



An  
Bord  
Pleanála

## Inspector's Report 304956-19

---

<b>Development</b>	Warehouse extension and alterations to front façade, signage and all associated works to existing bottling plant
<b>Location</b>	Shelton Park, Ballyneety, Limerick
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	18/761
<b>Applicant(s)</b>	Ishka Irishspringwater Ltd.
<b>Type of Application</b>	Planning permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Caroline Kirby
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23 <sup>rd</sup> October 2019
<b>Inspector</b>	Mary Kennelly

## **1.0 Site Location and Description**

- 1.1.** Ballyneety is a rural village which is located to the south of the M7, to the east of the M20 and to the southwest of the N24 Tipperary road. It is a Tier 5 village, which is in a largely rural area located alongside the R512 (Kilmallock Road), just outside the built-up area of the city. The village is generally laid out around a crossroads with the R512 with most of the development stretching out along the regional road and the local road crossing it. The site is located at the north-western edge of the village, adjacent to a residential area which is accessed off the R512 and lies to the west of the regional road and to the north of the local road. It comprises an existing manufacturing plant (water bottling) which was established in 1999.
- 1.2.** The site area is given as 0.6156ha. and the gross floor area of existing buildings is 4,636sq.m. It is an elevated site and the gradient increases steeply from East to West. It comprises an industrial premises on an irregularly shaped site, which accommodates a bottling plant for spring water, Munster Soft Drinks. The appeal site is generally rectangular in shape with a long driveway leading from the R512 to the building. It has frontage to both roads but is accessed only from the R512 on its eastern boundary. The southern boundary is largely with the rear boundaries of residential dwellings fronting the local road.
- 1.3.** The appellant's house is located immediately to the south of the main warehouse building. It is sited at a lower ground level to the appeal site and is separated by the internal access road serving the site and a mature line of trees and hedging.

## **2.0 Proposed Development**

- 2.1.** It is proposed to extend the main building by means of a new warehouse building which would be attached to the western elevation of the bottling plant at the northern end. There would be a new truck turning area immediately to the south of the extension with the loading docks located in this area. It is also proposed to alter the front façade. The proposal includes a new compressor house and generator house which would be sited to the west of the proposed extension. The proposed structure would have a floor area of 1,101sq.m and a ridge height of c12.24m. This would be approx. 2.46m taller than the existing building.

- 2.2.** It is stated that the proposed development is intended for storage of product (water) from the stage at which it is bottled to the time it is picked up for distribution. The water is sourced from the on-site natural spring and does not undergo any treatment. Total daily traffic movements at present is given as 96 (48 in/48 out), and this is proposed to increase to 98 (49 in/out) movements daily.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to grant permission subject to 12 conditions.

Condition 2 required the payment of a development contribution of €43,800 in accordance with the GDSCS.

Condition 3 restricted the noise emissions.

Condition 4 prohibited deliveries or the use of mechanically propelled vehicles (on southern and western curtilages of complex) between 1900 and 0800 hours and on Saturdays, Sundays and Public Holidays. It further stipulated that there is to be no increase in the hours of operation unless agreed in writing by the P.A.

Condition 5 required the implementation of the noise mitigation measures ('Priority 1 and Priority 2) together with the submission of a further updated noise assessment report quantifying the reduction in noise levels attributable to these measures for the written agreement of the P.A.

Condition 6 required a revised site layout plan re car-parking within 1 month.

Condition 7 required a revised site layout plan re road markings and signage within 1 month.

Condition 8 required a revised site layout plan re disposal of surface water within 1 month.

Condition 9 required the submission of a public lighting design within 1 month.

Condition 10 required details of the scouring process and discharge of water associated with this process within 1 month.

Condition 11 required the submission of a CEMP prior to the commencement of development.

Condition 12 required the submission of a site-specific waste management plan prior to the commencement of development.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The planning report (19/09/18) noted the submissions from the appellant and from the Environmental Services Dept. Issues of concern included noise emissions, traffic and parking, hours of operation, overdevelopment of the site, surface water disposal and impact on the residential amenities of the neighbours to the south.

A Further Information request based on the above was issued on 19/09/18. The Area Planner was satisfied with the response and recommended permission be granted subject to conditions.

