



An
Bord
Pleanála

Inspector's Report ABP-316279-23

Development

Retention permission of 295 sq. m. roof canopy (c. 4.75m high over ground level) to cover part of the service yard and for permission to amend the permitted hours of operation pursuant to Condition No. 6 of Reg. Ref. D01A/0920.

Location

Dun Laoghaire Industrial Estate,
Pottery Road, Dun Laoghaire, Co.
Dublin, A96 E5W9.

Planning Authority

Dun Laoghaire Rathdown County
Council.

Planning Authority Reg. Ref.

D22A/0142.

Applicant(s)

Elis Textile Services Limited.

Type of Application

Retention & Permission.

Planning Authority Decision

Grant Permission.

Type of Appeal

Third Party Appeal

Appellants

Clonkeen Crescent and Grove
Residents Association.
Turlough Crowe

Observer(s)

None.

Dates of Site Inspection

17/7/2023 & 23/08/2023.

Inspector

Adam Kearney.

1.0 Site Location and Description

1.1. The appeal site is located on the western side of Pottery Road in Dun Laoghaire Industrial Estate albeit the signage at the entrance now indicates the area is known as 'Bakers Point'. It is bounded immediately to the north by the rear gardens of two storey residential properties at Clonkeen Crescent, to the east by Pottery Road, to the south by a LIDL food store and to the west by an attached single storey industrial warehouse unit.

Elis Textile Services Ltd. is a commercial laundry operation. Their premises is set below the public road and comprises of an industrial warehouse unit, yard area (with canopy) and a 2-storey office building. Between the facility structures and Pottery Road is a parking area for staff and HGVs.

2.0 Proposed Development

Retention permission is sought for a 295 sq. m. roof canopy (c. 4.75m high over ground level) to cover part of the service yard and for permission to amend the permitted hours of operation pursuant to Condition No. 6 of Reg. Ref. D01A/0920.

Changes being sought to permitted hours involves the following.

- Saturday Production Operation from 8am to 6pm
- Permission sought to load and unload HGVs in the service yard area from 7am to 8am, Monday – Friday
- Permission for HGV movements at the facility from 5am to 7am, Mon – Friday

3.0 Planning Authority Decision

3.1. Decision

Grant Permission subject to 4 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The main point of the planning report

- Concerns expressed around the impact on residential amenity.
- Satisfied that there is no nighttime production proposed.
- Initial reports from Environment expressed concerns leading to request for Further Information and Clarification of Further Information
- Reports received from applicant addressing concerns about noise, odour and dust.
- Local Authority having assessed FI & CFI satisfied to permit retention and permission for revisions to operating hours subject to conditions.

3.2.2. Other Technical Reports

Environmental Health Office

Report dated 09/03/2023 and supported by Environmental Enforcement on the 13/03/2023

No objection subject to compliance with conditions. Report as per the following.

'The proposal is acceptable to this office subject to:

Noise resulting from operations effecting nearby noise sensitive locations shall not exceed the background level by 10dB (A) or more or exceed the EPA's NG4 (Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities) limits whichever is lesser (as measured from the facade of the nearest noise sensitive location).

- Daytime (07:00 to 19:00 hrs) - 55dB LAr, T
- Evening (19:00 to 23:00 hrs) - 50dB LAr, T
- Night-time (23:00 to 07:00 hrs) - 45dB LAeq, T

4.0 Planning History

A.B.P. Ref. PL06D.235471 / P.A. Reg. Ref. 08A/1388: Refers to an application to extend the industrial facility, roof canopy and increase operation hours of Spring Grove Services, Pottery Road Industrial Estate, Dun Laoghaire. Permission was sought to construct a 104 sq.m. extension to the north-western elevation of the industrial facility, the provision of a roof canopy to cover a portion of the existing yard area between the 2 no. existing buildings on site and to extend the permitted operation hours of the facility to facilitate a 24 hour, 7 days a week operation. Permission was granted by the Board for the extension and canopy and refused for the hours of operation.

D01A/0920: Planning permission GRANTED for alterations to an existing industrial building and to construct a new Boiler House, ESB sub-station and additional Car Parking and to relocate the entrance on their premises.

5.0 Policy and Context

5.1. Development Plan

Dún Laoghaire Rathdown County Development Plan 2022 – 2028 came into effect on the 21st of April 2022.

Subject site is zoned Objective E, which seeks 'to provide for economic development and employment.

