



Planning and Development Acts 2000 to 2018

Planning Authority: Kildare County Council

Planning Register Reference Number: 18/479

Appeal by Peter Sweetman and Associates of 113 Lower Rathmines Road, Dublin against the decision made on the 29th day of August, 2018 by Kildare County Council to grant subject to conditions a permission to Minch Malt Limited trading as Boortmalt care of IMG Planning Limited of 75 Fitzwilliam Lane, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: A 10 year planning permission for development which will consist of: (1) the demolition of a portion of an existing barley intake building and storage building, (2) the construction of a new malting plant comprising: an energies building (400.5 square metres and 16.6 metres high), a kiln vessel (594 square metres and 10.8 metres high); a steeps building (496.6 square metres and 20.4 metres high); two number germination vessels (830 square metres and 10.2 metres high); a 300 cubic metre process water tank (5.7 metres high) and ancillary overhead conveyors at 11.5 metres above ground level, (3) the construction of a wastewater balance tank (167.3 square metres and 5.7 metres high), (4) the construction of three number combined heat and power units (228 square metres and 7.4 metres high), (5) the construction of a barley intake building (145.7 square metres and 18 metres high), (6) the construction of a heat recovery unit for the Bobby Kiln to be

located on top of the existing Bobby Tower (162 square metres) to a height of 21.6 metres above ground level, (7) the construction of a filter enclosure (60.7 square metres and 14 metres high), (8) the construction of a malt screen housing (65 square metres and 18 metres high), (9) the construction of a malt outloading structure with overhead storage bins (174.3 square metres and 23 metres high) with associated overhead conveyors, (10) two number buffer bins (50 square metres and 20.7 metres high), (11) the renovation of Plewman's House and the construction of a 76 square metres board room extension and a 310 square metres administration building extension, (12) the construction of a 29 number space car park with disabled and electric charging spaces adjacent to Plewman's House, (13) the construction of an access road, footpath and vehicle entrance from the Woodstock Industrial Estate road, (14) an upgraded surface water management system to include a new surface water attenuation pond, one number surface water screen, one number hydrodynamic grit separator and one number hydrocarbon interceptor and (15) all other site development works including the provision of ancillary access roads, hardstands, conveyors and underground services required to facilitate the development at The Maltings, Athy, County Kildare.

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-

- (a) the zoning of the site for industrial use in the current development plan for the area,
- (b) the nature and extent of the proposed development – being an extension to an existing malting,
- (c) the Environmental Impact Assessment Report, submitted with the application,
- (d) the relevant provisions of Directive 2014/52/EU, amending Directive 2011/92/EU (EIA Directive) on the assessment of the effects of certain public and private projects on the environment,
- (e) the Habitats Directive Screening Statement (Stage 1) and Natural Impact Statement (Stage 2) Ecological Assessment, submitted with the application,
- (f) Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC, as amended by Directive 2009/147/EC (Birds Directives), which set out the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union,
- (g) the pattern of development in the area,

- (h) the licensing of process water and surface water discharges to the Barrow River, under Section 4 of the Local Government (Water Pollution) Act, 1977 (as amended) and the requirement for a licence from the Environmental Protection Agency under the Industrial Emissions Directive for the proposed development,
- (i) the submissions from interested parties and prescribed bodies, made to the planning authority and to An Bord Pleanála, in association with the application/appeal, and
- (j) the report and recommendation of the Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development includes adequate measures for the attenuation and handling of stormwater run-off and the treatment of process water within the mechanical bio-reactor treatment plant, and would not give rise to pollution of the Barrow River, would respect the character of the area 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 agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Barrow and River Nore Special Area of Conservation (Site Code 002162) is the European site for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement Ecological Assessment and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the European Site in view of the site's conservation objectives (Site Code 002162). 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 likely direct and indirect impacts arising from the proposed development (including the discharge of treated process water and surface water to the Barrow River) both individually or in combination with other plans or projects, mitigation measures and controls/safeguards for construction and operation that are included in the Natura impact statement and the conservation objectives for the River Barrow and River Nore Special Area of Conservation (Site Code 002162). In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's conservation objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European site in view of the site's conservation objectives.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development taking account of:

- (a) the nature, scale, location and extent of the proposed development on site,

- (b) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the planning application,
- (c) the submission of the third party appellant and the first party response to the third grounds of appeal submitted to An Bord Pleanála, and
- (d) the submissions from the planning authority and prescribed bodies.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the developer, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the developer and submissions made in the course of the planning application and appeal. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are and would be mitigated as follows:

- Discharge of surface water to the Barrow River during the construction phase of the development, which will be mitigated by measures outlined in the Habitats Directive: Screening Statement (Stage 1) and Natura impact statement (Stage 2) Ecological Assessment submitted with the application, and as set out in Chapter 8 of the Environmental Impact Assessment Report, including the attachment of a condition to any grant of permission to issue from the Board, requiring submission (from the developer) of a Construction Environmental Management Plan for the written agreement of the planning authority prior to commencement of any development on the site.

- Discharge of treated process water and surface water to the Barrow River during the operational phase of the development, which will be mitigated by the conditions of an Industrial Emissions (IE) Directive Licence from the Environmental Protection Agency, the upgrading of the existing membrane bio-reactor treatment plant serving the maltings, availability of a Section 16 licence under the Local Government (Water Pollution) Act, 1977 (as amended), to discharge trade effluent to the public foul sewer network, in the event of an emergency, proposals for upgrading surface water treatment within the site to include a surface water attenuation pond, screening unit, hydrodynamic grit separator, hydrocarbon interceptor and observation/sampling chamber.