#### **3.2.2. Other Technical Reports**

**Environmental Services** (17/09/18) – It was pointed out that the Dept. had received many complaints over the years regarding noise from the plant and the proposal to extend the premises raised concerns in this respect. FI was requested in the form of a Noise Impact Assessment.

**Environmental Services** (28/08/18) – sought information on waste management proposals.

**Fire authority** (16/08/18) – no objection.

### **3.3. Prescribed Bodies**

3.3.1 None.

### **3.4. Third party observations**

3.4.1. The observation from the appellant is generally similar to the grounds of appeal. Issues raised principally related to hours of operation, noise emissions from the plant and unauthorised development.

### **3.5. Developer's Response to FI request**

**3.5.1.** The further information submitted on 12<sup>th</sup> June 2019 included a Planning Statement, a Noise Impact Assessment, a Traffic and Transport Assessment and an Environmental Report on surface water as well as additional and revised dimensioned drawings. In addition, it is stated that:

- A Revised drawing 18FPC007-7 Rev A sets out all buildings, roads and boundaries.
- The TIA took the worst-case scenario which included all part-time staff as full-time employees and looked at the operation on a 24/7 hour basis.
- Use – confirmed that extension for warehousing only and that the proposed development would reduce overall impact on residential amenities and on noise levels as it will reduce traffic on local roads and that mitigation will reduce noise nuisance.

### **3.5.2. P.A. Assessment of FI Response**

**Environmental Services (18/06/19)** – Conditions were recommended in respect of tonal/impulsive noise, noise levels at certain hours of the day/night/week, restrictions on deliveries and a prohibition on the operating hours.

**Roads Observations (03/07/19)** – Car parking to be revised to a minimum of 20 spaces one of which to be disabled space. Revisions regarding signs, road markings etc. also requested as a condition of any permission. Surface water proposals also required to be revised and submitted as a condition of any permission. Further conditions recommended re public lighting, scouring process details and CEMP.

## **4.0 Planning History**

**4.1. PL91.245832 (P.A. 15/284)** – Permission granted in March 2016 for retention of (i) a change of use from warehousing to a bottling production facility; (ii) provision of a water silo/tank; (iii) provision of a compressor room, tool shed, generator room to the rear of the site. Permission was also granted for (i) a new pump house to replace the existing pumphouse; (ii) a new porch to the front of the existing office building; and (iii) erection of a 24m high communication mast. Conditions 4, 5 and 6 related to control of noise emissions and/or hours of operation.

Condition 4 set the noise limits as measured at the nearest dwelling at 55dB(A)  $LA_{eqT}$  (1 hour) daytime (0800-1900) Mon-Fri and 36dB(A)  $LA_{eqT}$  (15 mins) at any other time. It specified that there should be no clearly audible tonal or impulsive component in the noise emissions from the development at any noise sensitive location.

Condition 5 required the submission and agreement of a noise abatement plan ensuring compliance with the above with the above condition and the agreed scheme to be fully implemented within 6 months.

Condition 6 restricted the hours of operation as follows:

Line 1 – 0800-2400 Mon-Fri/0800-1700 Saturdays only

Line 2 – 0800-1900 Mon-Fri and shall not operate on Saturday/Sunday/Public hols.

- 4.2. P17/372** – Permission granted for an extension to the existing bottling plant within the forecourt of the existing facility (north easterly), retention of two wells, a separate pump house and associated ancillaries and retention of the compressor room/generator house building (south easterly) and all associated works. This permission was for Line 3 and was granted subject to 6 conditions. Condition 3 reiterated the hours of operation as in Cond 6 imposed by the Board but included Sundays and Public holidays for Line 1 0800-1700 hours. It also prohibited any further change to hours without a further grant of planning permission and required a further noise report certifying that Priority 1 and 2 measures had been fully completed. Condition 4 required all acoustic enclosures on compressors, pumps, generators to be upgraded and that all plant be configured to ensure maximum sound levels at NSLs of 55dBA  $LA_{eq15}$  from 0800-1900 M-F and 36dBA  $LA_{eq15}$  at all other times, (readings to be taken at 3.5m from northern façade of residential properties to south), and a report confirming achievement of these measures within 2 months of decision.
- 4.3. Concurrent application – P18/872** – Permission is sought to extend operating hours for Line 1 to 24 hours seven days a week (including Sat/Sun/PH) and to extend the operating hours for Line 2 to 24 hours seven days a week (including Sat/Sun/PH).
- 4.4.** Several older permissions are referenced in the P.A. reports dating back to 1999 when permission was first granted for the construction of a spring water bottling plant

with new entrance gates, road, treatment plant and ancillary site works (P99/1838). The other permissions related to various extensions at the plant.