Section 13.1.2 Transitional Zonal Areas

The maps of the County Development Plan show the boundaries between zones. While the zoning objectives and development management standards indicate the different uses and densities, etc. permitted in each zone, it is important to avoid abrupt transitions in scale and use in the boundary areas of adjoining land use zones. In dealing with development proposals in these contiguous transitional zonal areas, it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting 'residential areas' or abutting residential development within mixed-use

zones, particular attention must be paid to the use, scale and density of development proposals in order to protect the amenities of these residential properties.

Section 12.9.3 Noise, Odour and Vibration

Generating Uses

In considering applications for development where the proposed use may cause noise, vibrations and air emissions (for example, gyms, public houses, leisure facilities, restaurants and retail) applicants will be required to demonstrate that consideration has been given to the ventilation strategy for buildings at the design stage, to prevent noise, to minimise the causing of any noise or vibration that might give reasonable cause for annoyance to persons in any premises in the neighbourhood, as per Section 34(4)(c) of the Planning Act, and air emissions that may cause nuisance from equipment and ducting. The design of buildings and services should consider and incorporate acoustic attenuation and mitigation as required.

EPA

Section 108 of the EPA Act 1992 as “Any noise which is so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood”.

5.2. Natural Heritage Designations

The following natural heritage sites are located in the general vicinity of the subject site:

- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approximately 2.3km north of the site.
- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approximately 2.3km north of the site.

- The Dalkey Coastal Zone and Killiney Hill Proposed Natural Heritage Area (Site Code: 001206), approximately 2.5km southeast of the site.

5.3. EIA Screening

Having regard to the nature and scale of the proposed development (whereby only minor alterations are made to the structure), its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

Turlough Crowe

- Loss of Residential Amenity (Noise, Dust etc)
- Ongoing breaches of restricted operating times
- Procedural lapse on behalf of PA and application should have been declared invalid due to response being submitted late.
- Factory Alarm sounds each day at 11pm

Clonkeen Crescent & Grove Residents Ass.

- Notes that business is a heavy industry among more benign business park tenants.
- Activities carried out at the Elis Textile premises are extremely intrusive and highly detrimental to our residential amenity.
- HGV movements through the night.
- Parking and idling in car park area close to rear gardens.

- Questions validity of 2 no. noise assessments insisting that background noise is in fact noise associated with the factory operating out of hours.
- Asks that Saturday operating be rejected for respite of residents some of whom are elderly.

6.2. Applicant Response

Planning Consultant for Elis Textiles counters the arguments put forward by the appellants and *inter alia* puts forward the following points.

- Commercial Laundry can be considered Light Industry.
- Noise Dust and Odour reports confirm the facility is operating within accepted guidelines and standards.
- Enforcement proceedings not a matter for the Board *per se*.
- Video evidence cannot indicate breaches of odour or noise and no conditions covering these aspects in the existing grant of permission.
- Truck parking is only restricted at night and a red line is painted across the car park.
- Acknowledges that applicant was served with enforcement notice regarding Saturday operations.
- Various physical works/measures taken by the applicant are outlined which demonstrates their diligence in respecting the transitional zonal area policy.
- Goes into detail about property values, transactions, garden development and extensions etc in support of the argument that there is in fact evidence of a benign co-existence rather than the narrative put forward in the appeal content.
- Applicant would implement measures if nuisance claims were substantiated.
- Residents have so far not initiated legal action against the applicant.
- Refers to the ancillary reports to support the HGV movement and the loading/unloading.
- Appeal argument regarding invalid application a matter for the Local Authority

6.3. **Planning Authority Response**

In a letter dated the 24th of April 2023 the Planning Authority responded to the appeal as follows:

- The Board is referred to the previous Planner's Report.
- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

7.1. I have read the file and reports submitted and have visited the site on two occasions which included a visit to the facility and a visit to one of the rear gardens backing onto the subject site categorised as a Noise Sensitive Location in Clonkeen Crescent.

7.2. The canopy for which retention is sought can be considered a minor development and one that will protect workers from the elements and will act to suppress noise from HGVs parked under the structure. It is noted that most 3rd party opinion is satisfied with the erection of the Canopy.

7.3. In one of the appeals the procedures in assessing the application by the Local Authority was raised with regard to the validity of the application and timing of the request and receipt of further information. In this regard, deliberating on Planning Authority procedures is not a function of the board and this report will only consider the decision of the Planning Authority.

7.4. With regard to the extension of the operating hours, while I appreciate that the subject site is within a transitional zone located adjacent to a residential area, I found

no evidence of background noise over and above what would be expected in a mixed-use urban area such as this adjacent to a busy road.

