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<b>Development</b>	Retain extension to kitchen manufacturing workshop and acoustic barrier on boundary wall. Permission to construct extensions for storage and filtration/extraction unit with woodchip storage silo.
<b>Location</b>	Lugduff, Tinahely, County Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	19/66
<b>Applicant(s)</b>	D and E Fitzgerald Ltd.
<b>Type of Application</b>	Permission for retention and permission
<b>Planning Authority Decision</b>	Split Decision
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Joanne and James Katus
<b>Observer(s)</b>	None

**Date of Site Inspection**

22<sup>nd</sup> July 2019

**Inspector**

Emer Doyle

## 1.0 Site Location and Description

- 1.1. The subject site has an area of 0.46 hectares and is located in the townland of Lugduff, Tinahely, Co. Wicklow.
- 1.2. The site currently accommodates a kitchen manufacturing industrial premises with a stated area of 2,300m<sup>2</sup>, together with a small community run recycling centre.
- 1.3. Adjoining the site to the north is the Glanbia plant. Residential units and an engineering plant are located to the south west of the site and an undeveloped site zoned for 'employment' is located to the south east. Residential units are located opposite the site.
- 1.4. Development in the area consists of a mix of light industry including a hardware shop, the Glanbia plant and the engineering unit, together with low density residential development.

## 2.0 Proposed Development

- 2.1. Permission sought for the following:
  - Retention of extensions constructed to the rear and side of existing kitchen manufacturing workshop and retention of acoustic barrier.
  - The area of the existing extensions is 223m<sup>2</sup> and the use is for storage purposes.
  - The acoustic barrier is located on the south western boundary wall and has a height of 1.6m over the existing boundary wall.
  - Extension of 123m<sup>2</sup> to the side of the unit. The proposed use is for storage and filtration/extraction unit with woodchip storage silo.
  - Provision of additional car parking.
  - Extension of opening hours to 7 day opening from 6am to 10pm.

## 3.0 Planning Authority Decision

### 3.1. Decision

Split Decision as follows:

- Permission granted for (i) retention of extensions constructed to rear and side of existing kitchen manufacturing workshop and acoustic barrier erected on the south western boundary wall (ii) extensions for storage and filtration/extraction unit with woodchip storage silo to the side of the workshop and provision for additional car parking spaces and all associated site works subject to 16 No. Conditions.

Condition 3 required the hours of manufacturing operation (excluding showroom) to be limited to between 07:00 and 19:00 hours Monday to Friday, 07:00 and 14:00 hrs on Saturdays, Closed Sundays and Public Holidays.

- Permission refused to extend the opening hours to 7 day opening from 6am to 10pm for one reason relating to the nature of the application site in proximity to a number of residential units and the likelihood of excessive noise impact arising at sensitive locations.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- The planner's report notes that the site is zoned for 'Employment' use in the Tinahely Town Plan. It notes that the applicant has submitted updated noise and dust reports and proposes the installation of a new dust filtration system on site. It was considered that the hours of opening should be restricted to 07:00 am to 19:00pm Monday to Friday and 07:00-14:00 Saturday, closed Sundays and public holidays having regard to the nature of the development, the noise impacts arising and the proximity to a number of residential properties. It was stated that there are enforcement proceedings on the site at present. It was noted that information submitted with the application stated that Tinahely Recycling Centre are operating from the site at present but have been given 3 months to move from the site. The planner states that should Tinahely Recycling Centre not move from the site within this time period (or regularise their planning status), enforcement proceedings can be progressed.

### 3.2.2. Other Technical Reports

**Water and Environment Section:** No objection subject to conditions.

### 3.3. Prescribed Bodies

No reports.

### 3.4. Third Party Observations

- One submission was submitted to the Planning Authority objecting to the development. The grounds raised are similar to those raised in the grounds of appeal.
- A total of 14 No. submissions were made in favour of the development.

## 4.0 Planning History

### **PA Ref. 17/1194**

Permission sought for the retention of an extension to rear of existing kitchen manufacturing workshop, retention of existing units and walls to side of workshop and all associated site works refused by planning authority for 2 No. reasons regarding impact on residential amenities and unauthorised development on the site.

