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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Westmeath County Council**

**Planning Register Reference Number: 17/7177**

**Appeal** by Vault Storage Limited care of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 6<sup>th</sup> day of February, 2018 by Westmeath County Council to refuse permission for the proposed development.

**Proposed Development:** Construction of a maturation warehouse facility consisting of 12 number maturation warehouses, filling hall, ancillary buildings and all ancillary site development works. Each proposed warehouse has a gross floor area of approximately 1,570 square metres and a typical ridge height of approximately 11 metres. The proposed filling hall has associated water storage tank, eight number spirit storage vats, purified water treatment plant and loading dock; ancillary buildings and structures will include a single storey facilities building; single storey fork lift charging shed; single storey sprinkler pump-house; water sprinkler tank and ESB substation. Ancillary landscaping and site development works include a package sewage treatment plant and associated percolation area; sprinkler water retention pond; a surface water attenuation pond; 10 number CCTV surveillance cameras

mounted on poles; berming, landscaping, perimeter fencing and gates. Access to the proposed facility will be via a new entrance from the L5344 with provision for emergency access from the R392, all at Moyvore, County Westmeath. The proposed development was revised by further public notices received by the planning authority on the 10th day of January, 2018.

## **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.

## **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Reports submitted with the application, and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on the Ballymore Fen Special Area of Conservation (Site Code number 002313), or any other European Site in view of the sites'

conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a Natura Impact Statement) is not, therefore, required.

### **Reasons and Considerations**

Having regard to the provisions of the National Planning Framework and particularly National Policy Objective 23, which seeks to facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, and also having regard to the nature and scale, and the characteristics, of the proposed development, it is considered that the proposed development has locational requirements that can more readily be accommodated in a rural location than in an urban setting, and that directing this particular form of development into zoned lands within an urban area would result in inefficient use of serviced zoned lands and could prejudice the delivery of employment/enterprise provisions of the Westmeath County Development Plan 2014–2020. Furthermore, having regard to the fact that the development is a type to which Directive 2012/18 EU (“Seveso III”) applies, and to the advice provided by the Health and Safety Authority to the planning authority on the effects of the proposed development on the risk or consequences of a major accident, it is considered that it is appropriate to locate whiskey maturation facilities on lands away from built-up areas. In the light of the above, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of public safety, would not seriously injure the amenities of the area or of property in the vicinity, would not seriously injure the visual amenities of the area or seriously detract from the scenic amenities and setting of this rural landscape, and would not give rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted that the decision of the planning authority to refuse permission included a reason which stated that the development would materially contravene stated policies of the Westmeath County Development Plan 2014–2020. The Board has considered this matter and concurs with the view of the Inspector that, in the circumstances of this case, and in particular in the light of the particular characteristics of the use proposed in this instance, and its locational requirements, the proposed development would not represent a material contravention of this development plan, and accordingly did not consider itself restricted by the provisions of Section 37 (2)(b) of the Planning and Development Act, 2000, as amended. In this context, the Board decided to impose a condition – condition number 3 of its Order – which limits the permission to the particular form of development proposed, as it accepted that other forms of industry or warehousing at this rural location might well be in material conflict with the provisions of the development plan.

## **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 10<sup>th</sup> day of January 2018, 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. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this Order.

**Reason:** Having regard to the nature of the proposed development, the Board considered it reasonable and appropriate to specify a period of the permission in excess of five years.

3. The land and buildings to which this permission relates shall be utilised for purposes of dilution of spirit prior to maturation, maturation of spirit to whiskey and provision of cask filling services only.

**Reason:** To define the use permitted by this permission, having regard to the justification for, and particular characteristics of, the proposed development, and to prevent any other form of warehousing or industry at this rural location.

4. Detailed specification of all proposed external materials and finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. External cladding shall be dark green in colour throughout.

**Reason:** In the interest of visual amenity.

5. No development shall commence until a landscaping and biodiversity scheme has been submitted to and agreed in writing with the planning authority to suitably screen the proposed development over the life of the facility. The scheme shall comprise a planting plan and schedule which shall include details of:

- (i) Existing and proposed ground levels in relation to an identified fixed datum;

- (ii) Existing area of tree cover, landscaping features and vegetation to be retained;
- (iii) Location design and materials of proposed boundary treatment, fences and gates;
- (iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
- (v) Details of the location of the perimeter berm and landscaping to include native species proximate to the closest house;
- (vi) Biodiversity enhancement proposals;
- (vii) A programme for the timing, method of implementation, completion and subsequent on-going maintenance;

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise agreed in writing with the planning authority.

