

**MINUTES OF THE PROCEEDINGS OF THE PRE DETERMINATION HEARING OF
THE PLANNING COMMITTEE HELD IN THE COUNCIL CHAMBER, CIVIC
HEADQUARTERS ON WEDNESDAY 22 AUGUST AT 11.00am**

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| In the Chair: | Alderman S McKillop |
| Committee Members Present: | Alderman Finlay, Cole and King, McKeown Councillors Baird, Hunter, Loftus, Nicholl, McLaughlin, MA McKillop, McGurk, P McShane |
| Officers Present: | D Dickson, Head of Planning S Mathers, Principal Planning Officer/Development Management Manager M Wilson, Senior Planning Officer R McGrath, Senior Planning Officer E Hunter, Council Solicitor S Duggan, Civic Support & Committee & Member Services Officer |
| In Attendance: | A Gillen, DFI Roads C Egan, Old Bushmills Distillery P Glackin, Old Bushmills Distillery H Harrison, JUNO Planning A Heasley, JUNO Planning D Thompson, MBA Planning Press (1 no.) Public (11 no.) |

CONFIRMATION OF PARTICIPANTS IN ATTENDANCE

The Chair opened the hearing by welcoming those parties present and sought confirmation of:

- a. The identity of those attending the hearing;
- b. The identity of those participating in the hearing and
- c. That all participants understood the procedure.

The Chair reminded those present that the purpose of the Pre-Determination Hearing was to allow the Planning Committee Members the opportunity of

hearing the details of the material planning considerations on each application and explore these prior to making a determination on them at the Planning Committee meeting.

The Chair reminded the Planning Committee Members not to give their view on the applications during the hearing as they would be brought before the Planning Committee meeting for determination.

1. APOLOGIES

Apologies were recorded for Alderman Robinson, Councillor Fielding.

2. DECLARATIONS OF INTEREST

Declarations of Interest were recorded for Councillor Baird in LA01/2017/0280/F and LA01/2017/0760/HSC.

* Councillor Baird withdrew from the table.

3. APPLICATION LA01/2017/0280/F AND LA01/2017/0760/HSC

App Type: Full Planning

Address: Lands to North and East of 30 Haw Road, Bushmills

Proposal: Proposed Development of Maturation Facility comprising 29 maturation warehouses; fire water retention lagoon, sprinkler pump house and tanks; landscaping; and a new access road from Haw Road.

and

App Type: Hazardous Substance Consent

Address: Lands to North and East of 30 Haw Road, Bushmills

Proposal: Hazardous Substances Consent Application

R McGrath, Senior Planning Officer advised an erratum and addendum had been circulated and site visit report would be presented at the afternoon Planning Committee meeting.

The Planning Officer advised there had been 64 letters of objection, from 28 addresses, 2 letters of support from an MLA. Concerns had been expressed around environmental impact, insufficient case of need, impact on the World Heritage Site, impact on AONB, contrary to policy, health and safety, transportation impacts. Support focussed on the contribution to local economy, development necessary for continual operation of the Distillery.

The Planning Officer advised that a Pre-Application Notice had been received and that this was a major application seeking planning permission for the development of 29 maturation warehouses in 4 phases over 22 years; and described the proposed development. The Officer referred to Power Point images and set out the phases of development over the years, the number of sheds and earthworks and landscaping planned. He described the site and context of the site, referred to previous development at Old Bushmills Distillery and explained the case of need for the proposed development as set out in the Planning Committee Report.

* **M Wilson left the meeting at 11.10AM and re-joined the meeting at 11.15AM.**

R McGrath further outlined the main considerations in the assessment of the applications providing detail on the need for the sheds, the policy in relation to the principle of development, explained the site selection process, visual impact, access and traffic, landscaping, phasing, close and long range views of the site, environmental considerations including bats, badgers, otters, ground contamination, flooding and drainage, hazardous substances and the need for HSC and consideration of COMAH as set out at section 8 of the Report and that a full application had been submitted for a second distillery at Old Bushmills Distillery.