## **5.0 Policy Context**

### **5.1. Limerick County Development Plan 2010-2016 (as extended)**

**5.1.1.** Ballyneety is a Tier 5 Settlement in the Settlement Strategy. These are generally small settlements of 150-400 people with some essential infrastructure and a range of community services.

**5.1.2.** Chapter 5 contains the policies and objectives relating to Economic Development including the following -

**ED P10** seeks to ensure that industry and enterprise are in appropriate location and form for their context, taking into account their likely impact on residential and other amenities, service and environmental carrying capacity.

**ED O2** seeks the protection of suitable lands from inappropriate development and ensure that the lands are appropriate to the respective area in terms of size, type of employment generating development, transport generating effects and that they would have no significant detrimental effect on the surrounding areas or the amenities of adjacent and nearby occupiers. In respect of the layout of developments and their plot ratios, the Council will seek to ensure that there is not over-development of sites, to allow for incidental amenities and parking for future expansion in situ. The Council will take into due consideration the context of the site, including the prevailing grain of development and mixture of uses in assessing development proposals, and the character and history of activity to which the proposal relates.

**5.1.3. Chapter 10** contains **Development Management Standards**.

**10.6.1 Industrial/Commercial Development** – The standards for development include 40% site coverage.

## 5.2. Natural Heritage Designations

Lower River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004077) lie approx. 5-7km to the north-east and north-west and Tory Hill SAC (000439) lies approx. 11km to the south-west.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The third-party appeal was submitted by the neighbouring resident to the south. The main points raised may be summarised as follows:

- **Development Plan Policy** – the site is not zoned for industry or enterprise and, as such, the business should operate at a scale and in a manner that takes full account of its location, which is a small Tier 5 village that is predominantly residential in character, and the site adjoins residential property. The developer has no regard for the dominant land use in the vicinity, which is contrary to ED P10 of the Development Plan. It should also comply with 10.6.1 which states that if it is a ‘bad neighbour’ it should not be permitted.
- **Site layout** - The developer has paid little regard throughout the years to the impact on the residential properties to the south with the access road leading to the delivery yards running alongside the southern (residential) boundary. Given the size of the site (3.375ha), the development could have been laid out so that a buffer zone could have been provided to protect the amenities of these residents. Instead it has been developed across the site towards the southern boundary, with industrial processes and noisy ancillary activities placed close to houses, and the siting of vehicular access/turning areas in the vicinity of these properties. The expansion of the warehouse should be at a location away from the residential properties. The proposal to move to a 24-hour operation is also of concern as it would exacerbate the existing problems relating to the layout and operations of the site at present.



- **Planning history** - The Observer sets out the details of the planning history of the site. It is submitted that an examination of the planning history shows incremental growth at the facility with no apparent overall planning design approach. A more worrying trend in recent years appears to be to construct the developments first and then apply for planning permission to retain. It seems that the current application arose from an enforcement complaint regarding 24-hour operation of the plant.
- **Impact of the existing development on adjoining property** - The existing plant has generated noise complaints from the appellant over the years. There was a notable increase in noise following the grant of permission by the Board under 245832 (15/384). This commenced operations in 2014 and related to Line 2 processes close to the southern boundary. It differed from previous processes because it involved manipulation of plastic to form 5 litre bottles, which are then filled with water, whereas up until then, the bottles were pre-made. Notwithstanding the concerns raised by the Board Inspector regarding noise impact, the Board considered that “noise control could be addressed satisfactorily by means of condition”. The appellant confirms that the amenity and enjoyment of her house has been disturbed by noise, particularly in the last 4 years since Line 2 started up, within her house when the production line starts up and stops, due to incessant noise from the process and to the poor noise insulation. This is despite the conditions attached by the Board (245832) which had set noise levels of 55dB(A) daytime and 36dB(A) night time and had prohibited clearly audible tonal and impulsive components in the noise emissions at any sensitive location.
- **Compressor/generator and traffic** – these elements of the use are a further source of noise. The trucks using the speed ramps exacerbate the noise. It is not clear that the noise from the compressor/generator only relates to Line 2 as these have been causing noise even when this line is not in operation.
- **24-hour operation of the plant** – during the summer of 2018, the plant was being run on a 24-hour basis and caused incessant noise nuisance which was intolerable. This arose from the processes and from associated traffic movements within the site. It is asserted that the conditions imposed by the Board have not been complied with. The developer has failed to show any

