to 07/1083 Condition 11(a) which included noise limitations of 55dB(A) during the daytime and 45dB(a) at night. The applicants have not kept to these thresholds. The rear windows of the house cannot be opened in the mornings due to the excessive noise.
- The noise is impulsive, with steel hitting off other steel at levels over 90dBA, especially with early morning deliveries. They are not convinced Condition No. 5 will be complied with.
- There are conflicting reports on file. The Executive Chemist states in the report dated 5<sup>th</sup> of October 2018, the site be treated as an Area of Low

Background Noise, and then in a later report, 7<sup>th</sup> of November 2018, its states 55dBa threshold should be imposed.

- The conditions imposed with regard to controlling noise levels are not sufficient. There are no solid controls proposed. There should be noise metres placed on the appellants property, and the metres would send weekly reports to the local authority. If prescribed noise levels are exceeded, then mitigation measures should be put in place.
- In addition to the measure prescribed in Condition No. 9 to reduce the level of noise, the developer should repair the existing buildings on site, and close up the gaps in the buildings as recommended in page 8 of the Noise Emission Assessment. Photographic proof should be presented to the planning authority that the noise mitigation measures have been implemented.
- The boundary wall prescribed by condition No. 10 will have a significant impact on their property. Furthermore, an acoustic wall should be proposed along this boundary and it needs to be higher than 2.5metres to reduce noise levels. In addition, if the wall is planted too close to their hedge it will interfere with the root system.
- Condition No. 8 relates to hours of operation and it is considered that an 08:00am start is too early in terms of adjoining residences, and more reasonable start would be 9.30am.
- The proposed development is located on lands zoned Town/ Village Centre in the South Tipperary Development Plan 2009-2015 under which the objective is to provide and enhance the service base of the town through the provision of mixed use development, including retail, office service and community facilities. The light industrial use is not acceptable under the land use zoning matrix and is not appropriate in a village centre location. The planning authority has justified the principle of the proposal under Policy ED 10 Non-Conforming Uses. However, on the long term the steel works in the village is not an appropriate use, and the planning authority should recognise this. A refusal of the current proposal might force the applicant to look at an edge of village site as opposed to the village centre site. The grant of the current permission is short sighted.



- The applicants did not consider an alternative to extending the CNC building. The extension could have been to the north of existing CNC building away from residences.

## 6.2. Applicant Response

### Noise

The applicants were asked to address the issue of noise during the planning application assessment. There were mitigation measures proposed to maintain the noise levels within a certain threshold. The applicants have proposed a wall along the southern boundary, that will cost a considerable amount of money and is not a mandatory requirement.

### Amenity

The proposed extension is approximately 25metres from the appellant's residence. The separating boundary is mature Leylandii on the applicants site, and there is a large out building between residence and site, all of which act as a screen. There is no overshadowing.

The proposed sound wall is to be 2.5metres placed on other side of Leylandii. Note the existing trees or not protected nor are they on the applicants boundary line.

### Site

Dwyer Steel is located in the heart of Dundrum village for sixty years. The recent parts of the village were built around the steel site. O'Dwyer Steel is the main employer in the area, it is very important to the economy of the area.

The site is almost surrounded by residences yet only one objection was received. A noise survey was carried out following the objection, and mitigation measures were designed, and there will now be a sound wall along the applicant's property. There will be no negative impacts when viewed from appellants property.

## 6.3. Planning Authority Response

The planning authority are satisfied with its decision to grant permission for the proposal and to include the conditions attached.

## 7.0 Assessment

7.1. The appeal is assessed under the following headings:

- Principle of the proposal
- Impact on amenities
- Appropriate Assessment

### 7.2 Principle of the Proposal

O'Dwyer Steel is a long-established business in Dundrum village Co. Tipperary, dating back to the 1950s. The company is a leading supplier in structural steel and cladding. On site, the applicant manufactures and fabricates steel components within a large workshop in the village. Within the workshops shotblasting, cutting and drilling, fabrication and painting occur, with stockpiling on the outdoor yard areas. The overall development can be classified in planning terms as a 'light industrial use'.

The site is zoned in the South Tipperary County Development Plan 2009(as amended) as a Village Centre, with the underlying zoning objective '*To provide and enhance the service base of the town through the provision of mixed land use developments including retail, office, service and community facilities.*'

The Village Centre Land Use zoning does not permit Light Industrial on lands zoned Village centre.

Having regard to the fact the land use predates the planning legislation and most development plans for the area, regard must be had to **Policy ED10** of the development plan relating to **Non-Conforming Uses**

*It is the policy of the Council, where commercial, industrial/ agricultural enterprises exist as non-conforming but long established uses, to support their continued operation and expansion provided such does not resulting loss of amenity to adjoining properties, adverse impact on the environment, visual detriment to the character of the area or creation of a traffic hazard.*

The first element of the development is retention of a change of use from a store to a paint shop. This is not a retailing outlet, large steel structures are painted in this

large shed positioned along the north western site boundary. This store was granted planning permission originally under planning reference, **07/1083**

*'Planning permission granted to O'Dwyer Steel to demolish existing sheds/ outhouses and to erect an extension to the paint room, and extension to the steel fabrication workshop and extension to the fabrication/ plant, a new site entrance, parking, and storage'*

The change of use is acceptable and in keeping with the landuse on site. All activities associated with this workshop are contained within the structure. It is proposed to extend the unit along its south eastern elevation, to join up with an existing store to the south east, for paint/ drying purposes. The proposal will not result in a loss of amenity to adjoining properties, adverse impact on the environment, or create a visual detriment to the character of the area or create of a traffic hazard.

