



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312628-22

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<b>Development</b>	Alterations to footprint, signage, finishes; development of car park and signage.
<b>Location</b>	Clonmel Business Park, Cashel Road, Clonmel, Co. Tipperary
<b>Planning Authority</b>	Tipperary County Council
<b>Planning Authority Reg. Ref.</b>	211033
<b>Applicant(s)</b>	Skyline Scaffolding Ltd.
<b>Type of Application</b>	Retention and Permission
<b>Planning Authority Decision</b>	Grant Permission for Retention
<b>Type of Appeal</b>	First and Third Party
<b>Appellant(s)</b>	Chris McGarry; Skyline Scaffolding
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	1 <sup>st</sup> November 2022
<b>Inspector</b>	Una O'Neill

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## 1.0 Site Location and Description

- 1.1. The site is located at the western end of Clonmel Business Park, which is located to the northwest of Clonmel town centre, in Co. Tipperary. The site is accessed off an existing roadway serving the business park, which in turn is accessed off the R628/Cashel Road, south of the roundabout with the N24 (Waterford-Limerick road).
- 1.2. The site comprises an existing warehouse unit with parking to the front. It is bounded to the south by the Limerick-Waterford railway line, and to the west by an existing residential estate called Highfield Grove, with five houses backing onto the site. To the north is an existing industrial unit.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following:

Permission for Retention for:

- (1) General signage on the existing building
- (2) Alterations to the existing building to that which was granted under PI Ref No. 19600740 including metal shutters, exterior lighting, extended length, width and height of the building, the omission of parapet walls to the sides and rear of the existing building as well as the existing blue trim around cladding throughout the existing building as well as the use of vertical trapezoidal metal cladding to the sides of rear of the existing building instead of horizontal flat metal cladding as permitted and
- (3) elements of the existing site layout including existing concrete yard, some existing kerbing, some existing perimeter fencing and existing internal fencing and gates and existing entrance gates - and all associated site development works as well as

Permission to:

- (4) complete the car park and driveway
- (5) widen driveway into car park and

(6) create a yellow hatched buffer zone on the existing concrete yard on the western side of the site and all associated site development work

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Following the receipt of a response to a request for further information, Tipperary County Council issued a notification of a decision to grant retention permission, subject to six conditions, the following of which are noted:

C2: ...A 750mm strip shall be removed along the full length of the concrete yard at the western end of the site and proposed planting shall be undertaken as per planting proposals...

C3:...Surface water attenuation to be installed as per further information received on 20.12.21...

C4:...The yellow hatched buffer zone shall be marked on the existing concrete yard...None of the prohibited activities listed in the further information received on 20.12.21 shall be undertaken within the buffer zone... The buffer zone shall only be used for the following activities...The buffer zone shall not be used for the storage of materials, goods or other waste associated with the proposed development...

C5: Noise levels.

C6: Operating hours – Monday to Friday 8am-6pm; Saturdays 8am-1pm; Sundays/Bank Holidays site closed.

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

##### **3.2.1. Planning Reports**

The Planning Officer's report generally reflects the decision of the Planning Authority. It is noted that further information was requested in relation to issues of

- undeclared unauthorised development of the as-constructed fencing on the western boundary of the yard;

- query in relation to the function of the buffer zone and what uses will/will not be undertaken in same;
- query in relation to compliance with condition 8 of parent permission in relation to planting along the western boundary and what planting is now proposed given the concreting of the yard;
- surface water disposal;
- concern in relation to noise and consideration of limiting of operating hours from 8-6 Monday to Friday, 8-1 on Saturday and closed on Sundays and Bank Holidays.

A reply was received on 20.12.21 and was deemed significant with further advertising of the proposals in accordance with legislation.

The following is noted from the report of the planning authority following assessment of Significant FI received:

- Note fence along western boundary to be retained – dark green powder coated weldmesh fence, 2.2m high and 59m in length, positioned 3m from the boundary walls of the adjoining dwellings.
- Vehicles should not be allowed park in the buffer zone.
- Proposals for planting are acceptable.
- Surface water disposal acceptable.
- Operating times – Environment section recommends operating hours be limited.

### 3.2.2. Other Technical Reports

Road Design Office – Proposal would not conflict with the N24 Waterford to Cahir project.

District Engineer – Satisfied regarding surface water.

Environment – Request that operation hours are confined to Mon-Fri 8am-6pm; Saturday 8am-1pm; and Sundays closed. Having different hours of operation for different activities during the day and mitigating with white noise would not be acceptable. It would only serve to lead to complications and further complaints.