consideration for the neighbours to date and the appellant is therefore sceptical of the current proposals to increase the scale and intensity of use. The Noise Report seems vague and relies on 'further testing and investigation work'. It does not inspire confidence and the developer should have implemented the noise abatement measures before any application was lodged for further development.

- **P.A. Assessment of the development** – the proposal represents 'job splitting' with no overall comprehensive approach to the development of the site. The council could have used the opportunity to address some of the historic issues on site. The noise reports do not seem to have been assessed properly by the P.A. and no independent noise consultant was used by the P.A. The application should have been refused until it was ensured that the existing operation is running as permitted first and that the noise abatement measures are fully in place. The conditions attached are also inadequate as there is no overall restriction on the hours of operation. In addition, traffic movements should be restricted to certain times of the day, and it is unclear where the 20 parking spaces will go.

## 6.2. Planning Authority Response

The P.A. has not responded to the grounds of appeal.

## 6.3. First party response to grounds of appeal

The first party responded to the grounds of appeal on 20/08/19. The response was mainly in the form of a rebuttal of the grounds of appeal. A Noise Impact Assessment was provided in support of the proposal by INVC (Industrial Noise & Vibration Centre Ltd.) which corrects a description error in the original report relating to the diesel generator. The following points are of note:

- **Planning history** - The existing business as a bottling plant has successfully operated from the site since 1999 and as a storage and distribution centre since 2005. Further extensions were granted in 2012 (P11/763) for use as a warehouse/storage facility, in 2015 (P15/284, PL91.245832) for the retention

of the operation of Line 2 and in 2017 (P17/372) for the retention of the operation of Line 3.

- **Locational need** - It has a locational need on this site as the water is sourced there from their own Natural Spring. It provides full time employment to 28 staff and will shortly employ a further 6 people.
- **Production lines** - The business currently has three production lines as follows

**Line 1** – located in northernmost building. Water is filled into plastic bottles ranging from 250ml to 2 litres. The bottles arrive pre-made and the production process involves filling, labelling and packaging for distribution.

**Line 2** – located in the southernmost building. 5 litre bottles are created from a mould on site and the bottles are then filled with water, labelled and packaged for distribution.

**Line 3** – located in the middle and comprises a Kosme Block – an advanced unit which blows, bottles, fills, caps and labels all in the one process. The bottles are 250ml and 500ml in size.

- **Generators/compressors** - Two generators and one compressor are located adjacent to the western boundary, which generally service all three lines. There is an additional Compressor House 1 and Generator House 1 located on the southern boundary, which is very occasionally used to support activity on Line 1.
- **Hours of operation** - There are two separate time schedules being operated at the plant. Lines 1 and 3 operate two shifts from 0800 to 2400 Mon-Fri and from 0800 to 1700 on Saturdays. Line 2 operates 0800 to 1900 Mon to Fri. The development as currently proposed seeks to extend the floor area of the warehouse but does not seek to extend the hours of operation. There is a separate application (P18/872) which seeks to extend the hours to 24 hours. It is acknowledged that some of the reports submitted in support of the application have taken a worst-case scenario assuming a 24-hour operation, but this should not be construed as an application to extend the hours of the plant to 24 hours.