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 1st day of August 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 appropriate period of this permission shall be 10 years from the date of this Order.

Reason: To ensure the orderly development of the site.

3. The mitigation and monitoring measures outlined in the Environmental Impact Assessment Report and the Habitats Directive: Screening Statement (Stage 1) and Natura Impact Statement (Stage 2) Ecological Assessment, submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: To protect the environment in the interest of nature conservation.

4. The developer shall:
 - (a) within one year from the date this Order, carry out at their own expense a detailed topographical survey and shall prepare and submit a preliminary design layout of the N78, along the site frontage and associated N78/Woodstock South Industrial Access Road Junction for submission to, and agreement in writing with the planning authority,
 - (b) within one year from the date of this Order, submit a detailed Road Safety Audit Stage 1 carried out by an independent approved and certified auditor for the preliminary design layout of the N78, along the site frontage and associated N78/Woodstock South Industrial Estate Access Road junction. The Stage 1 audit recommendations shall be incorporated into the preliminary design,

- (c) prior to the commencement of development, the developer shall submit a detailed Road Safety Audit Stage 2 carried out by an independent approved and certified auditor for the proposed development including access into the site and the surrounding areas. The Stage 2 audit recommendations shall be incorporated into the detailed design, and
- (d) prior to completion of development, the developer shall submit a detailed Road Safety Audit Stage 3 carried out by an independent approved and certified auditor on the completed works for the proposed development including access into the site and the surrounding area. The Stage 3 audit recommendations shall be incorporated into the final completed works.

Reason: To ensure the pedestrian and traffic safety of all road users.

- 5. The developer shall submit, for the written agreement of the planning authority, a Construction Environmental Management Plan (CEMP) and obtain such written agreement prior to commencement of development on site. This plan shall provide details of intended construction practice for the development, including-
 - (a) location of the site and materials compounds, including areas identified for the storage of construction and demolition waste, areas for construction site offices and staff facilities, site security-fencing and hoardings and on-site car-parking facilities for site workers during the course of construction, together with the prohibition of parking on neighbouring streets,

- (b) the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site, measures to obviate queuing of construction traffic on the adjoining road network and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (c) containment of all construction-related fuel and oil within specially constructed bunds, to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater, and
- (d) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority. The developer shall provide contact details for the public to make complaints during construction, and provide a record of any such complaints and any response to them, which may also be inspected by the planning authority

Reason: In the interest of amenities, public health, and the environment, and in particular to protect water quality in the Barrow River.

6. 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 and services.

Reason: In the interest of public health.

7. (a) The proposed works to Plewman's House shall be carried out in accordance with the methodology described in the Architectural Heritage Report and detailed on the drawing submitted to the planning authority on the 27th day of April, 2018 (Drawing Reference 27038-JKD-) and in accordance with the Department of Arts, Heritage and the Gaeltacht conservation guidelines and best conservation practice Advice Series.
- (b) A Grade 2 RIAI Conservation Architect or equivalent Conservation Consultant shall be engaged for the detailing and supervision of the proposed conservation works to Plewman's House. Prior to the commencement of the development, a letter of engagement and resumé of the appointed Conservation Architect's relevant experience shall be submitted to, and agreed in writing with, the planning authority.
- (c) Prior to commencement of the development, the developer's Conservation Architect shall submit to, and agree in writing with the planning authority, a salvage schedule which should aim to retain and reuse as much of Plewman's House existing fabric.

- (d) The Conservation Architect shall monitor the proposed conservation works and ensure that they are being carried out in accordance with the proposed method statement and best conservation practice.
- (e) The appointed Conservation Architect shall document/photograph the areas of change and record the main stages of the proposed conservation works to Plewman's House. The existing structure and building fabric shall be recorded on suitable scaled drawings which shall be cross related to numbered photographs and submitted to the planning authority.
- (f) Upon the completion of the development, the appointed Conservation Architect shall submit a Conservation Compliance report to the planning authority.

The report shall

- (i) demonstrate that the works comply with the conservation Method Statement, and
- (ii) contain suitably scaled drawings of the Conservation works cross related to numbered site photographs and an as built drawing.

Reason: To ensure that the integrity of Plewman's House is maintained, and that the structure is protected from unnecessary damage or loss of fabric.

8. During the harvest season, the developer shall manage the queuing of HGVs and tractors and trailers at the site entrances. The secondary vehicular entrance, on the north-western boundary of the site (as indicated on the Transport Insights Figure 3.1 received by the planning authority on the 1st day of August, 2018) shall be utilised for deliveries during the harvest season.

Reason: In the interest of orderly development and traffic safety.

9. No signage shall be erected (so as to be visible from outside the site on any of the boundaries) on any of the proposed new elements of the maltings without a prior specific grant of planning permission.

Reason: In the interest of visual amenity.

10. All over-ground oil or chemical storage tanks shall be adequately bunded to protect against accidental spillage. Bunding shall be impenetrable and capable of retaining a volume of 110% of the capacity of the largest tank. Filling and take-off points shall be located within the bunded areas.

Reason: In the interest of public health and protection of groundwater and surface water.

11. All service cables associated with the proposed redevelopment of Plewman's House (such as electrical and telecommunications), shall be located underground.

Reason: In the interest of visual amenity.

12. Construction and demolition waste shall be managed in accordance with a Construction Waste and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006.

Reason: In the interest of sustainable waste management.

13. 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 site and to secure the preservation and protection of any remains that may exist within the site.

14. Any necessary floodlighting of the site shall be arranged, so as to not cause glare to users of public roads adjoining the site.

Reason: In the interests of traffic and pedestrian safety.

15. 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.

Maria FitzGerald

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this day of 2019.