The Planning Officer referred to the Environmental Statement, July addendum received 8 August 2017, and consideration of the Distinctive Landscape Setting, World Heritage Site, AONB, discounted sites and the selection of the application site.

He advised that the current site's topography provided the ability of the landscape to absorb the development and advised the application included landscaping proposals and full montage of images were available on the Planning Portal showing each phase of development. The Officer outlined critical viewpoints, and consideration of impact on residential amenity. He explained that consultation had taken place with consultees and in particular Environmental Health and NIEA who had no concerns, subject to conditions. Transport assessment and traffic speed surveys had been submitted and DFI Roads were consulted and were satisfied that the proposed access arrangements are in accordance with standards. R McGrath, further advised Committee a DFI Roads representative was in attendance to answer points of clarification.

The Planning Officer, stated that on the subject of badgers, bats and otter surveys, NIEA had been re-consulted at each stage and NIEA and Shared Environmental Services were satisfied. Further, flood and drainage consideration was part of the Environmental Statement and Rivers Agency were satisfied. R McGrath stated there were objections to the Hazardous Substance Consent application and the proposed development requires a COMAH site designation. However, HSENI and NIEA had been consulted and raised no objections.

R McGrath referred to the proposed conditions, use of the development, erratum and addendum to conditions.

He advised Members that it was Planning Officers opinion to APPROVE (LA01/2017/0280/F) and GRANT (LA01/2017/0760/HSC), subject to stated conditions, the above Applications would be scheduled for determination at the afternoon Planning Committee meeting at 2PM that day.

R McGrath answered questions from Members in relation to the impact of a COMAH zone in a rural area compared to one in an urban setting and the consideration of alternative sites. He advised the impact of a COMAH designation had less of an impact on future development in a rural area when compared to the impact on future development within a designated settlement due to the nature and type of development suitable under planning policies compared to that in an urban context. R McGrath stated that industrial sites in Coleraine had been looked at, however there were complications with it being a COMAH site and made reference to site specific micro-climate requirements.

Members queried whether the site and scale would change the character of the area, and whether the benefits had outweighed planning policy

M Wilson, Senior Planning Officer, advised a judgement call was made regarding the economic impact and sustainability of the site, guided by planning policy, and that in this instance the proposed development was considered to meet policy and was acceptable, that balances had to be taken given the need, consideration of the site selected, landscaping, consideration of objections and on balance, was acceptable. He advised Members that they could take a different view from officers in terms of reaching a balanced decision. He referred to paragraphs 8.33-8.41 of the Planning Committee Report and advised that economic considerations was only one of a number of criteria. M Wilson read out Policy PED 5 advising it is one of the key policies to assess this application along with PPS21.

The Chair invited D Thompson to present to Committee in objection to the applications, granting a maximum of 20 minutes speaking rights.

D Thompson identified herself as representing SOCC Group, (Save Our Causeway Coast) and presented via Powerpoint. D Thompson set out 3 points; that the group was not anti-Bushmills and the group had formed to oppose inappropriate development; that SOCC was a concerned local community affected by the proposed development, they had identified flaws and inaccuracies that had required amendments to be submitted to the Environmental Statement.

D Thompson stated storage availability on the existing Old Bushmills Distillery site had been underestimated and the distillation overestimated, the Application had been based on need, however a higher standard of proof of need should be required.

Referring to the economic matters, D Thompson stated a capital investment of £35m over 22 years annually would only bring £1.5m annually and sustain 4 jobs and referred to paragraph 8.37 of the Planning Committee Report. She advised this did not make a significant contribution to the economy in its own right.

D Thompson referred to the overall expansion plans of the Distillery and stated, she did not accept they were correct; the site was 25 hectares of agricultural land, 600m away from Distillery. D Thompson stated that the relevant need for the sheds is a result of outline approval for a second distillery and questioned, how it can be ensured the distillery would be built?

