



An  
Bord  
Pleanála

## Inspector's Report ABP-310858-21

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Development	Construction of an acoustic wall at an existing NCT Testing Centre and revised hours of operation to granted permission (ABP Ref: PL06S.245111) including associated site works.
Location	Greenhills NCT Centre, Greenhills Road, Tallaght, Dublin 24, D24 PX63
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD20A/0261
Applicant(s)	Applus Inspection Services Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Colm Lynch
Observer(s)	None
Date of Site Inspection	25 August 2021
Inspector	Ian Boyle

## **1.0 Site Location and Description**

- 1.1. The subject site comprises an existing National Car Test (NCT) centre located to the east of Greenhills Road, Tallaght, within an existing industrial park called the 'Hibernian Industrial Estate'. The site has a stated area of 0.52ha. It includes a large steel warehouse type structure, and surface car parking mainly situated towards the west and south (front) parts of the site. Steel security palisade fencing runs around the perimeter of the site. Vehicular and pedestrian access is directly from an internal access estate road to the south.
- 1.2. The site is adjoining to the east, south and west by other light industrial and commercial business uses. There is a residential estate on the adjoining lands to the north of the site on Tymonville Road. The rear gardens associated with these houses back onto the NCT centre. There are also houses further to the northwest and east of the industrial estate.
- 1.3. There is a screen of planting along the rear (north) boundary between the houses on Tymonville Road and the test centre building. There are four large electronic doors at the rear elevation of the building which allow cars to enter the centre for testing purposes. There is no evident form of acoustic barriers or panels on the site.

## **2.0 Proposed Development**

- 2.1. The proposed development is for the construction of an acoustic wall along the full extent of the northern (rear) boundary of the site and partially along its east and west side boundaries. The wall would have a cranked top to assist with containing noise emissions and would have a maximum height of 4.5 metres.
- 2.2. The proposal is also for a revision to permitted operating hours of the test centre facility. A summary of the operating hours is set out in the table below.

	<b>Existing / Permitted Hours</b>	<b>Hours proposed</b>
Monday	8am – 6pm	8am – 6pm
Tuesday	8am – 6pm	8am – 7pm
Wednesday	8am – 8pm	8am – 10pm
Thursday	8am – 8pm	8am – 10pm
Friday	8am – 8pm	8am – 9pm
Saturday	8am – 6pm	8am – 7pm
Sunday	Closed	8am – 6pm
Bank Holiday	Closed	8am – 6pm

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

The Planning Authority granted permission on 19<sup>th</sup> May 2021, subject to 8 no. conditions. Notable conditions include: permitted revised operating hours (Condition 2) (see third column above), provision of a landscape plan (Condition 3), and tree protection measures (Condition 5). Condition 2 also required that the permitted, extended hours must cease after a two-year period has elapsed from the date of Decision, after which point the development must revert to the hours permitted under Reg. Ref. SD09A/0359.

#### 3.2. **Planning Authority Reports**

##### 3.2.1. Planning Reports

The basis for the Planning Authority's Decision:

- Proposal was assessed for visual and environmental impacts on the adjoining structures, with residential amenity of the adjoining neighbours the key issue for consideration.
- The visual impact of the wall is considered acceptable.
- In terms of overshadowing, the wall is not considered to be of substantial height, and in any event, the garden plots are of a reasonable length. The

potential for overshadowing is considered limited and, therefore, deemed acceptable.

- Trees should remain in place and form a natural screen along the rear boundary of the site, which is the intention of the applicant. The provision of the wall, however, is likely to have an impact on the trees and this should be assessed. The Public Realm Department has stated that the Applicant's Tree Impact Assessment is acceptable, subject to conditions requiring replacement planting and tree protection measures.
- The proposed hours were assessed on their potential for increased noise and residential amenity impact. The Planning Department considered the proposed hours of operation to be generally acceptable, subject to the implementation of mitigation measures detailed in the Noise Impact Assessment.

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

- Environmental Health Officer: Requested Further Information including provision of a Noise Impact Assessment. Upon receipt of this report, no objection was raised, subject to conditions.
- Roads Department had no objection, subject to standard conditions.

#### 3.3. **Prescribed Bodies**

- Irish Water raised no objections, subject to conditions.

#### 3.4. **Third Party Observations**

None.