### 3.3. Prescribed Bodies

Transport Infrastructure Ireland – No issues/observations raised.

### 3.4. Third Party Observations

One observation was received from Chris McCarthy of Highfield Grove, Clonmel. The issues raised are largely as set out in the grounds of appeal (see Section 6 hereunder).

## 4.0 Planning History

19600740 – Permission GRANTED on 21<sup>st</sup> August 2019 to Skyline Scaffolding Ltd. for construction of a light industrial building and all associated site development works to include internal road, footpaths, boundary treatments, underground services and connection to existing foul and surface water sewers.

C8: a) Prior to development commencing, proposals for screen planting and a timescale for implementation for the western site boundary shall be agreed in writing with the planning authority.

b) A 10m wide exclusion zone shall be maintained along the western site boundary. No storage of materials shall take place within this exclusion zone.

c) Boundary treatment shall otherwise be as per submitted details.

C10: Noise limits.

Enforcement: TUC-20-237 Warning Letter served regarding non-compliance with PI. Ref. No. 19600740.

## 5.0 Policy Context

### 5.1. National Policy

- Project Ireland 2040 National Planning Framework (2018)

## 5.2. Tipperary County Development Plan 2022-2028

### Chapter 4 Settlement Strategy

- **Policy SO-2** – To facilitate and promote the development of Clonmel, Nenagh and Thurles as Key Towns, economic drivers and significant population and service centres for the Southern Region.
- **Table 4.1. County Settlement Plan Hierarchy:** Clonmel is a Level 1 Key Town.
- **Section 4.2.1** - As stated in the Core Strategy, the current Town Development Plans and LAPs will remain applicable until they are replaced with LAPs, in accordance with the framework and timeline as set out in Table 4.2.
- **Table 4.2** – Clonmel and Environs Development Plan 2013 (as extended) – LAP preparation to commence in 2022.

## 5.3. Clonmel and Environs Development Plan 2013

- Site is governed by zoning objective Light Industry and Employment.
- The industrial zonings set out in Map 1 allow for industrial and a range of related uses such as logistics development, manufacturing and warehousing.
- Policy INF 15: Flood Risk Assessment
- Policy AH 5: Lower River Suir SAC
- Policy INF 8: Surface Water Management
- Section 9.3 Industrial Development - Minimum Standards for Industrial Developments

## 5.4. Natural Heritage Designations

The Lower River Suir SAC (002137) is located 1.2km south of the appeal site (as the crow flies). Nier Valley Woodlands SAC (000668) is 10km to the south and Comeragh Mountains SAC (001952) is 12km to the south.

In terms of NHAs, Marlfield Lake is located 2.7km to the east, Toor Wood is 10km to the southeast, Kilsheelin Lake is 7km to the east and Grove Wood is 10km to the north.



## 5.5. EIA Screening

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.

## 6.0 The Appeal

### 6.1. First Party Grounds of Appeal

The first party is appealing condition 6(a), which seeks to restrict the operating hours of the business. The following is noted by the applicant:

- The PA approved the existing operating hours 7am-5pm Monday to Friday and 8am to 1pm Saturday under Reg Ref 19600740.
- The applicant invested significant sums of money in the site to develop it. It is considered unfair to revoke the operational hours.
- The operational needs of the business require a 7am opening time. The revised hours are prohibiting and unviable. Staff and materials need to be on client sites for 8am, therefore need to leave the site before that to get there on time.
- A number of operational practices have now been introduced to mitigate any noise nuisance.
- Vehicles are now loaded the night before to reduce noise. The only activities between 7am and 8am are gates opening; staff arrival; pre inspection check which is a legal requirement and is conducted to the front of the building to minimise disturbance if it is required pre 8am; vehicles leave the yard.
- The applicant has employed a series of mitigation measures to prevent noise pollution.
- There is a substantial distance of 42m between the site and neighbouring dwellings.

- Planting now proposed along western boundary, as well as implementation of 10m buffer zone.
- A Noise Impact Assessment was provided and concluded that the site is compliant with Condition 10 of Reg Ref 19600740.
- The revised hours will have a negligible impact on noise on the site as the site already complies with a noise condition.

The first party is of the view that the development does not pose a threat to the amenity of neighbouring residences by way of noise pollution, as demonstrated by the submitted Acoustics Report. If necessary, a new condition requiring the loading and unloading of vehicles after 8am could be added instead of the condition in relation to operational hours.