- 7.5. While visiting the rear garden of an adjacent dwelling during daytime production I did not observe any dust/lint in the vicinity or encounter any appreciable odours. The noise levels in the garden were largely benign albeit I was attuned to my proximity to the commercial unit and was mindful that there was a production facility within 20m of my position. The property owners who are long term residents of the area did not appear to be aggrieved with any abnormal emissions from the plant that would be disruptive of their residential amenity.
- 7.6. While a visit to the rear garden of one dwelling cannot be deemed scientific, I believe that it was informative when combined with the reports supplied by the applicant during the course of the application.
- 7.7. Immediately after the residential visit I visited the production facility and was accompanied around the plant and yard by the General Manager. The plant was at maximum production, and it was important to affirm this was the case after coming from a Noise Sensitive Location where I had noted no deleterious emissions.
- 7.8. I found the plant to be busy with approximately 50 staff engaged in different parts of the laundry process. Noise levels appeared normal for such an environment and measures such as lint filters and sound insulation around internal extraction stacks were evident. There was no observable dust or odours other than a mild aroma associated with washing detergent. I noticed some mild odours at the washing area which I assume was from soiled linen. In the yard area noise levels were lower than within the production area with loading and unloading in progress.
- 7.9. In the car park area, most of the bays were occupied with mostly staff cars and a small no. of HGVs towards the entrance. I observed the red line painted across the car park which was introduced to remind HGV drivers not to transgress and there was no breach of this line evident during my visit.
- 7.10. Conclusion

Having considered the proposal and reports submitted in response to the FI and CFI and having visited both the facility and Clonkeen Crescent during full production I am satisfied that the laundry operation is not having a significant impact on the residential amenity of the neighbouring dwellings and that the extended Saturday

production hours coupled with the revised HGV operating hours Monday – Friday should not have a significant impact on the residential amenity of the nearby residents.

8.0 Appropriate Assessment Screening

Having regard to the nature and scale of the proposed development, a minor alteration to a commercial building along with extended operating times on serviced land within an established urban area, and the distance 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. As a result, it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

9.0 Recommendation

I recommend that Permission and Retention Permission be Granted subject to the conditions as set out below.

10.0 Reasons and Considerations

Having regard to the Objective E zoning of the subject site, the relatively minor scale of development, which is the subject of retention, the limited revisions to the hours for HGV movements and the extended Saturday operating hours for production, it is considered that the proposed development subject to the conditions set out would not adversely impact on the residential amenity of adjacent properties. In addition, it is considered that the proposed development would not significantly detract from the character of the surrounding area and would be in accordance with relevant policy and the provisions of the Dun Laoghaire-Rathdown County Development Plan 2022-2028. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 on the 13/01/2023 and the 24/02/2023 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>Reason: In the interest of clarity.</p>
2.	<p>Noise resulting from operations effecting nearby noise sensitive locations shall not exceed the background level by 10dB (A) or more or exceed the EPA's NG4 (Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities) limits whichever is lesser (as measured from the facade of the nearest noise sensitive location).</p> <p>(a). Daytime (07:00 to 19:00 hrs) - 55dB LAr, T</p> <p>(b). Evening (19:00 to 23:00 hrs) - 50dB LAr, T</p> <p>(c). Night-time (23:00 to 07:00 hrs) - 45dB LAeq, T</p> <p>as measured from the facade of the nearest noise sensitive locations. Clearly audible and impulsive tones at noise sensitive locations during evening and night shall be avoided irrespective of the noise level.</p> <p>If necessary, the Local Authority may request that noise monitoring be carried out for a specific period of time by an independent suitably qualified engineer at the expense of the applicant, to ensure compliance with the set noise limits.</p> <p>Reason: In the interests of safeguarding the surrounding residential amenity.</p>

3.	<p>A complaint handling procedure shall be put in place by the applicant and shall include the following information:</p> <p>(a) Name and address of complainant</p> <p>(b) Time and date complaint was made</p> <p>(c) Date, time and duration of noise, or other issues</p> <p>(d) Characteristics of nuisance, such as noise rumble, clatters, intermittent, etc.</p> <p>(e) Likely cause or source of nuisance</p> <p>(f) Weather conditions, such as wind speed and direction</p> <p>(g) Investigative and follow -up actions, including response sent to complainant.</p> <p>Reason: In the interests of safeguarding the surrounding residential amenity.</p>
4.	<p>Surface water drainage arrangements shall comply with the requirements of the Local Authority for such services and works.</p> <p>Reason: In the interest of public health.</p>

I Confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Adam Kearney

Planning Inspector

28th August 2023