Any trees/shrubs which within a period of five years from the completion of the approved landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the planning authority.

**Reason:** In the interests of visual amenity and to integrate the development into its surroundings.

6. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs, advertisement structures, banners, canopies, flags, or other advertising shall be erected on any of the buildings or displayed within the curtilage of the site, unless authorised by a further grant of planning permission.

**Reason:** In the interest of visual amenity and to allow the planning authority to assess the impact of any advertising signs through the statutory planning process.

7. The proposed vehicular access arrangement to the site and proposed roadside boundary treatment at the access shall in accordance with the requirements of the planning authority.

**Reason:** In the interest of traffic safety and preservation of biodiversity.

8. Details of any external lighting to be used within the site shall be submitted to and agreed in writing with the planning authority prior to installation. Such details shall include the location, type, angle of direction and wattage of each light, which shall be so positioned and angled to prevent any glare or light spillage out from the site boundary. No external lighting shall be installed except in accordance with the duly agreed scheme.

**Reason:** In order to avoid light pollution in the interest of amenity.

9. (a) Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works. If a borehole is to be utilised, it shall serve as a drinking water supply only and the borehole shall be constructed in compliance with the Environmental Protection Agency Drinking Water Advice Note No. 14: Borehole Construction and Wellhead Protection.
- (b) Prior to commencement of development, the following details shall be submitted to, and agreed in writing with, the planning authority:
- (i) Projected volumes and quality parameters of rejected water and backwash water which would arise from the water purification process and details for the treatment or disposal of such waters.
  - (ii) Projected volumes and quality parameters of all washwaters used for cleaning of storage vats, buildings and any other facilities within the site and proposals for treatment or disposal of such waters.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

10. The on-site wastewater treatment plant and soil polishing filter shall be installed, operated and maintained in accordance with the Code of Practice: Wastewater Treatment and Disposal Systems serving single houses (p.e.  $\leq 10$ ) as published by the Environmental Protection Agency in 2009, as amended.

**Reason:** In the interest of public health and protection of the environment.



11. The construction of the development shall be managed in accordance with the Construction Environment Management Plan received by the planning authority on the 21<sup>st</sup> day of September, 2017.

**Reason:** In the interests of protection of the environment and to safeguard residential amenities.

12. Waste arising on site during the construction of the construction phase of the development shall be recycled, recovered and disposed of in accordance with the Construction and Demolition Waste Management Plan received by the planning authority on the 21<sup>st</sup> day of September, 2017.

**Reason:** To ensure appropriate recycling, recovery and disposal of waste material which is generated on site.

13. Hours of construction and operation of the proposed facility shall be between 0800 and 1900 Monday to Friday, 0800 and 1400 hours on Saturday and not at all on Sundays or bank or public holidays.

Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

14. The noise level during construction shall not exceed 55 dB(A) (30 minute Leq) at any point along the boundary of the site between 0800 and 2000 hours, Monday to Friday, 0800 and 1400 hours on Saturday and shall not exceed 45 dB(A) (15 minute Leq) at any other time.

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

15. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 any archaeological remains that may exist within the site.

16. Prior to commencement of development, proposals for the measurement and monitoring of any micro flora growth which arises at the site boundary of the overall landholding (outlined in a blue line boundary on the submitted landholding map) with neighbouring properties and suitable mitigation measures proposed to address same shall be submitted to, and agreed in writing with, the planning authority. Thereafter the proposals shall be implemented on an annual basis and a record of findings and details of implementation of mitigation measures shall be forwarded to the planning authority.

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

17. Prior to commencement of development, a detailed closure decommissioning and site restoration plan, including a timescale for its implementation should the development cease to operate on a permanent basis, shall be submitted to, and agreed in writing with, the planning authority. The site shall be restored and structures removed in accordance with this plan within three months of decommissioning/cessation, to the written satisfaction of the planning authority.

**Reason:** To ensure the satisfactory reinstatement of the site on cessation of the proposed development.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads that may be damaged by construction transport coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the reinstatement of public roads that may be damaged by construction transport.

19. 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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**Philip Jones**

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

**Dated this            day of            2018.**