- **Purpose of proposal** - The purpose of the proposed warehouse extension is to facilitate the storage of product on site until it is collected by customers for direct distribution. Currently, 65% of product is stored externally in Annacotty and brought back onto site for collection and re-distribution, which results in double handling and unnecessary journeys. It is confirmed that there will be no increase in traffic volumes or change to the hours of operation.
- **Noise impact** - The revised noise impact assessment report confirms that noise levels arising from the existing operation is in compliance with condition 4(a) of PL91.245832. It is acknowledged that the issues of impulsive and tonal noise have not been addressed as yet, but it is confirmed that the applicant intends to address these issues. Contrary to the opinion of the appellant, it is submitted that the noise report (with application) does not prove that there is excessive noise on site, but rather that the operation is functioning within permitted noise levels and hours of operation. It is only if the operation were to increase to 24 hours, 7 days a week that significant mitigation measures (Priority 1) would be required, and in the event of failure of these measures, Priority 2 measures would be required. Condition 5 of P.A. decision requires these to be in place within 6 months.
- **Scale/design of development** - the application was split in order to separate out the potential noise issues (and required mitigation measures) associated with a 24-hour operation and the current proposal is a stand-alone project. The layout is considered to be appropriate and respectful of residential amenity in terms of sunlight and visual amenity. The proposed changes to the operation of the warehouse will result in less trips on a daily basis.

## 7.0 Assessment

It is considered that the main issues arising from the appeal are as follows:-

- Principle of development
- Site layout and design of extension and alterations to warehouse
- Noise impact assessment of extension to warehouse
- Traffic Impact

## **7.1. Principle of development**

- 7.1.1.** The Ishka Spring Water Co. business commenced in 1978, according to the submissions from the developer, and has grown incrementally since then. The bottling plant has been established on the site since 1999, and as a storage and distribution plant since 2005. Several planning permissions have been granted for extensions and alterations to the use on the site since, including the introduction of Line 2 under the permission granted by the Board in March 2016, and Line 3 under 17/372.
- 7.1.2.** Ballyneety is a Tier 5 settlement, which is a small village with a population of between 150 and 400 people. Tier 5 villages are described in the CDP settlement strategy (3.3) as generally compact villages with a traditional core and facilities such as a church, school, pub/shop, community hall etc. and that they also provide small scale employment uses. Ballyneety generally fits this description and also includes a golf course, a petrol station and shop, a pizza restaurant, a fuel and hardware store/garden centre, a Garda Station, a church and some other retail outlets. There are housing developments within the village as well as some one-off houses. The bottling plant is located within the development boundary of the village and is contiguous with existing development but is at the northern edge of the settlement.
- 7.1.3.** It is considered that the character and scale of the village is such that the water production plant is appropriately located at its northern edge. It is acknowledged that the use has generated complaints in respect of noise and nuisance in the past and that any permission to extend the use/development would require assurances that any such nuisance is addressed in terms of both the existing and proposed uses. However, it is also acknowledged that it is a long-standing business which provides employment in the area, is linked to this site by reason of the resource underneath, and that the business should be allowed to grow in order to stay competitive. The site is quite substantial with an area of 3.375ha and has plenty of space within which to expand.
- 7.1.4.** Having regard to the nature of the village, the location of the site on the outskirts of the village, the planning history and long established nature of the business as a production facility for bottled water, to the locational need proximate to the spring water source, and to the nature and scale of the development, it is considered that

the proposed development is acceptable in principle. However, any such development must be capable of being carried out without giving rise to any undue increase in noise and disturbance to adjoining residential properties.

## **7.2. Site layout and design of extension**

- 7.2.1.** The main elements of concern are the siting and layout of the proposed extension as well as the existing layout of the bottling plant, in terms of the impact of the use on the adjoining residential properties to the south. The site is an elongated rectangular-shaped site which is located to the north of a local road with residential development within the village core. The topography of the site is such that it slopes steeply up from the regional road. The eastern (front) part of the site consists of a landscaped hillslope with an attractive stone wall entrance and a driveway leading to the employee/visitor car park entrance at the northern end of the site. The main reception and frontage of the building sits at the top of the slope, c.156m back from the entrance.
- 7.2.2.** The building is essentially U-shaped with the reception at the south-eastern end. The production lines are contained within the buildings at the eastern end with Line 1 being at the northern-most end and Line 2 at the southern-most end. There is an internal yard space to the south of Line 3. The warehouse and distribution activities are located to the west of the main building envelope, which includes truck turning and parking areas. The main internal access road splits in two and the southern spur leads alongside the southern boundary to the truck parking/loading area. The ancillary uses/buildings containing compressors and generators are located firstly adjoining the southern boundary and secondly, close to the western boundary. The gradient falls away to the west from the truck park and these lands are currently vacant (a field) but in the ownership of the applicant.
- 7.2.3.** The appellants consider that the existing layout is inappropriate and that it does not respect the sensitive nature of the residential uses to the south, as the noisy elements are either located close to or face the southern boundary. On this basis, they object to additional noise generating activities being placed in similar locations. They feel that the proposed development should necessitate a review of the layout with noisier activities being moved further away from the residential properties and incorporating a buffer zone.

