

Constituency Office,
Dublin Mid-West Green Party,
Muintir Na Tire Hall,
Lucan,
Co. Dublin.

26th April 2009.

Ms. Emily O'Reilly,
Ombudsman,
The Office of the Ombudsman,
18 Lower Leeson St.,
Dublin 2.

Re:

- **Support for Moy Glas Residents' Association regarding refusal of South Dublin County Council to provide noise mitigation measures along the length of the Outer Ring Road (Adamstown Roundabout to N4) Scheme, in particular along the boundary of Moy Glas Estate, Lucan**
- **Absence of response from South Dublin County Council to our correspondence**
- **Refusal of South Dublin County Council Senior Roads' Engineer to engage with Moy Glas Residents' Association and with us at Council Deputation meeting on 26th November 2008.**

Dear Ms. O'Reilly,

We write on behalf of Moy Glas Residents' Association (RA) who are seeking the installation by South Dublin County Council, of noise mitigation measures, (to accompany an existing low noise surface), along the entire boundary of their estate with the Outer Ring Road (ORR), Lucan, Co. Dublin.

The basis for Moy Glas RA's complaint regarding their treatment by South Dublin County Council arises from a highly technical issue which concerns traffic **noise** predictions on the ORR in the vicinity of Moy Glas estate, which predictions are themselves dependent on traffic **flow** predictions along the road. In order to understand their complaint, we feel that it is important to explain some of the details of the issue, which they have requested the Council to address. In summary, we submit that the traffic noise predictions on the ORR made by South Dublin County Council and its Consultants are underestimates, and that, taking account of current traffic flows which are higher than previously predicted traffic flows, the consequent predicted noise levels in the design year will exceed the maximum levels permitted by An Bord Pleanála's decision, 06S.ER2026, on the matter, and as such, additional noise mitigation measures, in the form of noise barriers, are required in order for the Local Authority to comply fully with the Board's decision.

Our detailed reasons for this opinion are provided later in this letter.

We understand that the Moy Glas RA has written to the Council on a number of occasions, requesting that the appropriate measures be put in place. Moy Glas have provided detailed

reasons as to why they are necessary. But the Council has consistently refused to implement the measures.

On 26th November 2008, we wrote to the Council, requesting that provision be made in their 2009 budget for the implementation of the required measures – see attached¹. However, to date we have not received a response from the Council to this letter, which was sent by e-mail, despite the fact that our automatic read-receipt proves it was received and read – see attached also².

On that same day, Dr. Kevin Farrell, Green Party Local Area Representative, accompanied Moy Glas RA Committee members to a deputation meeting with South Dublin County Council, at which the issue of noise mitigation measures on the ORR adjacent to Moy Glas Estate was to be discussed; listed as the first item on the agenda.

Deputation meetings are arranged through the Council's Community Service Dept., and are designed as a vehicle for enhancing communication between Residents' groups and the Council. The Community Department's website states:

“South Dublin County Council recognises and welcomes the important contribution that has been and continues to be made by community groups representing their local areas. From time to time, these groups may have a number of issues that they wish to discuss with Council Members and Officials. In order to accommodate this, the Community Services Department arranges Deputation Meetings where Officials from the different Council departments are available to address issues.”

The meeting was attended by a number of Councillors and Officials, one of whom was Mr. John McLoughlin, Senior Roads Engineer. From the outset, Mr. McLoughlin's demeanour and approach to Dr. Farrell and to the Moy Glas RA Committee was one of open hostility. Following a brief presentation by Mr. Ken Maycock, Chairperson of Moy Glas RA, Mr. McLoughlin stated that the Residents were attempting to re-open the Environmental Impact Statement. When it was explained by Mr. Maycock that this was not the case, but instead that it was the single noise condition, which An Bord Pleanala imposed with its decision for the road that was being referred to, and which was not being complied with, Mr. McLoughlin stated he did not have a copy of the decision with him. When Dr. Farrell read aloud the noise condition from the Board's decision, Mr. McLoughlin stated that he did not have experts with him as he was unaware that the issue was to be discussed. In response, Dr. Farrell stated that the issue of noise mitigation measures was on the agenda, which would have been circulated to Mr. McLoughlin in advance of the meeting, in plenty of time for him to arrange for the attendance of noise experts. When Dr. Farrell requested Mr. McLoughlin to address the issues raised in relation to An Bord Pleanala's noise condition and the absence of noise barriers along a stretch of the road adjacent to some of the Moy Glas estate, Mr. Loughlin stated plainly that he was refusing to answer any more questions on the matter; that the required noise measures had been put in place, and that that was the end of the matter as far as he was concerned.

It is our opinion that the Moy Glas RA have a valid case in asserting that the Council is not in full compliance with An Bord Pleanala's decision on the matter. It is also our opinion that their case has not received the attention it deserves, chiefly because the person who is responsible for attending to it is Mr. John McLoughlin, who is adamant that the Council is in compliance with An Bord Pleanala's decision. He consequently refuses to entertain the possibility that the Council could be wrong, and refuses to examine the information provided, or investigate the matter to ascertain the veracity of the Residents' claims.

