



An
Bord
Pleanála

Board Order ABP-318956-24

Planning and Development Acts 2000 to 2022

Planning Authority: Louth County Council

Planning Register Reference Number: 23/407

Appeal by Alan and Irene Maguire of Drumcar Road, Dunleer, County Louth against the decision made on the 5th day of January, 2024 by Louth County Council to grant subject to conditions a permission to BAK Bulk Services Limited care of Doherty Finegan Kelly Limited of Botanic Court, 30-32 Botanic Road, Glasnevin, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of five number bonded whiskey maturation units of 4,073 square metres each, access roads, over ground fire water tanks, landscaped soil berms and all associated site works, all accessed through an established Whiskey Maturation Facility. The proposed development will be classified as an Upper Tier Establishment under the Chemicals Act (Control of Major Accidents Hazards Involving Dangerous Substances) Regulations, 2015, all at Red Barns, Drumcar Road, Dunleer, County Louth.

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.

Reasons and Considerations

Having regard to the provisions of the Louth County Development Plan 2021-2027, including Policy Objective EE 58, which supports the provision of whiskey maturation facilities within the open countryside subject to meeting the relevant requirements, the advice provided by the Health and Safety Authority to the planning authority in respect of the proposed development being a type to which Directive 2012/18 EU (Seveso III) applies, the planning history of the site and the surrounding area, the location, nature, design, size and scale of the proposed facility, and the established character and pattern of development in the vicinity, which includes an existing whiskey maturation warehouse facility on the adjoining lands directly north of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, or of the surrounding landscape, would be acceptable in terms of traffic safety, would be acceptable in terms of the management of risks to both human health and to the environment as a result of a major accident, and would be in accordance with the provisions of the Louth County Development Plan 2021-2027. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1:

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the planning 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 have the potential to have a significant effect on the following European Sites:

- the Dundalk Bay Special Area of Conservation (Site Code: 000455),
- the Dundalk Bay Special Protection Area (Site Code: 004026),
- the Stabannan-Braganstown Special Protection Area (Site Code: 004091),
- the Boyne Estuary Special Protection Area (Site Code: 004080),
- the Lambay Island Special Protection Area (Site Code: 004069),
- the Ireland's Eye Special Protection Area (Site Code: 004117), and
- the North-West Irish Sea Special Protection Area (Site Code: 004236)

in view of the sites' Conservation Objectives, and that a Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for European Sites in view of the Conservation Objectives for the following European Sites:

- the Dundalk Bay Special Area of Conservation (Site Code: 000455),
- the Dundalk Bay Special Protection Area (Site Code: 004026),
- the Stabannan-Braganstown Special Protection Area (Site Code: 004091),
- the Boyne Estuary Special Protection Area (Site Code: 004080),
- the Lambay Island Special Protection Area (Site Code: 004069),
- the Ireland's Eye Special Protection Area (Site Code: 004117), and
- the North-West Irish Sea Special Protection Area (Site Code: 004236).

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 both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and the Conservation Objectives for the European Sites. The Board adopted the conclusion of the Inspector that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the aforementioned European Sites, in view of the sites' Conservation Objectives.

This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

In summary, this conclusion is based on:

- (a) a full and detailed assessment of all aspects of the proposed development, including proposed mitigation measures and environmental monitoring, in relation to the Conservation Objectives of the European Sites referenced above,
- (b) an assessment of in-combination effects with other plans and projects, including historical projects, current proposals and future plans, and
- (c) no reasonable scientific doubt as to the absence of adverse effects on the integrity of these European Sites.

Conditions

1. The proposed 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 received by the planning authority on the 5th day of December, 2023, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The mitigation measures contained in the submitted Natura Impact Statement shall be implemented in full.

Reason: To protect the integrity of the European Sites.

3. The mitigation measures contained in the Site Specific Flood Risk Assessment Report (Stage 2) shall be implemented in full.

Reason: To prevent flooding and in the interest of public health.

4. Details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. (a) The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development, the developer shall submit details for the attenuation and disposal of surface water from the site for the written agreement of the planning authority.

- (b) In the event of an accidental spill or fire, any contaminated liquid reaching the attenuation pond shall not be discharged to the watercourse. The outfall shall remain closed until the contaminated liquid is removed.

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

6. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

7. (a) The landscaping scheme, including the provision of landscaped berms, shown in drawing number DWG.01_ Rev B and landscape sections shown in drawing number DWG 31 Rev_B received by the planning authority on the 5th day of December, 2023 shall be carried out within the first planting season following substantial completion of external construction works.
- (b) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.
- (c) The clearance of any vegetation, including trees, scrub and hedgerows, shall only be carried out between September and February (i.e. outside the main bird breeding season). If this seasonal restriction cannot be accommodated, a suitably qualified ecologist with experience in nest-finding shall be required to check all vegetation, including hedgerows, for nests. This shall be permitted to occur only after a licence from the National Parks and Wildlife Service has been obtained to permit potential disturbance to nesting birds and prior to removal or trimming.

Reason: In the interest of visual amenity and residential amenities and to protect bird species.

8. Comprehensive details of the proposed public lighting system to serve the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed lighting system shall include a recommended strategy for reducing the impact of lighting on bats and shall be fully implemented and operational before the proposed development is made available for operation.

Reason: In the interest of public safety and visual amenity.

9. Prior to commencement of development, a Traffic Management Plan for all construction and operational traffic associated with the proposed development and any associated signage required shall be agreed in writing with the planning authority.

Reason: In the interest of traffic safety.

10. Prior to commencement of development, the developer, or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including a demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of proper planning and sustainable development.

11. A Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The CEMP shall include, but not be limited to, construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of environmental protection, residential amenities, public health and safety and environmental protection.

12. The developer shall engage a suitably qualified and licensed archaeologist to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation, either in situ or by record, of places, caves, sites, features or other objects of archaeological interest.

13. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

14. 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.

Mary Gurrie

Mary Gurrie

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this 27 day of February 2025.