- 7.2.4.** It is considered that the configuration of the site, together with the footprint of the existing permitted development, restricts the options for alternative site layouts. The three production lines are contained within the building and the warehouse element is attached to the western end. The loading dock is currently at the southern end of the existing warehouse. The proposed development would see an almost doubling of the warehouse element, immediately to the west of the existing storage area (on the existing truck park). The existing loading dock would remain in place and an additional loading dock would be provided adjacent, to the south of the warehouse extension. This area would become the truck turning area. The applicant does not appear to have explored the possibility of relocating the loading docks to the northern part of the site and siting the extended warehouse at the southern end. In such a scenario, although the trucks would still have to drive along the access roadway to reach the loading area, at least the loading activities and truck turning movements could potentially be located further away from the residential properties and would be largely shielded by the warehouse extension.
- 7.2.5.** Notwithstanding the siting of the loading docks and truck turning area close to the southern boundary, there are a number of mitigating factors that should be noted. Firstly, the existing dwellings would not be located directly to the south of the loading/turning areas, as they would be further to the west. Secondly, the boundary is defined by a robust and dense hedgerow which screens the factory site from the residential properties to the south. Thirdly, the stated intention of the extended warehouse is to facilitate the retention of product on site and only necessitate collection, once distribution is required. To date, regular collection by customers has occurred, which it is stated will cease and also that 65% of product has been transported off-site for storage at a facility at Annacotty, which involves double-handling and additional trips to and from the site. Thus, the noise and disturbance associated with these additional trips and handling of product will be significantly reduced as a result of the additional storage space on site.
- 7.2.6.** Fourthly, the submissions from the first party have made it clear that it is not intended to carry out any deliveries, loading or unloading of product during the night (i.e. after 19.00 hours) or at weekends. It is considered that should the Board be minded to grant permission, a condition to this effect could be attached to any such permission. Having regard to these mitigating factors, it is considered that the

proposed extension to the warehouse and the site layout as proposed are acceptable provided that there is no night-time or weekend delivery or handling of product.

### **7.3. Noise Impact Assessment**

- 7.3.1.** There are three main types of noise sources, namely, from the bottling plant processes, from the driving, parking, idling, loading of trucks to the rear of the building, and from the use of the diesel generators and compressors in connection with the water bottling production process. These matters have been subject to scrutiny during the assessment of previous planning permissions, particularly in respect of the installation of Line 2 (granted by the Board 245832) and Line 3 (granted by the P.A. 17/372), respectively. These applications had been accompanied by Noise Impact Assessment Reports and had included proposed mitigation measures.
- 7.3.2.** The Board had stipulated (part (a) of Condition 4) noise emission limits (generally 55dB(A) daytime and 36dB(A) at all other times), and restrictions on the hours of operation in respect of the production lines 1 and 2, which were generally repeated in the subsequent permission 17/372. In addition, the Board had also prohibited, (in Part (b) of the same condition), any clearly audible tonal or impulsive component in the noise emissions at any sensitive location. In the subsequent permission, (17/372), the P.A. went one step further by requiring the upgrading of all acoustic enclosures on compressors, pumps, generators, and restricted noise level emissions generally as for the production lines, (at a point 3.5m north of the facades of adjoining dwelling houses).
- 7.3.3.** The developer submits that, contrary to the appellant's claims that the noise level restrictions have not been adhered to, that the limits imposed by part (a) of condition 4 (245832), have been (and are being) complied with, but admits that part (b) has not been fully addressed as yet. The Revised Noise Impact Assessment submitted with the response to the grounds of appeal (20/08/19), states that the measured noise level at the appellant's property boundary is 49dB(A), and the predicted noise level, in the absence of any mitigation, is 42dB(A). With mitigation based on the implementation of Priority 1 measures, the predicted level is close to or below 36dB(A). If additional mitigation is required, Priority 2 measures can be introduced.