### 4.0 **Planning History**

#### **Subject Site**

Reg. Ref. SD09A/0359: The Planning Authority granted permission for a change of use from warehouse to NCT Centre, the creation of vehicular access points on the northern elevation of the building to facilitate access to the test centre and ancillary

works on 9<sup>th</sup> December 2009. The permitted hours for operating heavy machinery were Monday to Friday, 8am – 6pm; and Saturday, 8am – 1pm.

Reg. Ref. SD10A/0024: The Planning Authority granted permission for amendments to the NCT testing centre, permitted under Reg. Ref. SD09A/0359, to include new roller shutter doors, new fire escape doors and a window opening in April 2010.

Reg. Ref. SD10A/0109: The Planning Authority granted a 5-year temporary permission in August 2010 for revised operating hours of the NCT Centre (permitted under Reg. Ref. SD09A/0359). The opening hours were:

- Monday and Tuesday, 8am – 6pm;
- Wednesday to Friday, 8am – 10pm;
- Saturday, 8am – 7pm;
- Sunday, 8am – 5pm.

Reg. Ref. SD15A/0111: On 19<sup>th</sup> October 2015, An Bord Pleanála granted a temporary 5-year permission for revised operating hours for the NCT Centre:

- Monday and Tuesday, 8am – 6pm;
- Wednesday to Friday, 8am – 8pm;
- Saturday, 8am – 6pm;
- Sunday and Bank Holidays, closed.

In making their decision, the Board provided the following reason:

*“...the Board considered that, subject to compliance with a noise control condition, a revised set of operating hours, allowing a more restricted set of evening operating hours and disallowing Sunday operations, would achieve a reasonable balance between enabling the commercial use of the test centre while respecting residential amenities for the neighbouring houses. It was also considered that a temporary (five year) permission would be appropriate to enable the continued operation to be reviewed.”*

The permission has now expired.

## 5.0 Policy Context

### 5.1. Development Plan

#### 5.1.1. Zoning

The site is zoned 'Objective EE' – *“To provide for enterprise and employment related uses”* under the South Dublin County Council Development Plan 2016 – 2022 ('Development Plan'). (The site is similarly zoned under the Draft *South Dublin County Development Plan 2022-2028: 'EE'*). The surrounding land to the east, south and west is also zoned 'EE'. The land directly to the north is zoned 'RES', which seeks *“To protect and/or improve residential amenity”*.

#### 5.1.2. Development in Transitional Areas

Section 11.1.1 (iv) of the Development Plan requires that *“abrupt transitions in scale and use should be avoided adjacent to the boundary of land use zones.*

*Development proposals in transition areas should seek to avoid development that would be detrimental to the amenities of the contiguous zone. For example, regard should be had to the use, scale and density of development proposals in zones abutting residential or rural areas in order to protect residential or rural amenity, as appropriate.*

### 5.2. Natural Heritage Designations

No designations apply to the subject site. The subject site is located 1.2km to the north of the Dodder Valley (pNHA) (Site Code 000991).

### 5.3. EIA Screening

Having regard to the limited nature and small scale of the proposed development, which is for an acoustic barrier on an existing, industrial-zoned industrial estate, and extended business operating hours, 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A Third Party Appeal was received from Colm Lynch (86 Tymonville Road, Tallaght, Dublin 24). The main grounds of appeal can be summarised as follows:

- The zoning objective for appellant's property is to protect and/or improve residential amenity.
- There is already significant noise pollution from the operation of the NCT Centre. If the proposed, increased opening hours are granted, it will significantly interfere with sleep and rest when residents could reasonably expect a level of quietness.
- There is no evidence to suggest that the noise pollution generated by the NCT test centre in the evenings will improve as a result of the proposed acoustic wall.
- Appellant and other residents must endure loud and unnecessary noise daily. The test centre has doors facing northwards towards housing estates. As a result, all noise generated from the testing of vehicles travels in the direction of residential homes, as opposed to towards the wider industrial estate. The noise ranges from radios being played loudly, car horns beeping staff communicating (shouting etc.). (Note: A memory stick with video evidence accompanied the appeal submission, which has been reviewed as part of this assessment).
- There is concern the acoustic wall will not work as it is intended. Instead, it could amplify and redirect noise towards the houses adjoining the site to the north, particularly for rooms located above ground floor level.
- The removal of trees along the shared boundary would reduce the visual screening along this side of the subject site.
- The north facing gates should be prevented / restricted under condition, as this is the primary source of noise pollution, and that a revised layout of the test centre building be made a requirement.