## 6.2. Third Party Grounds of Appeal

One third party appeal has been lodged by Chris McCarthy of 45 Highfield Grove, which is a dwelling whose rear boundary backs onto the appeal site. The grounds of appeal is summarised as follows:

- Noise – estimated level of noise is not low as stated in application.
- Unauthorised concrete yard – does it increase or amplify noise nuisance by reflective noise? A proper noise expert evaluation is required. The concrete yard should not be allowed to remain. Hard reflective surfaces such as concrete reflect 99% of sounds striking the surface and metal reflects approx. 97%.
- Scaffolding was meant to be stored pre-dominantly internally. Large amounts are being stored in the yard.
- Noise expert evaluation required given increased dimensions of building and different metal cladding to the building.
- Noise nuisance elements not assessed – scaffolding being sorted/loaded/unloaded by hand and thrown on top of each other. Works occurs in the yard in the warehouse with the doors open and work can occur all day with up to 12 workers; forklift reversing alarms, loud noise of forklift

driving and engines left running, beeping, metal scraping off forklifts, speeding up and down the 10m exclusion zone; trucks engines, reversing, door banging, cranking of metal fastening, driving within 10m exclusion zone; loud metal scraping of electronic metal roller door and gate every morning at 7am waking residents; workers use of power tools to cut wood and metal on site; work on scaffolding within 10m exclusion zone; noise from workers.

- Sleep disturbance due to light nuisance from exterior lights; trucks and forklifts operating at 6.50am; workers loading and unloading scaffolding within 10m exclusion zone at 7am; electronic gates and metal roller door before 7am.
- No 10m exclusion zone – this area is used for storage of materials contrary to planning condition.
- No screen planting to mitigate noise. Trees were cut down and unauthorised metal fencing erected. No acoustic barriers in use and can view site clearly from upper floors. Development plan minimum standards for industrial development includes provisions for fencing and landscaping.
- Houses near another development in the area are single storey and have an acoustic barrier, 2m high walls, and screen planting.
- Dalton Acoustics Report – Flaws in the report. SLM2 was not outside no. 45 but no. 44. The basis of assumptions are incorrect. The yard is in use most days. Only noise of a truck and forklift is used as a source of noise, but there are many other sources of noise pollution. Fail to mention houses no. 44 and no. 45 do not have 2m high rear boundary walls. There are staff working in the yard and sometimes they work all day in the yard. All tests done were in a controlled environment with workers aware they were being monitored. Fail to mention in the report that there is working on Saturdays.
- iAcoustics analysis of Dalton Acoustics Report finds they are not in compliance until all noise generating activities have been taken into account and report concludes that a scaffolding yard cannot co-exist near a residential estate without undue noise impacts.
- Residential Amenity – repetitive loud metal banging and noise from workers has impacted on enjoyment of rear gardens. Proposed landscape plan of 3m

trees and hedges will do little to protect residential amenity and it will be years before it has any effect.

- Visual Amenity – building is overbearing and vertical cladding makes building look taller and more imposing visually. The building takes over the previous view from the back garden. View of metal storage externally is an eye sore.
- Planning report submitted inaccurate in relation to the boundary, reverse alarms continue to be used on forklifts; planting does not seem adequate to mitigate noise nuisance, light nuisance or amenity from upper floors.
- Surface Water – no evidence of how proposal will connect to manholes and not flow to adjoining sites.
- Mitigation measures listed have not been undertaken.
- A noise and vibration test should be required as objects in kitchen vibrate when trucks and forklifts are driving up and down the 10m exclusion zone.
- No investigation undertaken of noise nuisance by Tipperary County Council.
- A number of video recording clips of noise from garden submitted with the third party submission.

### 6.3. Applicant Response

- As stated in the Dalton Acoustics report, video evidence and recordings are not calibrated or independently gathered and can be subject to tampering and alteration.
- The applicant became aware of a video complaint in February. The applicant investigated the complaint against their own CCTV which was upgraded to retain data for two months. Timesheets of employees examined. CCTV photos submitted confirms the yard was closed at the time of the video complaint. A company Vividlogic was employed by the applicant to determine when the video was recorded. It was determined the video was made at 11.21am on 23<sup>rd</sup> February 2022 and this is at variance with the appellants complaint that it occurred at 07.27am on 24<sup>th</sup> February 2022. Other videos

submitted by third party were assessed and discrepancies found by the applicant.