**7.3.4.** The significant noise sources identified were idling lorries, loading trailers, diesel generator 2, compressor 2 and auxiliaries and break-out noise from main factory (Line 2). It is noted that Generator1 and Compressor 1 were not operating at the time of the noise survey and it was stated that they are only used occasionally. It is proposed to carry out the following mitigation measures

Main building – Priority 1

Lagging of pipework, noise reduction measures to bottle blower, improve noise attenuation of external wall.

Diesel Generator 2 – Priority 1

Close the open side, Silenced cooling air system (if enclosure prevents circulation of cooling air).

Compressor 2 – Priority 1

Close and seal gaps/openings, Increase the attenuation of the louvres.

Diesel Generator – Priority 2

Introduce sound absorbent in the enclosure

Compressor 2 – Priority 2

Introduce sound absorbent in the enclosure

Noise control measures to the compressor

**7.3.5.** The Noise Assessment states that with the Priority 1 mitigation measures, the noise levels from the water production facility, the generators and the compressors, can be reduced to 36dB(A) and the tonal and impulsive noise will be reduced, but could be reduced further with the implementation of Priority 2 mitigation measures, if deemed necessary. It is further stated that in respect of the noise levels from the idling trucks/loading lorries, the extension of the warehouse would not have an impact on night-time noise levels provided that no deliveries are performed in that period, and that the daytime levels are already being met (49dB(A) measured - which includes wildlife noise sources).

**7.3.6.** It is further noted that in the concurrent application before the Board for the increase in the hours of operation of Lines 1 and 2 to 24 hours, 7 days a week, the Developer has made a formal commitment to the Board in writing that Priority Measures 1 and 2

will be implemented. The commitments given under 17/372 were to implement Priority 1 measures in order to reduce the noise contribution at the adjoining properties from the site down to 36dB<sub>L<sub>Aeq,15min</sub></sub>, whilst also minimising tonal or impulsive content, and to implement Priority 2 measures if further reductions were needed. The permission granted by the P.A. further required the upgrade of the enclosures to the compressors/generators/pumps to achieve the same standards as for the bottling plant, and a report was required confirming the achievement of this within 2 months.

**7.3.7.** It is considered, therefore, that the baseline for the current application should be adherence to the previously imposed restrictions, as it would be inappropriate to permit further development on the site where unauthorised development and breaches of previous conditions were ongoing. Thus, the implementation of Priority 1 measures, at the very least, should also be a pre-requisite to the commencement of works on the extension of the warehouse, because it is a requirement of the recent permissions, (245832 and 17/372), that these measures would be implemented. The P.A.'s decision in respect of the current proposal (18/761) had required Priority 1 and 2 measures to be implemented within 6 months (Condition 5). However, compliance by the developer with similarly worded conditions, to date, has not been great, and it is suggested that these measures should instead be required to be implemented prior to commencement of works on the site. In addition, it is considered that should the Board be minded to grant permission for the extension to the warehouse, a condition should be attached to any such permission to prohibit deliveries/collections or use of the loading docks/truck turning area between 1900 and 0800 hours, (similar to condition 4 of the P.A. decision - 18/761).

#### **7.4. Traffic impact**

**7.4.1.** The Traffic and Transport Assessment Report submitted to the P.A. on 12/06/19 indicates that the number of trips by delivery trucks would be reduced significantly as a result of the current proposal to extend the warehouse, reducing from 20 per day to 12 per day. This would be due to the ability to warehouse stock on-site instead of the use of external warehousing. The number of employee trips would increase, based on an assumed 24-hour operation of all three production lines and assuming all staff were full-time employees, as the number of staff would increase by 5 persons (worst-

case scenarios). However, the overall number of trips (cars and trucks) to and from the site would only increase marginally, from 96 to 98 trips daily.