### **PA Ref. 04/1050**

Permission granted to D and E Fitzgerald for retention permission of extension to the rear of portal unit.

### **PA Ref. 02/6480**

Permission granted to D and E Fitzgerald Ltd for portal frame unit, showroom, staff facilities, workshop and paint shed.

## **Enforcement:**

### **PA Ref. UD4609**

Enforcement proceedings issued in relation to unauthorised development on site.

## **5.0 Policy Context**

### **5.1. Development Plan**

#### **Wicklow County Council Development Plan 2016-2022**

Tinahely is identified as a 'Small Growth Town' (Settlement 5)

Section 5.5 Objectives for Economic Development

**EMP2** To normally require new employment generating developments to locate on suitably zoned land or identified land in settlements.

**EMP4** To permit proposals for employment generating development where it can be demonstrated that the development complies with the relevant development standards and is not detrimental to the residential amenity or to environmental quality, and is acceptable with regard to its impact on the character and visual amenity of the area. Regard will be paid to ensuring that existing or planned infrastructure can acceptably accommodate a proposed development. Developments that result in an unacceptably high level of traffic generation, that are detrimental to the residential amenity, the character or visual amenity of an area or the existing roads infrastructure will not be permitted.

#### **Tinahely Town Plan 2016-2022**

Zoning: Employment – 'To provide for the development of enterprise and employment.

Objective TIN6: To facilitate and support economic growth and job creation through facilitating the delivery of appropriate developments including those that may relate to the following:

Industries based on the use or manufacture of local natural resources relating to agriculture, forestry etc.

## 5.2. Natural Heritage Designations

- 5.2.1. The Derry River which forms part of the Slaney River Valley SAC runs through the village of Tinahely and is located c. 600m to the west of the site.

## 5.3. EIA Screening

- 5.3.1. Having regard to the nature of the development and the urban location of the site, there is no real likelihood of significant effects on the environment arising from the development to be retained and the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- Concern in relation to noise and the non-effectiveness of the acoustic barrier.
- Particular concern raised in relation to opening hours.
- The noise attenuation measures do not have regard to the proposed hours of opening.
- The proposed development is overdevelopment of the site.
- The separation distances between the appellant's house and the business are insufficient.
- Impact on residential amenities from floodlighting.

### 6.2. Applicant Response

The response submitted on behalf of the applicant can be summarised as follows:

- This is a long established kitchen manufacturing business, employing 72 people in total, 32 in the factory and 40 on sites.

- As a result of the rapid expansion of the business in recent years, our client has had to make many changes because of the more intensive use of the factory building.
- It is proposed to install a new dust filtration silo to the rear of the factory to replace the existing system along the eastern elevation.
- A noise impact report was submitted with the application. A new 1.6m high acoustic barrier has already been installed on top on the western side of the boundary wall.
- The applicant has recently installed whisper blades in the factory which reduce noise levels considerably.
- It is proposed to automate the closing of doors at all times.
- Wicklow County Council Water and Environment Section have reviewed the proposals for noise and dust control and have no objections.
- The proposed hours of operation are necessary as the nature of the business has changed. Instead of manufacturing bespoke kitchens, the business is now focussed upon mass production of kitchens to serve new large housing developments.
- The client has secured a number of large contracts in Dublin and needs to leave Tinahely at 6:00 to get to site before 8.00.
- It is requested that the Board review Condition 3 and consider an extension to the opening hours.
- The floodlighting will only be directed towards the existing yard and building and away from the houses at Holt Crescent.

### **6.3. Planning Authority Response**

- None.

### **6.4. Observations**

- None.



## 7.0 **Assessment**

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings:

- Impact on Residential Amenities
- Visual Impact
- Other Matters
- Appropriate Assessment

### 7.2. **Impact on Residential Amenities**

In terms of the impact on residential amenities, I consider that the relevant issues for consideration are as follows:

#### Dust

- 7.2.1. Details have been submitted with the application for a proposed new dust filtration silo to replace the existing system on the eastern elevation. Specification of same have been submitted from the manufacturer and it will operate as a centralised plant for the extraction and filtration of wood chippings.
- 7.2.2. The Water and Environment Section of the council have reviewed this system and consider it to be acceptable subject to conditions.
- 7.2.3. I have no objection to same subject to conditions. However, I note that there is currently an extraction system to the east of the premises. It would appear that this system does not have permission and the drawings for retention submitted with the application indicate storage in this area.