- The applicant has implemented a number of operational noise mitigation measures with the specific intention of mitigating noise nuisance, as listed, in addition to creating a buffer zone. It is noted that there is a substantial distance of c.42m between the front of the warehouse and the rear of the properties to the west, of which only one has ever complained. There is in addition an existing 2m high boundary wall/fence/clay mound and mature vegetation along the western boundary.
- The yard does not follow a strict schedule and may see little or no activity at times. The proposed change of operational hours will have negative consequences for the operation of the business and a negligible effect on noise nuisance considering the existing and proposed mitigation measures on site.
- The subject site is compliant with condition 10 of Reg Ref 19600740, as concluded by Dalton Acoustics.
- Claims in relation to residential amenity - The existing dwellings adjoin the Waterford to Limerick Railway line and the N24 to the north, with light industrial zoning to the east. A level of noise is to be expected and the applicant has gone to lengths to mitigate any noise.
- In terms of visual amenity, the site was not in good condition prior to being developed.
- The appellant has not provided evidence or references to claims stated in relation to the physics of noise.
- Complaints were made about lighting in December 2020 to the PA and a warning letter issued in January 2021. The site was under construction until January 2021, therefore any lighting impacts related to the construction phase which has now ended.
- External lights to the warehouse were on a timer, and following this issue being raised by neighbouring properties they have been turned off. An

investigation into complaints that a moving vehicle disturbed sleep, shows the moving vehicle was on the nearby road and not on the site.

- All forklifts have been upgraded with white noise reversing alarms. At one point a forklift had a high pitched reversing alarm but this was on site for a short period to remove concrete bollards from the buffer one.
- Dalton Acoustics response to noise issues raised in first party grounds of appeal - appendix D of submission:
  - Concrete is highly reflective. The data obtained from 09.05.21-02.02.21 was in the concrete yard, thus the data takes full account of the reflective surface of concrete. This is also the case of the existing façade of the building being present and factored into the data obtained.
  - Measurement data indicates development in compliance with noise condition therefore no necessity for a noise barrier. The use of trees as a noise barrier is often misunderstood – typically requires 6m deep of dense growth to achieve a 6dB reduction in noise levels.
  - SLM2 was adjacent to no. 45 to gain the best practical measurement point.
  - Dates for assessment were suggested by Dalton Acoustics based on favourable weather conditions.
  - The truck operation is typical of what occurs at the yard. The HGV engine was on and idling, a forklift was use to collect stillages of scaffolding and place them on the truck, a penalty was added for noted impulsive noises.
  - Presence of rear wall at rear of no. 44/45 irrelevant. The results show no need for additional height barriers at this location.
  - In discussion with Skyline Scaffolding, it was noted there are periods of time when the yard is not in use. The location is a base hub for satellite sites which only seek to replenish their stock from time to time. A specific truck operation was therefore measured as a tycpial activity at the site. Operatives were told to act in normal manner. Dalton Acoustics are fully familiar with such work and they were on site to observe the work.

- iAcoustics did not say in their report that they visited the site or carried out measurement analysis at the site. Commentary appears to have been made on the video footage alone. Dalton Acoustics carried out a prolonged measurement evaluation of the site along with witnessed/attended measurement of a specific noise source and ambient noise.
- The measurements taken concluded there was impulsive noise at the site, but not tonal. Planning Condition 10 takes account of both impulsive and tonal noise.

#### **6.4. Planning Authority Response**

None received.

#### **6.5. Observations**

None.

#### **6.6. Further Responses**

None.

### **7.0 Assessment**

Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal and video submissions, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Visual Impact and Residential Amenity
- Noise Impact and Condition 6(a)
- Operating Hours
- Appropriate Assessment