D Thompson advised a Planning Agreement under Section 76 of The Planning Act was required or a negative condition to prevent it being built unless necessary. The occupancy condition and demolition of the maturation sheds was welcomed. However, the conditions were ambiguous and imprecise and difficult to enforce. D Thomson questioned whether legal advice had been given on the enforceability of the two conditions.

D Thompson queried the weight applied to economic benefits, and advised that the economic benefits were diminished and should not have determining weight. She quoted paragraph 6.88 of the SPPS advising that the test of exceptional circumstances is a high standard to be met. She advised that Members need to be entirely convinced of the need and that it should be sufficiently and appropriately linked to Old Bushmills Distillery.

D Thompson questioned the increase from 6m litres of alcohol to 10m litres and referred to the time taken to produce a batch if the plant was open 24hrs a day, 7days a week. She advised the Hazardous Substance application stated 2.2m litres and 2.6 m litres alcohol, Companies House showed a reduction in spending from 2010-2015. D Thompson further outlined that the 6m litre figure deserved further scrutiny, and it was not reasonable to rely on it. Grain whiskey was imported from Cork, that the figure of 4m litres, must be wrong. She referred to the Transport Assessment Form, and queried the accuracy of the information contained within it.

D Thompson stated that All Ireland projection of Irish Whiskey produced showed Bushmills as 10% market share and therefore no pressing need to expand and queried a split site solution. D Thompson stated independent evidence showed no sales growth.

D Thompson queried the current capacity in the sheds. She queried the assessment from the site visit that all but 1 warehouse was full and 1 warehouse was 75% full. D Thompson stated that there is capacity for 60,000 barrels across the existing site and each shed holds 23,000 barrels; if there is a requirement for only 3 warehouses per year there is therefore no need for additional sheds.

D Thompson stated the application did not discharge burden of proof. A Fire Safety Report had not been produced and was "*being prepared*". NIFRS had no

objection but when specifically asked about risk could not answer technical questions. She made reference to availability of information for similar applications in the Republic of Ireland. She advised that the SPPS “*requires development to be safe and satisfied*”, and a full assessment should be adequately carried out and the two applications should be refused.

Members queried how could D Thompson be sure the figures she had given to Committee were accurate?

D Thompson referred to previous usage of distillation figures and Diageo capacity working 7 days a week along with a marketing campaign. D Thompson advised she did not see how there could be an increase of 2m litres in a short space of time without massive investment; that the Application should be based on actual figures; it was a massive facility in the countryside and Policy restrictive. D Thompson stated her assessment was based on Independent sources.

Members asked what D Thompson considered to be the economic benefits and what were the negatives for her?

D Thompson stated the application was not linked to the Distillery site; there was no guarantee the second Distillery was going to be built; the application was stand alone, not together and suggested a Planning Agreement or negative condition to prevent it being used until the whiskey needed to be stored, was given no weight regarding the site itself and would only create 4 jobs. D Thompson stated the application did not comply with planning policy.

Members further queried the current level of storage at the Distillery site based on present sales.

D Thompson had stated 13 warehouses were not used to the same efficiency as the other 7 warehouses and therefore there is adequate capacity.

Members questioned how many objectors lived in close proximity of the site and whether they had any issue with visual amenity?

D Thompson consulted with a member of the public seated in the Gallery and responded, ten households in the immediate area. She advised the main, significant issue was the case of need for the proposed development.

Members referred to concerns from residents regarding environment, safety, visual impact, and having set out the economic argument and queried if these issues impacted specifically on the objectors?

D Thompson stated the Hazardous Substance Consent COMAH site was an unknown, installed in rural area beside them. No consultation had been undertaken with residents regarding vulnerability. Fire safety was a legitimate concern, referring to the fire water lagoon and the varieties and ages of whiskies. There was a risk to residents' homes and that if a Safety Report had been prepared it may put minds at rest.

Members asked if there were any issues raised in relation safety issues from Old Bushmills Distillery's current site and the existing COMAH zoning.

