



An  
Bord  
Pleanála

## inspector's Report ABP-303198-18

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<b>Development</b>	Change of use from factory to micro craft distillery and the construction of a visitor centre.
<b>Location</b>	Former Wilson Sock Factory, AF2, IDA Industrial Estate, Garranearagh, Valentia Road, Cahirsiveen County Kerry.
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	18/728
<b>Applicant(s)</b>	Skellig Distillers Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	None
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	26 <sup>th</sup> February 2019
<b>Inspector</b>	Elaine Power

## 1.0 Site Location and Description

- 1.1. The site is located in an IDA industrial Estate approx. 1.5km south of Cahirsiveen village. The site is bound to the north by a cemetery, to the west by the Ring of Kerry (N70) and by existing industrial units to the south and west. The unit was previously in use as a sock factory.
- 1.2. Vehicular access to the site is via an existing 6m wide internal access road that serves the Industrial Estate and there is existing car park located to the front (west) and side (south) of the unit.

## 2.0 Proposed Development

- 2.1. The proposed works include the partial demolition (1,156sqm) of an existing single storey factory warehouse. The change of use of the remaining existing factory warehouse (1,830sqm) to a micro craft distillery with associated plant, machinery, stores, silos, distillers and staff facilities, laboratory and demonstration rooms. The distillery has a maximum production capacity of 500,000 litres of alcohol per annum.
- 2.2. An elevated deck / visitor mezzanine (425sqm) is proposed within the existing building to provide a viewing area from the distillery and to separate visitors from the factory floor.
- 2.3. An existing 2-storey office building (340sqm) will be refurbished to provide offices for the distillery.
- 2.4. The construction of a new visitor centre (2,500sqm) over 3 no. levels will accommodate a reception, café / restaurant, waiting lounge, craft gift shop, outdoor sculpture garden, exhibition rooms, tasting bar with retail zone, event space, VIP lounge and viewing deck with an observatory and green roof at roof level.

- 2.5. A one-way vehicular route within the site is proposed with a new egress onto the Ring of Kerry (N70) for deliveries and visitors.

## 3.0 Planning Authority Decision

### 3.1. Decision

The decision to grant permission was subject to 17 no. conditions. Condition no. 2 is of relevance.

**Condition no. 2** required €52,650 be paid to the Planning Authority for the purposes of infrastructure as required under Section 48 (Planning and Development Act, 2000, as amended) Contribution Scheme for Kerry County Council.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

Further Information was requested on the 12<sup>th</sup> September 2018 requiring a Road Safety Audit and details of the external materials to be submitted.

The Area Planners report (13<sup>th</sup> November 2018) reflects the decision to grant permission and includes a breakdown of the proposed development and fee calculation for the Section 48 Contribution.

#### 3.2.2. Other Technical Reports

**Building Control Officer:** No objection

**Environmental Services:** No objection.

**Conservation Planner:** No observations.

**Area Engineer (Roads):** The initial report (12<sup>th</sup> September 2018) recommended that further information be requested which required a Road Safety Audit and details of the external finishes to be submitted. The final report (13<sup>th</sup> November 2018) considered that all concerns had been addressed in the response to further information and recommended permission be granted.

### 3.3. Prescribed Bodies

**Transport Infrastructure Ireland:** Considered that insufficient information had been submitted to fully assess the impact of the development on the national road network and recommended that Further Information be requested. This was reflected in the further information request.

### 3.4. Third Party Observations

None

## 4.0 Planning History

There is no recent or relevant planning history on the subject site.

## 5.0 Policy and Context

### 5.1. Kerry County Council Development Contributions Scheme 2017

A table of comparison rates for various uses are set out on page 9 of the scheme. The uses of relevance are noted below.

Use	Roads and Transport	Community and Amenity	Total
Commercial Buildings	€9.30	€8.70	€18.00
Industrial Buildings	€6.20	€5.80	€12.00

Section 5 sets out a number of reductions that can be applied to development levies. R15 allows for a 50% reduction to developments in the Craft / Arts based enterprise.

Section 6 notes that 'all other change of use applications shall be subject to development contributions at the standard rate subject to a reduction of 50%. For all applications, any net additional floor space (e.g. extension) shall be charged at the standard rate of the proposed use'.

A development may only avail of one reduction, whichever reduction is the greatest.

## **5.2. Draft West Iveragh Local Area Plan 2019-2025**

The subject site is located outside of the settlement boundary for Cahirsiveen and the subject site is unzoned in the draft plan.

Objectives CH-T01, CH-T-02, CH-T-03 and CH-T-04 relate to promoting Cahirsiveen as a tourist destination and supporting tourism activities in the area.

## **5.3. Kerry County Council Development Plan, 2015-2021**

It is an aim to develop existing attractions and support new significant attractions to increase visitor numbers and visitor spend. The relevant objectives of the plan include T-1, T-2, T-3, T-5 and T-32, T-58.

# **6.0 The Appeal**

## **6.1. Grounds of Appeal**

- 6.1.1. A first party appeal was made under the provisions of Section 48(10)(b) of the Planning and Development Act, 2000 against Condition No. 2 which related to a

development contribution of €52,650 for public infrastructure and facilities benefiting the development.

