



Board Direction

Ref: RL08.RL.3361

The submissions on this file and the Inspector's report were considered at a further Board meeting held on April 27th, 2016.

The Board decided, for the reasons and considerations set out below and generally in accordance with the Inspector's recommendation, that –

the use of part of the “Kerry Mineral Water Supply Company Limited” building as a craft brewery at Flesk Road, Killarney, County Kerry is development and is not exempted development.

WHEREAS a question has arisen as to whether the use of part of the “Kerry Mineral Water Supply Company Limited” building as a craft brewery at Flesk Road, Killarney, County Kerry is or is not exempted development.

AND WHEREAS the Killarney Brewing Company Limited, care of Cunnane Stratton Reynolds, Copley Hall, Cotters Street, Cork, requested a Declaration on this question from Kerry County Council and the Council issued a declaration on the 8th day of May, 2015 stating that the development is not exempted development;

AND WHEREAS the Killarney Brewing Company Limited referred the declaration for review to An Bord Pleanála on the 27th day of May, 2015;

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

- (a) sections 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) articles 5 and 10 of the Planning and Development Regulations, 2001, as amended,

- (c) the planning history of the site with particular reference to planning permission register reference number 13/205412, and
- (d) the submissions made by the referrers including the applicant's response to An Bord Pleanála's Section 132 notice

AND WHEREAS An Bord Pleanála has concluded that –

- (a) The referrer has not provided sufficient information to satisfy the Board that the pre 1964 industrial use of the building was not abandoned post 2002;
- (b) Since 2002 the building has been used for uses including warehouse and office use neither of which uses come within the scope of Class 4, Light Industrial building;
- (c) The resumption of a light industrial use in part of the building, and the use of the building for purposes other than Class 4 use, where subdivision of the building has also occurred, is a change of use, which would have external planning implications and which change is, therefore, material,
- (d) The original established industrial use for brewing related activities was extinguished by either the partial implementation of planning permission P.A. Ref. 13/205412, for office use, or by the change of use of a substantial portion of the premises to office use without the benefit of planning permission;
- (e) In the circumstances the recommencement of brewing use is development by reason of being a material change in use and for which there is no express exemption provided in the legislation.

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by section 5(3) of the 2000 Act, as amended, hereby decides that the use of the part of the building as a craft brewery at Flesk Road, Killarney, County Kerry is development and is not exempted development.

Board Member: _____
Nicholas Mulcahy

Date: May 13th, 2016