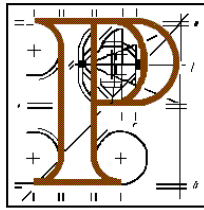


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Kerry County

Planning Authority Reference Number: EX 398

An Bord Pleanála Reference Number: 08.RL.3361

WHEREAS a question has arisen as to whether the use of part of the “Kerry Mineral Water Supply Company Limited” building as a craft brewery at Flesk Road, Killarney, County Kerry is or is not exempted development:

AND WHEREAS the Killarney Brewing Company Limited care of Cunnane Stratton Reynolds of Copley Hall, Cotters Street, Cork, requested a declaration on the said question from Kerry County Council and the said Council issued a declaration on the 8th day of May, 2015 stating that the said matter is development and is not exempted development:

AND WHEREAS the said Killarney Brewing Company Limited referred the declaration for review to An Bord Pleanála on the 27th day of May, 2015:

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to –

- (a) sections 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) articles 5 and 10 of the Planning and Development Regulations, 2001, as amended,
- (c) the planning history of the site with particular reference to planning register reference number T.P. 13/205412, and
- (d) the submissions made by the referrers including the applicant's response dated the 18th day of November, 2015 to the notice issued by An Bord Pleanála under section 132 of the Planning and Development Act, 2000, as amended:

AND WHEREAS An Bord Pleanála has concluded that -

- (a) the referrer has not provided sufficient information to satisfy the Board that the pre-1964 industrial use of the building was not abandoned post 2002,
- (b) since 2002 the building has been used for uses including warehouse and office use neither of which uses come within the scope of class 4, Light Industrial building of Schedule 2 to the Planning and Development Regulations, 2001,
- (c) the resumption of a light industrial use in part of the building, and the use of the building for purposes other than the said Class 4 use, where subdivision of the building has also occurred, is considered to be a change of use, which would have external planning implications and which change is, therefore, material,
- (d) the original established industrial use for brewing related activities was extinguished by either the partial implementation of planning register reference number T.P. 13/205412, for office use, or by the change of use of a substantial portion of the premises to office use without the benefit of planning permission, and

- (e) in the circumstances, the recommencement of brewing use is development by reason of being a material change in use and for which there is no express exemption provided in the legislation:

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 use of part of the “Kerry Mineral Water Supply Company Limited” building as a craft brewery at Flesk Road, Killarney, County Kerry is development and is not exempted development.

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.

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

Dated this day of 2016.