## 7.1. Visual Impact and Residential Amenity

- 7.1.1. Concern is raised by the appellant in relation to the increased scale of the building over what was permitted, its overbearing impact, loss of privacy and loss of sunlight and natural light.
- 7.1.2. The PA raises no concerns in relation to the retention elements relating to the building itself. Concern was raised in relation to the extent of the concrete yard to the west of the building, issue of noise nuisance arising from use of the 10m exclusion zone established under the parent permission, and lack of planting along the western boundary.
- 7.1.3. The appeal site is in use by Skyline Scaffolding for the storage of scaffolding, internally and externally on the site. The building is 530sqm in area and comprises a reception room, offices, canteen and welfare facilities. Permission for Retention is sought for a number of items constructed differently to that permitted under parent permission Reg Ref No. 19600740. In terms of the signage on the front elevation, it is currently located 900mm higher on the elevation than permitted, with three downlighters placed above the sign and five located below the sign, spaced across the façade. External blue roller shutters have been placed on ground level windows and door on the front elevation (serving three office offices and reception hallway), on two windows on the western elevation (serving an office and a WC) and on one window on the eastern elevation (serving a canteen). Parapets walls were originally proposed on the side and rear elevations at roof level, however these were not constructed. The building has been finished with vertical trapezoidal metal cladding to the sides and rear instead of horizontal flat metal cladding and the building has a blue coloured metal trim. I consider the changes to the signage, lighting, finishes and parapet roof are overall acceptable and the amendments are in keeping with the general character of this warehouse unit in this business park. I do not consider the visual amendments have impacted negatively on visual amenity of the wider area, including that of the neighbouring dwellings to the west, having regard to what was originally permitted on the site and the minor nature of the changes made.
- 7.1.4. I note the building has been increased in length by 200mm and in width by 400mm, which is stated to have occurred as the external walls are wider than planned. I note the building is c. 24.5-32.5m from the boundary with the residential dwellings to the



west, with overall distance between the existing building and the dwellings varying between 35-43m given the angle of the site and positioning of the dwellings and any associated extensions. I consider overall the increased dimensions of the building over that which was permitted have not had a significant negative impact on the visual or residential amenity of the area, given existing separation distances and the minor changes to the footprint involved. I do not consider the revised building to be overbearing in its scale or form on the dwellings in Highfield Grove and I do not consider the varied elements of the design have resulted in a significant loss of privacy to existing residents to the west. There are no additional windows proposed over what was permitted and the separation distances are in excess of 35m. Having regard to the limited scale of amendments to the building, to the orientation of the site and the path of the sun, and to the distance of the building from dwellings to the west, I do not consider the proposed retention elements have resulted in a significant impact on access to sunlight or daylight to properties to the west.

- 7.1.5. Retention permission is also being sought for elements external to the building, namely the resurfacing of the area to the west of the building as a concrete yard (originally permitted as compact stone), changes to existing kerbing, construction of 2.2m high green powder coated weld mesh fencing along the western boundary, internal fencing and gates and existing entrance gates. I consider the amendments to the kerbing, internal fencing and entrance gates acceptable, however further consideration is required in relation to the concrete finish to the western yard and the new 2.2m high mesh fence along the western boundary given the impact of these elements on conditions relating to the parent permission.
- 7.1.6. Condition 8 of the parent permission required a proposal for screen planting along the western boundary and a timescale for implementation to be agreed with the planning authority prior to development commencing, with a 10m exclusion zone to be maintained along the western boundary, with no storage of materials to take place in this zone. No compliance submission appears to have been received in relation to this condition. I note the original western boundary was to be retained with the planting added inside that boundary.
- 7.1.7. As part of this application the PA requested further information to clarify whether the now existing western mesh boundary was to be retained as part of the development as it was not specified in the application and to clarify how a planted buffer could be

inserted given the extent of the concrete yard, as well as what uses were proposed within the adjoining 10m buffer area.

- 7.1.8. The applicant in response to the FI request from the PA now proposes to retain the existing mesh fence along the boundary (addressed as Significant FI and advertised accordingly) and on the applicants side of that fence it is proposed to plant a cherry laurel hedge interspersed with other tree species (3m in height). A 750mm strip of concrete will be removed along the edge of the yard to allow for the planting. The PA accept the planting proposed, noting the cherry laurel is an evergreen species that will take time to mature, but will provide a buffer between the development and adjoining residences. I accept that this planting buffer, as required by the parent application, will act as a positive visual landscaping element of benefit to neighbouring properties. I note the cherry laurel is not an indigenous hedgerow and in the interests of biodiversity only indigenous trees and hedging species should be used, as per the minimum standards for industrial development set out in the Clonmel and Environs Development Plan 2013 (as extended). This could be addressed by way of condition should the Board be minded to grant permission.
- 7.1.9. As the applicant has inserted a new boundary treatment along the western boundary, which is proposed to be retained, I am assessing here the appropriateness of such a mesh boundary fence in the first instance between this site and the adjoining existing dwellings. Given the zoning of the land, I consider that a replacement boundary at such a location should have been a solid boundary given the juxtaposition of the different uses, ie light industry adjoining residential (notwithstanding the results of the Noise Assessment in relation to the specific operations of this development) and for visual reasons. I therefore consider the mesh fencing proposed for retention as inappropriate given the site-specific circumstances of this light industrial zoning against a residential zoning. In my opinion the mesh fence should be removed from the site and a 2m high wooden acoustic barrier fence should be erected in its place along the entirety of the western boundary. This could be addressed by way of condition should the Board be minded to grant permission.
- 7.1.10. In relation to the elements for the which permission is sought, that is, to complete the car park and driveway and permission to widen the driveway into the car park, I consider these elements acceptable and will not adversely impact the visual or residential amenity of the area. The proposal to create a yellow hatched buffer zone