- 7.4.2.** It is considered that the proposed development would reduce or have negligible traffic and transport impact on the surrounding road network. The traffic report also demonstrates that the likely impact on residential amenity in terms of nuisance from trucks using the internal access road and docking/loading/turning areas would also be reduced, provided that these facilities would not be used at night-time and weekends. Should the Board be minded to grant permission, therefore, it is considered that an appropriately worded condition should be attached to reflect the requirements of condition 4 of the P.A.'s decision (18/761).

## **7.5. Environmental Impact Assessment**

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **7.6. Appropriate Assessment**

Lower River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004077) lie approx. 5-7km to the northwest and northeast, and Tory Hill SAC (000439) lies approx. 11km to the southwest. There are no known hydrological links to the protected sites. Given the scale and nature of the development, the distances involved, that the site is located in an established area, it is considered that no appropriate assessment issues are likely to arise.

## 8.0 Recommendation

- 8.1 It is recommended that permission be granted for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

Having regard to the nature of the village and location of the site on its outskirts, the planning history of the site and long-established use as a water production facility, to the locational need of the development to be proximate to the spring water resource, and to the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would be in accordance with the policies and objectives for the area as set out in the Limerick County Development Plan 2010-2016 (as extended) and would not seriously injure the amenities of the area or of property in the vicinity 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.

### Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars submitted to the planning authority on the 12<sup>th</sup> day of June 2019, and to the Board on the 20<sup>th</sup> day of August 2019, 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 extended warehouse shall be used solely as a storage and distribution area in connection with the primary use of the site as a water production facility and shall not be used for water bottling purposes, as described in the documents submitted to the planning authority and the Board. A change of use or intensification of this use shall not take place without the benefit of a further planning permission, notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended.

**Reason:** In the interests of orderly development and to safeguard the amenities of the area.

3. No deliveries to or collections from the complex shall take place, and the external loading and truck turning area shall not be used for any commercial activity outside the hours of 0800 to 1900 Monday to Friday inclusive and 0800 to 1400 on Saturdays and shall not be used at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** To safeguard the residential amenities of property in the vicinity.

4. The noise level shall not exceed 55dB(A) rated sound level, (that is corrected sound level for a tonal or impulsive component) as measured at the nearest occupied dwelling between 08.00 and 20.00 hours Monday to Friday inclusive and shall not exceed 36dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority within two months of the date of this order.

**Reason:** To protect the amenities of property in the vicinity of the site.

5. Prior to commencement of development, all measures stipulated as being

“Priority 1” and “Priority 2” in the Noise Mitigation Plan submitted to the Board on 20<sup>th</sup> August 2019 shall be implemented by the developer and an updated Noise Assessment Report quantifying the reduction in noise levels attributable to these measures shall be submitted to and agreed in writing with the planning authority.

**Reason:** To protect the amenities of property in the vicinity of the site

6. No fans, louvres, ducts or other external plant other than those shown on the drawings hereby permitted shall be installed unless authorised by a prior grant of planning permission.

**Reason:** In the interests of residential amenity.

7. All goods, including raw materials, manufactured goods, packaging, crates etc. shall be stored or displayed only within the enclosed factory and warehouse buildings.

**Reason:** In the interests of visual amenity.

8. No goods, raw materials or waste products shall be placed or stored outside the building, other than in receptacles approved by the planning authority.

**Reason:** In the interests of public health and the visual amenities of the area.

9. A plan containing details for the management and storage of waste (and in particular recyclable materials and end-of-life metal equipment) within the development, including facilities for the storage, separation and collection of waste, and in particular recyclable materials and for the ongoing operation of this facility shall be submitted to and agreed in writing with the planning authority within two months of the date of this order.

**Reason:** In the interest of the amenities of the area and to ensure the provision of adequate refuse storage.

10. Any external lighting shall be cowled and directed away from the public roadway and adjacent residential properties. Specific details of all lighting locations and type, if any, shall be submitted to and agreed in writing with the planning authority within two months of the date of this order.

**Reason:** in the interest of the amenities of the area.

11. Water supply and drainage arrangements for the site, including the disposal of surface water shall comply with the requirements of the planning authority for such works and services. No surface water shall be discharged onto the public road or adjoining properties.

**Reason:** In the interests of environmental protection and public health.

12. 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 Kennelly  
Senior Planning Inspector

6<sup>th</sup> December 2019