



An
Bord
Pleanála

Board Direction
ABP-301523-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 05/11/2018.

The Board decided, as set out in the following Order, that

Board Order as follows:-

WHEREAS a question has arisen as to whether the erection of an addition of a structure to the rear of a brewery comprising three fermentation tanks and associated cladding constitutes development and is or is not exempted development

AND WHEREAS Killarney Brewing Company, requested a declaration on this question from Kerry County Council, and the Council issued a declaration on the 3rd day of April, 2018 stating that the matter is development and is not exempted development.

AND WHEREAS the said question was referred to An Bord Pleanála by Killarney Brewing Company Ltd. on the 30th day of April, 2018:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to -

- (a) sections 2(1) and 3(1) of the Planning and Development Act, 2000, as amended,

- (b) Articles 5 and 6 and Class 21, Part 1, Schedule 2 of the Planning and Development Regulations, 2001, as amended, and
- (c) the documentation on file and the report of the Planning Inspector:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the erection of fermentation tanks and the cladding would both within the scope of sections 2(1) and 3(1) of the Planning and Development Act, 2000, as amended, and would constitute development, and
- (b) the fermentation tanks would come within the scope of Class 21, Part 1, Schedule 2 of the Planning and Development Regulations, 2001, as amended, comprising plant or structures the nature of plant relating to development by an industrial undertaker for the carrying on, and for the purposes of an industrial process, but would not comply with Conditions and Limitations No 1 because they materially alter the external appearance of the premises of the undertaking and, as such, are not exempted development:
- (c) the cladding does not come within the scope of Class 21, Part 1, Schedule 2 of the Planning and Development Regulations, 2001, and as there are no other Classes by which the cladding would be exempt, is not exempted development;

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the said provision of a structure to the rear of the brewery comprising three fermentation tanks and associated cladding is development and is not exempted development.

In deciding not to accept the Inspector's recommendation, the Board did not agree that the cladding could be understood to be a structure of the nature of plant or to be integral to the maintenance of the fermentation tanks.

Board Member:

Date: 05/11/2018

Terry Prendergast