on the existing concrete yard on the western side of the site will reinforce the condition of the parent permission that a 10m exclusion zone be formed along the western boundary of the site in the interests of amenity. I have no issue in this regard. I note that the applicant in response to an FI request from the PA has set out what will occur within the buffer zone and what will not occur. The PA is mainly satisfied with the use of the buffer zone for circulation purposes, but not for the parking of vehicles. I note in the response to the appeal the applicant accepts that no parking of vehicles will occur here. I consider the measures proposed and comments of the PA to limit the parking to be reasonable and note there is adequate parking to the front of the site, with additional spaces also to the rear portion of the yard outside the buffer zone. I see no reason for the requirement for additional parking space in the buffer zone. This could be addressed by way of condition should the Board be minded to grant permission.

## **7.2. Noise and Condition 6(a)**

7.2.1. The first party appeal requests that Condition 6(a) of the permitted application be removed. The third party considers the proposed development gives rise to significant noise and should be refused, citing the operating hours as being an issue.

7.2.2. Condition 6(a) of the application states the following:

6(a) The operating hours of the development shall be restricted to the following

- Monday – Friday 8am-6pm
- Saturdays 8am-1pm
- Sundays/Bank Holidays: Site closed

7.2.3. The applicant's documentation includes a Noise Report prepared by Dalton Acoustics. Two noise monitoring locations were set up to over the transmission pathways from the site to the houses on Highfield Grove to the west. The monitoring devices were in place from 29<sup>th</sup> May 2021 to 2<sup>nd</sup> June 2021. Given trucks are not on the site every day as it is an overflow depot for satellite trucks, it was decided with Skyline Scaffolding to ensure a truck and forklift loading/unloading scaffolding stillages occurred during the monitored days and the consultant was on site to observe work was undertaken as per normal practice and to observe presence of

any impulsive noises and add a penalty accordingly. The noise impact report concluded that the noise levels are within the limits imposed under condition 10 of parent permission PL Ref 19600740. The applicant in response to the grounds of appeal from the third party has reviewed the video evidence submitted and timings indicated on same against workers timesheets, with video evidence analysed by an IT company. Dalton Acoustics has responded to all comments made in relation to noise and I refer the Board to appendix D of the response to the third party appeal. Dalton Acoustics notes the review undertaken by iAcoustics appears to be based on video evidence and not scientific evidence using calibrated equipment or a site visit and there is not scope to apply different noise standards to those referenced in the PA condition of the parent application relating to noise.

7.2.4. The third party raises concern in relation to noise levels emanating from the site and negative impact of noise on existing residential amenity. Video recordings have been submitted with the application to show noise levels and the encroachment of site activities into the 10m exclusion zone which was to be maintained free from development as part of the parent permission. The third party employed a consultant, iAcoustics to review the noise report submitted by the applicant. iAcoustics question the veracity of the noise environment during the noise assessment as it does not include all working scenarios such as crashing of dismantling of scaffolding, scaffolding poles on top of other poles, staff talking in the yard etc. but is based on one planned event. The calculation is noted to be based on a single noise event over 30mins and the standard applied by Tipperary County Council in their condition is considered too lenient.

7.2.5. I have reviewed the Noise Impact report submitted by Dalton Acoustics and their response to the appeal. I note the methodology and assumptions made around the timing of the data obtained and the manner in which the noise assessment was undertaken to include relevant noises occurring on the site. I also note the information presented by the applicant in relation to the nature of the operation of the business, which is stated to be an overflow yard used intermittently with equipment depots maintained on client's sites. The noise report submitted by the third party's consultant questions the background noise environment. I would acknowledge that not all works that take place on the site were captured in the days the data was measured, however, I consider the noise of a lorry and a forklift moving scaffolding is

representative of what occurs at the site at the loudest end of the scale and the baseline environment was recorded in the days surveyed. While the iAcoustics Report reviews the noise report submitted by the applicant against the videos submitted by the third party, it does not undertake an assessment based on measured data and does not adopt a scientific approach to the assessment of noise at this location. The only verified data is as submitted in the Dalton Acoustics Report. I note the report from the Environment Section of the PA does not indicate their views on the noise reports submitted and does not indicate if there have been recorded breaches of the noise levels as conditioned under the parent application or if this was investigated by the Council beyond the complaints received. I note while the Environment Section of the County Council seeks to alter the operational hours of the business, this appears to be based on the receipt of complaints as opposed to enforcement of a noise condition being contravened. I further note that enforcement of the noise condition attached to the parent application is a matter for the PA and not An Bord Pleanála.