#### Noise

- 7.2.4. I note that in order to address the previous reasons for refusal, the applicant carried out a noise impact assessment and submitted a report in this regard. The report took measurements during the course of one day at 4 monitoring locations including residences in close proximity to the site. The hours of measurement were between 9.15 and 15:29 on Thursday the 12<sup>th</sup> of December 2018.

- 7.2.5. The noise report outlined that it is proposed to install 'whisper' blades on a number of machines. It is also proposed to replace the current local exhaust ventilation with a new local exhaust ventilation and to install automatic doors and keep them closed at all times.
- 7.2.6. Permission is sought to retain a noise barrier on the south western boundary. I note that the noise report states that this barrier is 3.53m high. I noted on the site inspection that the noise barrier has been installed on top of the existing boundary wall. It is not 3.53m high but is 1.6m high as indicated in the drawings. I also noted on the inspection that the doors on the south west elevation closest to the residences were open for part of the inspection.
- 7.2.7. The main noise in the factory would be from machinery but there is also general noise outside the factory with local traffic noise and other industrial premises. The noise report considered that there was very little noise attributable to Fitzgerald Kitchens with all current equipment running and noise levels were below the planning requirements of below 55 dB at noise sensitive locations.
- 7.2.8. I consider that the noise study submitted with the application is somewhat deficient in terms of the inaccuracy in details in relation to the acoustic barrier and the non-identification of specific machinery where it is proposed to install whisper blades. I also note that the assessment was carried out during a week day with very limited hours. The information submitted with the application indicates that periodically there are two machines that will need to run until 22:00 on weekdays and the proposed hours are from 6:00 -22:00, 7 days a week. In addition, I am not satisfied that all the impacts of noise have been assessed including any noise associated with an open skip in the yard used by the applicants and a community recycling centre currently operating in the yard.
- 7.2.9. As such, I am not satisfied that the development will not have a material adverse impact on the residential amenities of adjacent properties by reason of noise.

#### Hours of Operation and Intensification of Use

- 7.2.10. Whilst the site is located on lands that are zoned as 'Employment', I consider that what is currently operating on the site is very different to what was originally granted permission.

- 7.2.11. I note that there are a number of housing estates in the area with the nearest residence c. 25m from the site boundary.
- 7.2.12. Permission was granted under PA Ref. 02/6480 for the erection of a portal frame unit consisting of a showroom area, staff facilities and a workshop and storage areas. The ground floor plans indicated a showroom, offices and toilets on the ground floor with an area of c. 216m<sup>2</sup>. This area has now mainly been incorporated into the manufacturing area. I note that the neither the plans submitted with the application nor the site or newspaper notices reflect this.
- 7.2.13. In addition, I note that condition 20 of PA Ref. 02/6480 required the opening hours to be in accordance with the submission of the 30<sup>th</sup> of July 2002. A letter submitted with the application dated the 30<sup>th</sup> of July 2002 indicated that the hours of operation would be *'9:00- 18:00 Monday to Friday excluding Bank Holidays (Both showroom and workshop area will be open), 10:00- 17:00 Saturdays (Showroom will open only), and that the proposed structure would be closed on Sundays.'*
- 7.2.14. A letter submitted with the application from the applicant states that *'the business has grown significantly over the past 3 years. Our customer base has changed dramatically from the manufacturing of bespoke one-off kitchens to mass production of kitchens for developers on large sites. We have secured a number of large contracts with developers in the Dublin area. We have sites in Muileann Kettles Lane Swords, Kinsealy Woods, Kinsealy, Royal Canal Park, Ashtown. In all cases we have to leave at 6am to get to site before 8am. We have a contract every Summer with UL Limerick and we need to work 7 days during that time. There are other times during the year where we need to work on a Sunday also.'*
- 7.2.15. An unnamed newspaper/ magazine article submitted with the appeal states the following:
- 'Fitzgerald Kitchens fabricate in Tinahely, Co. Wicklow, and have a showroom on Oliver Plunkett Road in Dun Laoghaire. The second-generation business is run by Eamonn and Des, both former cabinet makers who through a series of cost cuts and lean manufacturing implementations, have managed to increase turnover from €1.8 million in boom-era 2006 to €10 million last year.'*
- 7.2.16. The response submitted with the appeal states that *'the business now employs 72 people in total, 32 in the factory and 40 on sites. As a result of the rapid expansion of the business in recent years, our client has had to make many changes because of*