## 6.2. Applicant Response

The main grounds raised can be summarised as follows:

- As the site has been the subject of two temporary permissions, and has now been operating for 10 years on the site, it is reasonable that the proposed use should be given full planning permission, and not be required to be revisited in the future as this has an impact on the ability of the company to plan ahead.
- The Applicant engaged noise consultants (iAcoustics) to assess the noise at the appeal site. They have advised that the proposed acoustic wall has been specifically designed to address the noise complaints of the Appellants and should reduce the noise level within their property to within the acceptable range of 55dba.
- iAcoustics have assisted the Applicant in preparing a Noise Management Plan, which addresses the noise issues at source and provides a strategy to avoid the generation of noise.
- The Appellant's suggestion that the proposed acoustic wall will worsen noise levels has no basis. However, the noise issues shown in the videos submitted to the Board have been taken seriously. The noise is generally caused by human behaviour. Therefore, it is incumbent upon management to establish appropriate measures to minimise noise impacts in the interests of preserving the residential amenity of neighbouring properties.
- The Applicant lists a series of measures in their Appeal Response to limit the creation of noise, including staff not permitted to take breaks and smoke at the rear of the test centre building (nearer residential houses), no members of the public are to be permitted to drive to the rear of the building and must park at the front / side of the test centre, reduction of driving speeds, horns cannot be used unless inside the building (i.e. beep test must be taken inside the premises).
- The Arborist Report confirms that there will be no loss of trees on the shared northern boundary of the site, except for Hedge No. 1 and Tree No. 4. The Report sets out the necessary tree protection measures to protect the root and zone of the trees.



- It is unfair and unreasonable to require the north facing gates to be relocated as this would require a complete redesign of the centre.
- Various legal issues are raised in relation to a previous ‘Leave to Appeal’ Decision, which was permitted by the Board in July 2021 (ABP Ref. LV06S.310467).

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

- None.

## 7.0 **Assessment**

The main planning considerations relevant to this appeal case are:

- Noise
- Temporary Grant of Permission
- Visual Impact
- Legal Issues
- Appropriate Assessment

### 7.1. **Noise**

- 7.1.1. The zoning objective for the lands abutting the site to the north is ‘RES’, which seeks to protect and/ or improve residential amenity. The subject site itself is zoned ‘EE’ which has an objective to provide for enterprise and employment related uses. The appeal site, therefore, is located within a transitional area where there is a contiguous transition between two zoning objectives. The Development Plan states that for such transitional areas regard should be had to the use, scale and density of any new development proposal in order to protect residential or rural amenity, as appropriate.
- 7.1.2. Having regard to this policy, the amenity of residential properties in the area must be carefully considered as part of this appeal assessment. I consider that the main concern in this regard is that of noise, and general disturbance, caused by the testing of vehicles during normal hours of operation and by human behaviour (staff

communicating onsite, music from radios, etc.). The noise issues shown in the video footage submitted by the Appellant to the Board demonstrates this to be the case.

- 7.1.3. From completing an inspection of the site, it is apparent that the existing NCT Centre is a very active facility, with a high number of cars entering and existing the site on a regular basis. Visitors to the site are expected to check in and park their vehicle at the front / side of the site, before a member of staff collects it and drives to the rear (northern) part of the site to enter into the building to commence the car test. There is, therefore, a high degree of activity in proximity to the Appellant's property, and other adjoining residential properties, to the north.
- 7.1.4. The proposed extension of operating hours for the test centre later in the evening, and on Sundays and Public Holidays, would be more likely to affect residents than during typical daytime business hours. This is because the extended hours would be when residents are more likely to have returned home, after school or work, and when ambient noise levels in the surrounding vicinity have started to decrease.
- 7.1.5. The proposed acoustic barrier, however, will likely significantly reduce any existing or potential future sources of noise associated with the test centre operations. The Acoustic Report submitted by the Applicant confirms that the barrier will not amplify sounds and I consider this to be acceptable. The Applicant also states that the barrier should reduce noise levels to below the guidance threshold range of 55dba.
- 7.1.6. It is envisaged that improved operational measures will also be implemented to control various onsite noise sources through a site-specific Noise Management Plan. A copy of the Plan ('Noise Management Policy') is appended to the Applicant's Appeal Response and a detailed list of noise mitigation procedures is set out under Section 3.3. A performance review is also recommended to be completed every three months to ensure the policy is being correctly applied and adhered to by staff working at the test centre.
- 7.1.7. On foot of implementing the proposed acoustic wall and Noise Management Plan, it is considered that the current level of noise emanating from the site will be significantly reduced. The future conditions relating to noise impact should, therefore, be improved, and an extension to the hours of operation would not result in a serious loss of amenity to the adjoining residents.

