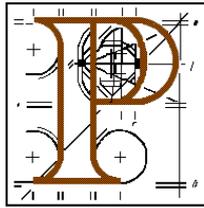


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

**Donegal County**

**Planning Register Reference Number: 15/51551**

An Bord Pleanála Reference Number: PL 05E.247431

**APPEAL** by Charles and Catherine Patton of Kinnegar Road, Rathmullan, Letterkenny, County Donegal against the decision made on the 22<sup>nd</sup> day of September, 2016 by Donegal County Council to grant subject to conditions a permission to Rick Levert care of MacGabhann Architects of Ballaghderg, Letterkenny, County Donegal in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Consisting of a craft brewery, new sewage treatment system with outflow connection to public sewer and all ancillary site works at Kinnegar Road, Rathmullan and Ballyboe T.D., Rathmullan, County Donegal.

## **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 craft nature of the proposed brewery, its location screened by the high walls of the former orchard, within the grounds of the Rathmullen House hotel where there is potential for beneficial synergies with the established tourist facilities, and within the settlement boundaries of Rathmullen where such development is acceptable in principle, it is considered that the proposed development, subject to compliance with the conditions set out below, would not unduly impact on the residential or visual amenities of the area and would not affect the setting of this historic building and would be acceptable in terms of traffic safety and convenience.

Appropriate Assessment:

The Board agreed with the screening assessment carried out by the developer which concluded that the the Lough Swilly Special Area of Conservation (Site Code: 002287) and Lough Swilly Special Protection Area (Site Code: 004075) are the European sites for which likelihood of significant effects cannot be excluded.

The Board considered the Natura Impact Statement submitted with the application and carried out an Appropriate Assessment of the implications of the proposed development for these two European Sites in view of the sites' Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular, the

- i) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii) mitigation measures which are included as part of the current proposal, and
- iii) Conservation Objectives for these European Sites.

The Board accepted and adopted the Appropriate Assessment conclusion ultimately reached in respect of the potential effects of the proposed development. The Board was satisfied that the proposed development, subject to the mitigation measures proposed, would not adversely affect the integrity of the above European sites in view of their Conservation Objectives.

## CONDITIONS

1. 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 25<sup>th</sup> day of July, 2016, 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. No retail sale of alcohol is permitted.

**Reason:** To define the terms of the permission.

3. Noise levels from the development, measured at the southern, western and northern boundaries, shall not exceed 55dB(A).

**Reason:** To preserve the amenities of the area.

4. Construction operations shall be confined to between the hours of 0800 and 2000 from Monday to Friday, and between the hours of 0800 and 1400 on Saturdays. No construction activity shall take place outside these hours or on Sundays, Bank or Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** To preserve the amenities of the area.

5. All mitigation measures set out in the Natura Impact Statement (NIS) accompanying the planning application shall be implemented in full.

**Reason:** To prevent water pollution and to protect the qualifying interests for which the sites Lough Swilly Special Area of Conservation (Site Code: 002287) and Lough Swilly Special Protection Area (Site Code: 004075) have been designated.

6. 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, noise management measures and off-site disposal of construction/demolition waste.

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

7. The location and other details of the proposed full retention petrol interceptor, through which surface water will pass prior to discharge to the drainage ditch, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interests of orderly development.

8. A vapour condensing system shall be installed within the brewery to eliminate the release of steam vapour from the wort boiling process to the atmosphere. The vapour condenser shall not incorporate a vapour stack that vents to the environment but rather shall consist of a closed system as described in the report from Banke Process Solutions submitted to the planning authority on the 19<sup>th</sup> day of July, 2016.

**Reason:** To preserve the amenities of the area.

9. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

**Reason:** In order to allow the planning authority to assesses the impact of any such advertisement or structure on the amenities of the area.

10. A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the building and thereafter shall be kept in place at all times for the duration of the use of the treatment plant. Treated effluent shall be discharged to the sewer, not to the ground. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority prior to the installation of the system.

**Reason:** In the interest of public health.

11. Prior to connecting to the public sewer, the developer shall comply with the requirements of the planning authority regarding the proposed sewer.

**Reason:** In the interest of public health.

12. 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

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

**Dated this            day of            2017.**