6.1.2. The grounds of the appeal relate to concerns that the Planning Authority incorrectly calculated the floorspace of the proposed development. It is argued that there is an existing 3,361sqm factory warehouse on the site. The total floor area for the proposed development is 5,130sqm. Therefore, only 1,769sqm is liable for the levy, in this regard the difference between the gross floor area of the existing factory warehouse and the gross floor area of the proposed development.

6.1.3. The planning authority also incorrectly applied the levy for a commercial use while the proposed use is an industrial use. The applicant has argued that the visitor centre, exhibition area and office use are ancillary to the main activity of the distilling use and therefore an industrial levy should be applied to the entire development.

6.1.4. It is also considered that in accordance with R15 a 50% discount should have been applied as the proposed use is a craft-based activity.

6.1.5. The applicant also queries if the levy is required as the existing building is unused and dilapidated for approx. 15 years. National guidance on contributions seeks to encourage development that will have regenerative benefits and notes that contributions may be set aside where redundant buildings and brownfield sites are involved.

## 6.2. **Planning Authority Response**

None

## 7.0 **Assessment**

7.1. This is an appeal made under the provisions of Section 48(10) (b) of the Planning and Development Act, 2000 (as amended), and therefore the Board is restricted to

considered Condition No. 2 only and cannot consider the proposed development *de novo*. I have therefore confined my assessment to the terms of the Kerry County Council Development Contribution Scheme, 2017.

7.2. Condition No. 2 required the applicant pay a contribution of €52,650 to the Planning Authority towards expenditure in respect of public infrastructure and facilities as provided for in the approved Kerry County Council Development Contribution Scheme 2017 in accordance with Section 48 of the Planning and Development Act, 2000 (as amended).

7.3. The table below provides a breakdown of the proposed development.

<b>Use</b>	<b>Gross Floor Area</b>
Retain warehouse and change of use to distillery	1,830 sqm
Partially demolish an industrial warehouse	1,156 sqm
Renovate existing associated offices	375 sqm
Construct a new visitor centre	2,500 sqm
Construct a new internal mezzanine level	425 sqm

7.4. The subject site is zoned for commercial use in the Cahirsiveen / Waterville / Sneem Functional Area Local Area Plan 2013-2019 and is unzoned in the draft West Iveragh Local Area Plan 2019-2025. The site was previously in use as a sock factory.

7.5. The development contribution of €52,650 was calculated by applying a commercial levy of €18 per sqm to the proposed visitor centre and new mezzanine level (2,925sqm). No charge was applied to the change of use from factory warehouse to distillery. The applicant argues that the levy should only apply to 1,769sqm, being the proposed new additional floor area and not 2,925sqm.

- 7.6. The new visitor centre and new mezzanine level have a combined gross floor area of 2,925sqm. The applicant has argued that the visitor centre is ancillary to the distillery use and that, therefore, an industrial levy should be applied. The visitor centre comprises reception, café / restaurant and waiting lounge, gift shop, outdoor garden, exhibition rooms, tasting bar with retail zone, events space, a VIP lounge and a roof top viewing deck with an observatory and green roof. While it is acknowledged that the visitor centre is linked to the distillery having regard to the scale and scope of the development it is my opinion that it comprises a commercial use and the levy was correctly applied by the Planning Authority. It is therefore considered that a commercial levy of €18.00 per sqm should apply to the 2,925sqm visitor centre and new mezzanine level (total €52,650).
- 7.7. With regard to the distillery use it is considered that the change of use from a sock factory to a micro craft distillery is also liable for a development contribution levy in accordance with the development contribution scheme.
- 7.8. In my opinion the distillery use would be an industrial use. It is noted that the Planning Authority considered the development an industrial use when calculating the planning fee. It is therefore considered that an industrial levy of €12.00 per sqm should apply to the 1,830sqm micro craft distillery (total €21,960).
- 7.9. The refurbishment of the existing office use and the demolition of the existing industrial warehouse are exempt from development levies.
- 7.10. The gross levy for the development is therefore €74,610.
- 7.11. The contribution scheme also sets out a number of reductions. The scheme allows for a 50% reduction for craft / arts based enterprises. However, the scheme does not provide a definition of a craft / arts based enterprise use. Having regard to the size of the proposed development with a maximum output of 500,000 litres per annum it is my opinion that the proposed micro craft distillery and associated visitor centre would fall into this category. It is noted that the scheme also allows for a 50% reduction for



change of use applications. As only one discount can be applied it is recommended that a 50% discount be applied to the overall development as it is considered to be a craft / arts based enterprise. Therefore, the gross levy for the proposed development is €37,305.

## 8.0 Recommendation

- 8.1. It is considered that the planning authority incorrectly applied the terms of the Kerry County Council Development Contributions Scheme, 2017 in the calculation of the amount payable under Condition No 2 attached to the grant of permission. It is therefore recommended that the planning authority be directed to amend the amount payable under Condition No 2 by deleting the amount of €52,650 and substituting the amount of €37,305.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the change of use from a sock factory to a micro craft distillery and the construction of a visitors centre it is considered that the terms of the Kerry County Council Development Contributions Scheme, 2017 were incorrectly applied by the planning authority in the calculation of the amount payable based on reckonable gross floor area for industrial and commercial development. It is therefore concluded that the amount payable, in accordance with the terms of the said scheme is €37,305.

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Elaine Power  
Planning Inspector

4<sup>th</sup> March 2019