- 7.1.8. The amenities of the adjoining residents must still be duly considered, however, particularly later in the evening, and at weekends, when noise generated by the test centre has the potential to be more apparent. I consider that late night opening times during weekdays until 10.00pm would be excessive, and that a more reasonable closing time would instead be 9.00pm.
- 7.1.9. I also consider that it would be appropriate for the testing centre to close earlier than what is proposed on Saturdays at 6.00pm (as opposed to 7.00pm) and that it should remain fully closed on Sundays and during public holidays, which is consistent with the previous Board Decision made in October 2015 (ABP Ref. 06S.245111) (see Section 4.0 above).
- 7.1.10. In summary, the hours of operation as set out below are considered appropriate. This would achieve a reasonable balance between enabling the commercial use of the test centre while respecting the residential amenity of the neighbouring houses.

<b>Day</b>	<b>Recommended Operating Times</b>
Monday	8am – 6pm
Tuesday	8am – 7pm
Wednesday	8am – 9pm
Thursday	8am – 9pm
Friday	8am – 9pm
Saturday	8am – 6pm
Sunday	Closed
Bank Holiday	Closed

## **7.2. Temporary Grant of Permission**

- 7.2.1. The appeal site has been the subject of two temporary grants of permissions for extended operating times (Reg. Ref. SD10A/0109, granted in August 2010; and ABP Ref. 06S.245111, granted in October 2015). The facility has been operational for 10 years over that time. It is submitted by the Applicant that the proposed hours of operation should be considered for full planning permission and should not be required to be revisited through the submission of a further, future planning application, which would be the case if another temporary permission is granted.

- 7.2.2. I consider that this is reasonable, and that a further, temporary grant of permission would be unnecessary given the passage of time that has passed. The existing development has been present on the site for a considerable amount of time, which has allowed parties sufficient opportunity to review the ongoing operation of the NCT test centre. Furthermore, and as the Applicant states, any further temporary extension of business hours would serve to undermine the ability of the company to plan ahead and would create a degree of uncertainty for the future management of the business.
- 7.2.3. I consider, therefore, that a further (third) temporary permission is not required. It should be clear at this stage whether a permanent permission for extended hours of operation, or a refusal, is the correct decision. [In a case where the Board refuse permission for the proposed, revised business hours, the test centre would revert to those hours originally permitted under Reg. Ref. SD09A/0359.]

### 7.3. **Visual Impact**

- 7.3.1. The potential for visual impact by the proposed development would be mainly due to the installation of a new acoustic wall along the northern boundary of the site, and partially along its eastern and western eastern boundaries. The removal of trees to accommodate the acoustic barrier is also a consideration from a visual impact perspective.
- 7.3.2. The wall adopts a curved top design, which bends inwards towards the site with the intention of absorbing and preventing the spread of sound to surrounding properties. The wall would have a maximum height of 4.5 metres and be painted in a light grey colour to minimise its potential for visual conspicuousness. The wall would be situated approximately 25/30 metres away from the houses to the north on Tymonville Road. It is considered that the potential for visual impact caused by the wall would not be significant.
- 7.3.3. The Proposed Site Layout Plan also shows an existing alleyway to the north of the subject site, which runs along the back of the gardens associated with these houses. The strip of trees and hedges, located on the shared northern boundary between the site and these residential properties, provides good visual screening.
- 7.3.4. The Applicant submitted a Tree Impact Assessment as part of their RFI Response to the Planning Authority to demonstrate minimal vegetation would be removed on foot

of installing the proposed acoustic barrier. The assessment confirms that a single hedgerow (Hedgerow No. 1) and tree (Tree No. 4) would need to be removed to facilitate the barrier, but that this could be mitigated by planting new trees and hedges on the site.