- 7.2.6. Having reviewed all information presented, including the video recordings from the third party, I am satisfied that the methodology and assumptions as presented by Dalton Acoustics in their noise assessment are in accordance with the relevant standards and practices and that the assumptions and manner of assessment are reasonable and acceptable given the specific circumstances of the case.
- 7.2.7. The applicant in their response to the FI request from the PA elaborates in relation to their operational practice, stating office hours are 8am-4.30pm Monday to Friday and yard hours are 7am – 5pm Monday to Friday. It is stated that the company have enacted further best practice mitigation measures to reduce any noise impact, noting that they are in any event in compliance with Condition 10. I note the mitigation measures include: replacing of tonal reversing alarms with white noise alarms to the forklifts and lorries; loading of lorries will take place after 8am and where material needs to leave the yard before 8am lorries will be loaded the evening before; pre-inspection vehicle checks will be undertaken at the front of the building; materials will be sorted off site so there is minimal handling on the site and where this is not possible it will take place within the warehouse behind closed doors. I consider such best practice measures reasonable.

7.2.8. I do not consider it reasonable or warranted under this application to alter the operational hours of the permitted business where permission and retention is being sought in relation to matters that do not relate to those elements of the parent permission already determined as being acceptable, ie the principle of this use at this location and the operational hours of this business. The hours of 7am-5pm Monday to Friday and 8am-1pm Saturday were permitted. Any breaking of noise limits was to be addressed by way of condition 10 of the parent permission which is still relevant and operating different hours does not affect whether noise limits are broken or not. A certain level of noise is inevitable given the site is zoned for light industrial use and any development here would result in a level of noise being generated that neighbouring residences will be able to hear and that will be different to the noise pre development when nothing was on the site. Condition 10 allows noise to occur on site, subject to certain limits not being breached. While the noise may appear as loud and intolerable to the third party, I note the video evidence submitted by the third party is not scientific evidence of breaching of the assigned noise values and the experience of the noise is the subjective experience of the resident in question. I further note that enforcement is a matter for the planning authority and not An Bord Pleanala. This is a light industrial zoning and the use was permitted and its hours of operation were determined as being acceptable under the associated parent application and the condition applied in relation to noise is reasonable and still enforceable. Should the Board be minded to grant permission, I do not recommend the inclusion of condition 6(a).

7.2.9. I note in relation to the 10m buffer zone conditioned in the parent permission that there were breaches in the use of this area in the past, as acknowledged by the applicant, contrary to condition 8(b) of the parent application. It is now proposed to apply a yellow hatched finish to the area in question and to ensure no placing of materials or parking of vehicles in this area. I consider this approach acceptable and a condition in relation to the use of the 10m buffer/exclusion zone would be warranted should the Board be minded to grant permission.

### 7.3. **Other Matters**

7.3.1. I am satisfied that the issue of surface water management, which was clarified following a FI request, has been addressed. It is indicated that a new surface water

tank to limit the discharge rate of surface water is to be installed under the car parking area to the north of the building entrance. The existing land drain that surrounds the yard is to connect to the manholes west of the attenuation tank. I am satisfied that the proposal will not result in surface water flowing onto or causing flooding of neighbouring sites.

7.3.2. Any issues arising in relation to the construction process and reported impacts on the boundary wall are not a matter for the Board to adjudicate on.

#### 7.4. **Appropriate Assessment**

7.4.1. No information in relation to Appropriate Assessment was submitted with the application. The planning authority carried out AA Screening and determined that significant adverse impacts on the European sites could be ruled out.

7.4.2. The site description and proposed development are set out in Section 1.0 and 2.0 above. The site is not located within or directly adjacent to any European site and there are no proposals for works to any European Site. There are a total of three no SACs within 15km of the proposed development site and these are set out in the table below. While 15km is not a statutory requirement I am satisfied that it is a reasonable parameter and I have considered hydrological links for those within and beyond 15km.

