

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Donegal County

Planning Register Reference Number: 16/50535

An Bord Pleanála Reference Number: PL 05E.247122

APPEAL by An Taisce of Tailors' Hall, Back Lane, Dublin and by others against the decision made on the 28th day of July, 2016 by Donegal County Council to grant subject to conditions a permission to Drioglann Shliabh Liag Cuideachta Ghniomaiochta Ainmnithe care of Corner Stone Architecture of Ballykilduff, Portnoo, County Donegal in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Construction of a new distillery complex to consist of the following: (1) a new whiskey distillery facility with visitor centre and associated offices, laboratory, staff and ancillary facilities, (2) external ESB sub station, (3) external cooling tower, (4) a new vehicular entrance with associated filter lane off the main county road, with internal access roads and internal footpaths, car and bus parking areas, (5) cooling and surface water retention ponds within the site area, (6) fire retention pond, (7) a commercial barrel store and provide a filling room with bottling area, (8) a new sewage treatment plant with associated percolation areas, (9) erection of road side signage and associated signage to the factory buildings, (10) construction of a helicopter pad, (11) change of use of existing old farm buildings to commercial use with elevational amendments and the construction of extensions and annexed roof areas to the old farm buildings to provide for a gin/poitín distillery and gin/poitín museum, together with all associated site development and landscaping works at Carrick Lower, Carrick, County Donegal in the townland of Carrick Lower.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the nature, scale and design of the proposed development and to the objectives of the current Donegal County Development Plan, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board carried out a screening exercise in relation to potential impacts on nearby European sites, specifically the Slieve League Special Area of Conservation (Site Code 000189) and the West Donegal Coast Special Protection Area (Site Code 004150) and having regard to the nature and scale of the proposed development, the nature of the receiving environment, the screening report submitted, the submissions on file and the report of the Inspector, the Board concluded that, on the basis of the information available, the proposed development, either individually or in combination with other plans and projects, would not be likely to have a significant effect on any European site in view of the sites' conservation objectives.

Environmental Impact Assessment

The Board noted the planning authority had screened the proposed development in relation to environmental impact assessment and concluded that an Environmental Impact Statement was not required. The Board noted and adopted the Inspector's screening which also concluded that an Environmental Impact Statement was not required as the development proposed, is of a class specified in Schedule 5 of the Planning and Development Regulations, 2001, as amended, and is sub-threshold. Having regard to criteria for determining whether a development would or would not be likely to have significant effects on the environment (Schedule 7 of the Regulations refers), the Board concurred with the Planning Inspector that the proposed development would not be likely to have significant effects on the environment and accordingly an Environmental Impact Statement is not required.

In deciding not to accept the Inspector's recommendation to refuse permission, the following comments by the Board apply: -

(i) Location

The Board had regard to the respective analyses of the Inspector and the planning authority relating to the policy considerations affecting the location of the proposed development - being in a rural area one kilometre west of the settlement boundary of the village of Carrick – and in particular Policy ED-P-11 of the current County Development Plan. The Board accepted, on balance, the arguments made by the planning authority especially in relation to the potential for the proposed development to contribute to the local economy and community regeneration and declined to refuse permission on this issue.

(ii) Traffic

The Board had regard to the quoted views of the planning authority's Executive Engineer (Roads) in the report of the Senior Executive Planner, dated 27th July 2016, wherein the issue of a possibly impaired visibility splay is described as "minor in nature and not significant" and determined that a refusal of permission on this issue was not warranted.

(iii) Wastewater Treatment

The Board considered that a refusal of permission on this issue was not warranted as the matter in question can be resolved by way of condition.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.

Reason: In the interest of clarity.

2. (a) The requirements of the planning authority in relation to the public road, the new entrance and entrance road, sightlines and all related roadside landscaping and drainage matters shall be ascertained and a programme for implementing same shall be agreed in writing with the planning authority prior to the commencement of construction.
- (b) Prior to the first use or operation of the distillery and/or visitor centre facility, written certification of compliance with the above requirements by a suitably qualified and chartered engineer shall be submitted by the developer to the planning authority.

Reason: In the interest of traffic safety.

3. (a) Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority, prior to the commencement of development.
- (b) All stone finishes shall be of locally sourced stone only.

Reason: In the interest of visual amenity.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

5.
 - (a) Electrical and telephone service shall be underground.
 - (b) Any bulk fuel storage tank shall be screened from public view by means of timber picketing.
 - (c) No excavated faces or vertical cuts shall be left exposed. All excavation and infilling works shall be graded to a self retaining angle of repose, dressed with top soil and seeded/landscaped accordingly. Any retaining walls shall not exceed a height of two metres and shall be faced with locally sourced natural stone.