We submit below our detailed reasoning as to the case of Moy Glas RA.

1 Document entitled “Letter to SEO, SDCC re - budget for noise attenuation works - 2008-11-26-KF.pdf”

2 Document entitled “Kevin Farrell Mail - Budget-Request E-mail - Read-Receipt from SDCC - 2008-11-27.pdf”

With reference to Decision 06S.ER2026, An Bord Pleanála states in Modification 1(a):

“1(a) Noise mitigation measures shall be incorporated into the design and construction of the proposed road scheme by the use of low noise surfacing and appropriate noise barriers so that the predicted noise levels associated with the proposed road scheme in the design year shall not exceed 60dB Lden (free field) and 50dB Lnight (2300 to 0700) (free field) when measured at ground floor of single storey or upper floor level of two or more storey houses, and all other noise sensitive receptors, in accordance with the assessment procedures set out in the Draft Guidelines on the Treatment of Noise and Vibration in National Roads published by the National Roads Authority in January, 2004.”

We refer to a letter³ (attached) from Damian Kelly (Principal Acoustic Consultant, AWN Consulting), dated 22nd March 2007, to Lillian O’Mahony and Donal McDaid (Arup Consulting Engineers) in relation to 14 Moy Glas Road, where he states on page 2:

“Noise mitigation measures are deemed necessary whenever the following three conditions are satisfied:

- (a) the combined expected maximum traffic noise level, i.e. the relevant noise level, from the proposed road scheme together with other traffic in the vicinity is greater than the design goal, and;*
- (b) the relevant noise level is at least 1dB more than the expected traffic noise level without the proposed road scheme in place, and;*
- (c) the contribution to the increase in the relevant noise level from the proposed road scheme is at least 1dB.*

These conditions will ensure that mitigation measures arising out of this process are based upon the impact of the scheme under consideration.”

It is our view that, given the high noise levels currently endured by the residents, the above three conditions required for noise mitigation measures are met *at least* in the area of Moy Glas estate adjacent to the boundary with the Outer Ring Road, which is not “protected” by noise barriers; i.e. where the estate is exposed to the roadway through uncovered railings.

The existing noise **predictions** for the roadway are based both on input noise **measurements** made for the preparation of the EIS and Oral Hearing **and** on the **predictions**, made during the preparation of the EIS and Oral Hearing, of the traffic-flows along the road. However, we submit that those traffic-flow predictions are already being exceeded, and therefore the noise level predictions made for the preparation of the EIS and Oral Hearing are unreliable.

There is no condition present and embedded in An Bord Pleanála Modification 1(a) stating that the noise predictions must be based forever on the noise measurements and traffic-flow predictions made at the time of the preparation of the EIS and Oral Hearing. On the contrary, An Bord's modification simply refers to **“predicted noise levels”**. We submit that the Local Authority is obliged under An Bord Pleanála Modification 1(a) to re-assess the noise predictions when new information comes to light regarding the traffic conditions on the ORR, where such information suggests that in fact the predicted noise levels in the design year will exceed the maximum permitted levels laid down in An Bord Pleanála's Modification 1(a). It is our contention that such information has come to light, namely that the traffic-flows on the road greatly exceed the predictions made at the time of the preparation of the EIS and Oral Hearing. This is further evidenced by the high noise levels which the residents are made to endure and which are a cause of nuisance to them, arising from the **refusal** of the Local Authority to comply with An Bord Pleanála Modification 1(a).

3 Document name: “AWN report re moyglas Road march07.pdf”

Therefore, we submit that new noise measurements must be made by the Local Authority. We further submit that the predicted noise levels based on those new measurements will show that, mitigation, in addition to the existing low noise surface, most certainly *is* required along the ORR adjacent to the boundary with the Moy Glas estate, which is not “protected” by noise barriers; (i.e. where the estate is exposed to the roadway through uncovered railings), in order for the Local Authority to be fully compliant with An Bord Pleanála's decision.

It is for the foregoing reasons that we requested that South Dublin County Council make budgetary provision for the 2009 financial year for the implementation of further noise mitigation measures, in addition to the existing low noise surface, along the ORR adjacent to the boundary with the Moy Glas estate, which is not “protected” by noise barriers; (i.e. where the estate is exposed to the roadway through uncovered railings) so that the *“predicted noise levels associated with the proposed road scheme in the design year shall not exceed shall not exceed 60dB Lden (free field) and 50dB Lnight (2300 to 0700) (free field) when measured at ground floor of single storey or upper floor level of two or more storey houses, and all other noise sensitive receptors, in accordance with the assessment procedures set out in the Draft Guidelines on the Treatment of Noise and Vibration in National Roads published by the National Roads Authority in January, 2004”*, as specified by An Bord Pleanála in its decision 06S.ER2026.

Yours sincerely,

A handwritten signature in black ink that reads "Kevin Farrell". The signature is written in a cursive style with a large initial 'K' and a distinct 'F'.

Deputy Paul Gogarty TD

Dr. Kevin Farrell, Local Area Representative.

Cllr. Dorothy Corrigan.