<b>Name (Site Code)</b>	<b>Distance</b>
Lower River Suir SAC (002137)	1.2km to the south of site (as the crow flies)
Nier Valley Woodlands SAC (000668)	10km to the south of the site (as the crow flies)
Comeragh Mountains SAC (001952)	10km to the south of the site (as the crow flies)

7.4.3. Site specific conservation objectives and qualifying interests have been set for the three sites by the National Parks and Wildlife Service (NPWS). Details are summarised as follows:

<b>European Site</b>	<b>Conservation Objective</b>	<b>QIs/SCIs</b>

<p>Lower River Suir SAC (002137)</p>	<p>The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Further detailed conservation objectives for each qualifying interest are provided by the NPWS.</p> <p>This SAC is adjacent to River Barrow and River Nore SAC (002162). The conservation objectives for this site should be used in conjunction with those for the adjacent site as appropriate.</p>	<p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Taxus baccata</i> woods of the British Isles [91J0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Alosa fallax fallax</i> (Twaite Shad) [1103]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>
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<p>Nier Valley Woodlands SAC (000668)</p>	<p>To restore the favourable conservation condition of Old sessile oak woods with Ilex and Blechnum in the British Isles in Nier Valley Woodlands SAC, which is defined by a list of attributes and targets by the NPWS.</p>	<p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p>
<p>Comeragh Mountains SAC (001952)</p>	<p>The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Further detailed conservation objectives for each qualifying interest are provided by the NPWS.</p>	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Northern Atlantic wet heaths with Erica tetralix [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p> <p>Hamatocaulis vernicosus (Slender Green Feather-moss) [6216]</p>

7.4.4. The subject site is not located within, or directly adjoining, a designated site and therefore there are no direct effects on the integrity of these European sites. In addition:

- There is no habitat loss / alterations arising from the proposed development
- There is no surface water, groundwater or underground features connecting the sites.
- There is significant distance between the sites.
- There are no known migration routes of Species of Special Conservation Concern over the site.

7.4.5. Taking together with an examination of the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separating distances and functional relationship between the proposed works and the European Sites, their conservation objectives and my assessment of the subject site and the surrounding area, potential impact on the above named European sites are excluded from further consideration and are therefore screened out.

7.4.6. The proposed development is minor in scale and is surrounded by urban development. Having regard to the nature and scale of the proposed development and the location from any designated sites, 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 the conservation objectives of any European site.

## 8.0 Recommendation

8.1. It is recommended that permission for retention and permission be granted.

## 9.0 Reasons and Considerations

Having regard to the zoning objective, the design, layout and scale of the development, and to the pattern of development in the area, it is considered that subject to compliance with conditions below, the proposal would not seriously injure the amenities of the area or of property in the vicinity, and would not adversely or

materially impact on the character of the building or streetscape. The proposed development would, therefore, 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 on the 16th day of July 2021 and on the 20th day of December 2021 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 proposed development shall be amended as follows:</p> <ul style="list-style-type: none"> <li>• The mesh fence along the western boundary shall be removed and replaced with a 2m high solid wooden acoustic barrier fence, or other similar material as agreed with the planning authority.</li> </ul> <p>Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
3.	<p>A 750mm strip shall be removed along the full length of the concrete yard at the western end of the site and this area shall be landscaped, using only indigenous species, in accordance with an overall landscaping scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity and to promote biodiversity.</p>

4.	<p>(a) Within 4 weeks of the grant of permission, unless otherwise agreed in writing with the Planning Authority, the yellow hatched buffer zone shall be marked on the existing concrete yard and the proposed car parking spaces within the yard area of the site shall be clearly delineated.</p> <p>(b) The buffer zone shall not be used for staff parking and shall only be used for the following activities:</p> <ul style="list-style-type: none"> <li>• Entry into zone by vehicles to complete turning manoeuvres.</li> <li>• Transit through the zone to move material where necessary.</li> <li>• Vehicles/ activity/ groundworks associated with planting and maintenance of the hedge, fencing and the concrete area within the buffer zone.</li> </ul> <p>(c) The buffer zone shall not be used for the storage of materials, goods or other waste associated with the proposed development.</p> <p>(d) The parking and circulation aisles shall be reserved solely for the parking of vehicles and shall not be used for the storage of materials, goods or other waste associated with the proposed development.</p> <p><b>Reason:</b> In the interests of clarity and residential amenity.</p>
5.	<p>Water supply and drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>

7.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.</p> <p><b>Reason:</b> To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.</p>
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Una O'Neill

Senior Planning Inspector

30<sup>th</sup> January 2021