Reason: To preserve the amenities of the area.

6. Public lighting shall consist of either low level lighting or lighting attached to buildings, or combination thereof. The said lighting shall be hooded and aligned so as to prevent spillage of light onto public road.

Reason: To cater for orderly development and in the interests of public safety.

7.
 - (a) Car parking areas, internal service roads and entrance areas shall be adequately designed in terms of strength and thickness and shall be surfaced in bituminous macadam with minimum of thickness of 40 millimetres.
 - (b) Car parking shall be appropriately marked with thermoplastic road marking materials designating parking bays, circulation lanes and areas to be kept clear of parking.

- (c) Roadways and paved areas shall be drained by the provision of an adequate number of gullies arranged to avoid ponding. The gully grating shall be lockable type to B.S. 497 Part 1.

Reason: To cater for orderly development and in the interests of public safety.

- 8. (a) No signs, symbols or other means of advertisement shall be erected or posted on the site without a prior written agreement of the planning authority.
- (b) Signage shall contain signage in the Irish Language of an area, size and prominence that is at least equal to the area, size and prominence of signs provided in other languages and shall be agreed in writing with the planning authority prior to erection on site.

Reason: To promote the use of Irish language in accordance with Policy T-P-14 of the County Development Plan 2012-2018 (as varied).

- 9. Hedge and tree planting shall be carried out along site boundaries and site boundaries shall be formed by planting of thick hedgerows of broadleaved trees and shrubs of species which are native to hedgerow systems in the area. Any trees or shrubs dying within subsequent three years shall be replaced.

Reason: To preserve the amenities of the area.

- 10. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed: -
 - (i) An Leq, one hour, value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
 - (ii) An Leq, 15 minutes, value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996-2:2007: Acoustics – Description, Measurement and Assessment of Environmental Noise Levels.

Reason: To protect the residential amenities of property in the vicinity of the site.

- 11. The helipad shall be omitted.

Reason: In the interest of the amenities of the area.

- 12. (a) The proposed groundwater supply shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

- (b) There shall be no abstraction of water from the Owenwee River.

Reason: In the interest of the protection of human health and the water resources of the area.

- 13. (a) A mechanical aeration sewage treatment unit followed by a pure flow peat bio filter tertiary system with effluent discharging to a 300 millimetres deep gravel layer formed over a 900 millimetres of imported soil, with a PE of 36 and a minimum soil polishing filter of 135 square metres shall be installed, operated and maintained in strict accordance with Section 5.0 'Recommendations' of the submitted Site Assessment, the manufacturer's instruction and in any event in accordance with the EPA wastewater treatment manual for Small Communities, Businesses, Leisure Centres and Hotels 2009 or any amended version of this document. No system other than the type proposed as part of this application and approved by this permission shall be installed unless otherwise agreed in writing with the planning authority.

- (b) The wastewater treatment system shall include an Auto-Dialler system or similar which will contact owner/occupier and maintenance technicians immediately upon the emergence of a problem or defect.

- (c) Land drainage pipework shall be installed at the base of each soil polishing filter, installed within a gravel drainage layer. This pipework shall connect to storm water outlets.
- (d) Land drains shall be installed in order to control the onsite water table. Land drains shall be capable of being rodded. The open drain to the north of the site shall be piped where it occurs within 10 metres of either sand-polishing filter installed there.
- (e) A gravel filled land drain shall be constructed five metres up gradient of the entire area containing the polishing filter(s) in order to protect the area from surface water run-off from the higher ground on the site. This land drain shall connect to existing storm water drains.
- (f) Prior to first use of the development herein permitted, documentary evidence shall be forwarded to the planning authority detailing a minimum five-year maintenance contract between the developer and the suppliers of the treatment system, and thereafter evidence of a new five-year maintenance contract shall be submitted to the planning authority within one month of the expiry of previous contract.
- (g) Certification by the system manufacturer that it has been properly installed and tested shall be submitted to the planning authority within four weeks of the date of installation.

Reason: In the interests of public health.

14. Prior to the commencement of development, the developer shall submit a process waste management plan to the planning authority for written agreement. The plan shall outline the amount and nature of the waste streams produced, any anticipated variations in the production quantities, content or strengths as well as specific measures for their handling, storage and disposal.

Reason: In the interest of environmental protection and orderly development.

15. Materials generated by the proposed development shall be disposed of by landspreading, or by any other means acceptable in writing to the planning authority. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations 2014 (S.I. No. 31 of 2014).

Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent the pollution of watercourses.

16. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2017.