*the more intensive use of the factory. Our client seeks permission to extend opening hours to seven day opening from 6am to 10pm. Our client explains that this is because the nature of his business has changed. Instead of manufacturing bespoke kitchens, the business is now focused upon the mass production of kitchens to serve new large housing developments.'*

- 7.2.17. I consider that it is clear from the information submitted in the application, appeal, and appeal response that there has been a very significant change in the nature of the business and the business now provides for manufacturing and mass production of kitchens. The showroom facility is no longer in operation and this area is now used for manufacturing. The hours of operation are significantly different and significantly more intensive than what was originally granted permission.
- 7.2.18. Whilst I note that the site is zoned for employment use, I consider it to be a sensitive location having regard to the proximity to residences. I note that the appeal considers that the increased amount of traffic, machinery and overdevelopment of the site over the past 3 years has been significant. I have concerns in relation to the impact on the residential amenities of adjacent properties and consider that the intensification of use would negatively impact on same.

#### Floodlighting

- 7.2.19. I note that the appeal expresses concern in relation to industrial floodlighting which impacts on their house.
- 7.2.20. It is proposed to install security lighting adjacent to the south western boundary, facing away from residential properties and to remove the existing flood light on the south western elevation of the building. I am satisfied that these proposals would address the concerns in relation to light pollution to adjacent properties.
- 7.2.21. In conclusion, I have concerns that the existing business in operation at this location has overgrown the site and has significantly intensified in recent years. There are a number of inaccuracies and omissions in the planning notices and drawings as mentioned in my report. The proposed hours of operation and the intensive nature of the manufacturing would have an adverse impact on the residential amenities of adjoining properties.

### 7.3. Visual Impact

- 7.3.1. I note that concern is expressed in relation to the visual impact of the acoustic barrier.
- 7.3.2. This is visible from the public road, the road serving Glambia between the site and the residences and the rear gardens of a number of residences in Holt Crescent.
- 7.3.3. Having regard to the zoning of the land as 'Employment', I consider that this is not an untypical type of development. Furthermore, this barrier is serving a purpose in terms of reducing the impact of noise on adjacent properties and as such, I consider that this element of planning gain must be balanced with the impact on the visual amenities of the area. On balance, I do not consider that the visual impact of the barrier significantly detracts from the amenities of the area.

### 7.4. Other Matters

#### 7.4.1. Support for application

The appeal states that *'we acknowledge that Fitzgerald Kitchens provide employment in our community and that they support the local area in many different ways.'* In addition, it is clear from the submissions to the planning authority both on this application and on history files that there is a lot of local support for the business.

### 7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the development to be retained and the proposed development and the nature of receiving environment together with the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

1. Having regard to the location of the site in close proximity to residential properties, and to the terms of the parent permission granted under PA Reg. Ref. 02/6480 which provided for a showroom in addition to manufacturing facilities at this location, it is considered that the development to be retained and the proposed development, which provides for a manufacturing facility only would result in a significant intensification of use and in increased hours of opening which would seriously injure the residential amenities of the area. The development to be retained and the proposed development, would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development and the development to be retained is reliant on the continuance of an unauthorised use in the premises, the retention of which does not form part of this application. The granting of permission in this instance would set an undesirable pattern of development that would be contrary to the proper planning and sustainable development of the area.

3. The proposed development and the development to be retained would contravene materially a condition attached to an existing planning permission for development, namely, Condition No. 20 attached to planning permission granted by Wicklow County Council under PA Ref. 02/6480.

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Emer Doyle  
Planning Inspector

1<sup>st</sup> August 2019