The second element of the proposal is an extension to the existing CNC workshop, for a distance of 30metres which extends the elongated workshop further along the south eastern site boundary, in close proximity to the third party's residential property. It should be noted the area of the 30metre extension is currently an outdoor storage area for steel lengths. Therefore, future activities associated with this 30metre area to the rear of the dwelling house will be enclosed in a building. The extension is to facilitate a new machine along the production line. The proposed building will match in design and specification the existing CNC workshop. The principle of the proposal is in line with **Policy ED10** of the development plan.

### 7.3 **Impact on amenities**

There was one objection to the proposed development and the same objectors appealed the planning authority's decision to grant planning permission for the extensions. The third-party appellants reside in a single storey dwelling on a large curtilage to the south east of the subject site. The extension to the CNC building will run flush with circa 24metres of their residential boundary. There are other residential properties in the village backing onto the light industrial site because it is a substantial site in the village, however, the third-party appellants are aggrieved by

current and potential noise levels associated with the proposed development. They have expressed concern about the loud impulsive noise associated with moving and storing the steel around the site, the hours of operation associated with the business and encroachment of the CNC workshop towards their house resulting in increased noise levels.

During my inspection of both properties I experienced no impulsive noise levels. A noise survey was carried out as part of the further information on site, and it revealed noise level did not exceed 55dBa. According to the Noise Report commissioned by the applicant, the adjacent areas would not be considered with Quiet Areas or Low Background Noise Areas, therefore 55dB is anticipated during 07:00-19:00 hrs. The applicant has proposed a number of mitigation measures to reduce the noise impact on the adjoining property to the south east:

- The external wall of the proposed warehouse extension is to be Kingspan insulated panel, noise levels 25metres on other side of warehouse (Comerford's dwelling) will be in the order of 55-59dB. An additional partition lining is proposed on the internal side of the warehouse , which will reduce the noise reading at 25metre to 42-45dB.
- An acoustic roller shutter door with a minimum performance of 30dB is proposed on the southwestern elevation.
- Provision of a 2.5metre boundary sound wall along the backs of the property. Currently, there is a row of Leylandii along this boundary. The wall will act as a further sound barrier.

Provided the noise mitigation measures proposed are provided there should be no material increase in noise associated with the proposed development as recorded from the third party's property.

The door along the south-western elevation is gain access to a machine for maintenance purposes, should be kept closed at all times except during times of maintenance.

In terms of visual impact, the existing workshops are a longstanding feature of Dundrum and do not detract from the overall visual qualities of the village.

#### **7.4 Appropriate Assessment**

The closest Natura 2000 site is Lower River Suir SAC Site No. 002137 which is 4km south east of Dundrum village. There is a tributary of the river runs in close proximity to the subject site, however there is no direct link between the site and the SAC wider area or its hinterland. The proposed development is within an industrial site, and the developments are enclosed, and the potential for impact on water quality is remote. The proposed development will not result in direct or indirect loss or disturbance to habitats or species associated with European sites and given the level of separation I consider that impacts arising from disturbance (e.g. visual or noise) can be excluded.

## **7.5 Environmental Impact Assessment**

Having regard to the minor nature and scale of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **8.0 Recommendation**

- 8.1. Having inspected the site and considered the content of the appeal file, I recommend the Board uphold the planning authority's decision to grant permission for the proposed development.

## **9.0 Reasons and Considerations**

Having regard to the village centre location, and the long established light industrial use on the subject site, it is considered that subject to compliance with the conditions set out below, the proposed development would not give rise to serious injury to residential amenities and would be in keeping with the current development plan for the area, and would therefore be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 19th day of September 2018 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity

2. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard-
  - (a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and
  - (b) all soiled waters shall be directed to a storage tank. Drainage details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

**Reason:** In the interest of environmental protection and public health

3. Site development building works and site operational works thereafter shall be carried out only between the hours of [0830] to [1900] Mondays to Fridays inclusive, between [0830] to [1400] hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

4. During the operational phase of the proposed development (08:30-19:00hr), the noise level from within the boundaries of the site measured at noise sensitive locations in the vicinity, shall not exceed
  - (a) an Leq,1h value of 55 dB(A) during 8:30-19:00Hr Monday-Friday
  - (b) an Leq, 15 min value of 45 dB(A) at any other time.

Night time emissions shall have no tonal component.

All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

**Reason:** In order to protect the [residential] amenities of property in the vicinity.

5. All plant and machinery shall be enclosed and soundproofed in accordance with plans and particulars outlined in the Noise Report submitted as further information on the 19<sup>th</sup> of September 2018. The side door located along the south-western elevation of the proposed workshop extension shall remain closed during operations on site except during times of maintenance/ repair to the machinery.

**Reason:** To safeguard the amenities of adjoining property

6. No fans, louvres, ducts or other external plant other than those shown on the drawings hereby permitted shall be installed unless authorised by a prior grant of planning permission.

**Reason:** In the interest of visual amenity

7. A sound proof 2.5metres wall shall be provided along the south-eastern site boundary in accordance with drawing No. 17FPC045-05 prior to the commencement of the construction of the extension to the CNC building.

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

8. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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



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28<sup>th</sup> of March 2019