



Planning and Development Acts 2000 to 2018

Planning Authority: Kerry County Council

Planning Register Reference Number: EX632

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 at Scrahane, Flesk Road, Killarney, County Kerry is or is not development and is or is not exempted development:

AND WHEREAS Killarney Brewing Company Limited care of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, County Cork requested a declaration on the said question from Kerry County Council and the said Council issued a declaration on the 3rd day of April, 2018 stating that the said matter is development and is not exempted development:

AND WHEREAS the said HW Planning referred the declaration for review to An Bord Pleanála 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 come within the scope of sections 2(1) and 3(1) of the Planning and Development Act, 2000, as amended, and would constitute development,
- (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 Number 1 because they materially alter the external appearance of the premises of the undertaking and, as such, are not exempted development, and
- (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 2000 Act, hereby decides that the said provision of a structure to the rear of the brewery comprising three fermentation tanks and associated cladding at Scrahane, Flesk Road, Killarney, County Kerry 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.

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.

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

Dated this day of 2018.