7.3.5. The loss of this existing vegetation would not have a significant visual impact on the residential properties to the north. Furthermore, the Planning Authority's recommendation to include conditions that require new replacement planting, and the implementation of tree replacement measures, is considered appropriate.

7.3.6. In summary, having regard to the physical characteristics of the site, and nature, size and scale of the proposed development, I consider that there is no potential for any significant visual impact.

#### **7.4. Legal Issues**

7.4.1. The Applicant refers to a previous Board Decision that granted an application for leave to appeal (ABP Ref. LV06S.310467). The application was in relation to the subject proposal – construction of an acoustic wall and revised operating hours – and which was permitted by the Planning Authority under Reg. Ref. SD20A/0261.

7.4.2. The merits of ABP Ref. LV06S.310467 are not considered relevant to this appeal case, however, and will not be revisited as part of this assessment.

#### **7.5. Appropriate Assessment**

7.5.1. Having regard to the nature and small scale of the proposed development; which is for an acoustic barrier and revised hours of operation at an existing NCT test centre, located within an established industrial park, and the distance from the nearest European site; no Appropriate Assessment issues arise. Therefore, 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 be granted for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

Having regard to the land use zoning of the site (Objective EE), which seeks to provide for enterprise and employment related uses, the pattern of development in the area, and that the existing car testing operation is permitted and established onsite, it is considered that, subject to compliance with the conditions set out below, the proposed provision of an acoustic barrier and revised hours of operation would not seriously injure the residential amenities of the area, would be compliant with the provisions of the Development Plan, and be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>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 to the Planning Authority, 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The test centre, and all activities occurring therein, shall only operate between the hours of 0800 and 1800 on Mondays; 0800 and 1900 on Tuesdays; 0800 and 2100 on Wednesdays, Thursdays and Fridays; and 0800 and 1800 on Saturdays. No activity shall take place outside these hours, or on Sundays or public holidays.</p> <p><b>Reason:</b> To protect the residential amenities of nearby property.</p>
3.	<p>The proposed acoustic barrier shall be provided for onsite and completed in accordance with the plans and particulars lodged with the application, and as amended by the further plans and particulars submitted to the</p>

	<p>Planning Authority, prior to commencement of the revised hours of operation, as set out in Condition 2 above.</p> <p><b>Reason:</b> In the interest of residential amenity and safety.</p>
4.	<p>Prior to the commencement of the revised hours of operation, applicant shall submit a Noise Management Plan for the agreement of the Planning Authority. A performance review will be completed by the applicant and submitted to the Planning Authority for agreement every six months to ensure the policy is being correctly applied and adhered to by staff working at the test centre.</p> <p><b>Reason:</b> To protect the residential amenities of nearby property.</p>
5.	<p>The noise level shall not exceed 55 dB(A) rated sound level as measured at any point along the boundary of the site.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity of the site.</p>
6.	<p>All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of Hedge No. 1 and Tree No. 4, which are proposed to be removed by the Arboricultural Assessment submitted to the Planning Authority (dated 12th February 2021). Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the completion of the acoustic batter, any planting which is damaged or dies shall be replaced with others of similar size and species.</p> <p><b>Reason:</b> To protect trees and planting during the construction period in the interest of visual amenity.</p>
7.	<p>The applicant shall submit a detailed Planting Plan to mitigate the loss of Hedge No. 1 and Tree No. 4, as identified in Arboricultural Assessment submitted to the Planning Authority (dated 12th February 2021), for the written agreement of the Planning Authority prior to commencement of development. The planting plan should provide the following information:</p>

	<p>(a) Location of species types, schedule of plants noting species, planting sizes and proposed numbers/densities where appropriate.</p> <p>(b) Detailed proposals for the future maintenance/management of the landscaped area along the northern boundary of the site.</p> <p>The applicant should propose native species where possible to encourage biodiversity and support pollinators within the landscape.</p> <p><b>Reason:</b> In the interest of visual amenity and biodiversity.</p>
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Ian Boyle

Planning Inspector

27<sup>th</sup> September 2021