Denise Dickson, The Head of Planning, advised that she was not aware of any issues. M Wilson, Senior Planning Officer, advised that consultation had taken place the Fire Authority who responded raising no issues why the HSC cannot be granted. He advised that HSE had also been consulted and did not advise against HSC being granted.

Alderman Cole queried if D Thompson had read the Environment Statement submitted by Old Bushmills Distillery.

D Thompson stated that SOCC had identified issues with it which required amendments.

The Chair invited C Egan, H Harrison, A Heasley and G Glackin to speak in support of the applications, granting a maximum of 20 minutes speaking rights.

C Egan addressed Committee, stating that he is the Master Distiller at Old Bushmills Distillery. He stated that there is an absolute necessity for the planning application to ensure sustainability of the current business and to allow for future growth. He provided a background to Old Bushmills Distillery stating that Bushmills was the oldest Distillery from dating from 1601 and principal employer of the Village employing 170 staff, contributed £5 m to the local economy in terms of wages and has 130,000 tourist visits per annum. Bushmills had sustained growth in the last 10 years and anticipate sales by 2020 of £13m. Bushmills had doubled value in the last 10 years, an increase of 8-10 %. C Egan outlined more sales equals more whiskey, more whiskey equals more barrels, more barrels requires more warehouses. On the question around need, C Egan disputed the figures stated by D Thompson.

C Egan advised there had been 11 warehouses built in the last 11 years, current warehouses on site were almost full and there is no more space at the current site for additional warehousing. C Egan advised that warehouse capacity had been verified on 8th June 2018 by a planning officer and at that time 1 ¼ warehouses were empty. He advised that they are now utilising the last warehouse. The current site has nine months space before there are huge consequences to the business in terms of storage capacity.

C Egan advised that HMRC monitor the business closely and they must provide a declaration to HMRC on a monthly basis. He verified figures for the first 6-months January – June of 3m litres of alcohol produced and 2m litres of grain alcohol received. He advised therefore in 12 months there will be 6m litres of alcohol produced on site, 4m litres of grain alcohol received equating to the 12m litres of alcohol referred to in their application. C Egan stated he was the only one that had that information as the Master Distiller.

H Harrison addressed Committee regarding the Phasing and landscaping. She explained that phasing was planned over 20 years and will take account of the site topography, to mitigate the impact of the development on the landscape

and on residential amenity. She advised the warehouses were in blocks of 2 and 3 and commented on the ridge height of the buildings. H Harrison advised earthworks would take place in Phase 1, proposed planting, semi-natural woodland, Oak, Hazel, and a long term commitment to biodiversity on the site; a Management Plan had been submitted. H Harrison stated the current site was devoid of vegetation; that 90% of landscaping would occur in Phase 1, and outlined the Phasing Plan. She advised the landscaping would provide a minor to moderate long term positive impact.

H Harrison advised the application had been assessed under the habitats Regulations and an Appropriate Assessment completed. She advised that the proposed development would not have an adverse impact on the Skerries and Causeway SAC; a CEMP will be adhered to. H Harrison further advised that the proposed development will not have significant impact on the World Heritage Site.

H Harrison referred to the Socio-Economic Impact contained within the Environmental Statement and read an extract from it in terms of the importance of the development.

C Egan advised of a contribution of £3m wages, £2m supply chain and £9m investment; a significant investment by previous and current owners. He stated that if Bushmills did not need the development it would not be spending the money – a development cost of £43.7m with an anticipated spend of £13.9m over the next two years alone supporting 596 jobs and £14m in wages

Members questioned the figures from Companies House and the stated decline in sales.

C Egan stated this is an international business with different financial arrangement and confirmed sales had increased over the years.

Members questioned the “almost full” independent verification of the capacity of the warehouses and asked who had been the Officer?

M Wilson, Senior Planning Officer advised it was himself who attended the site visit to verify the capacity of the warehouses.

Members queried the alternative sites and selection process.

H Harrison advised that details were within the Environmental Statement and the Planning Committee Report makes reference to this also. She referred to the provenance of the business and necessity to site close to the existing business due to the micro-climate and linkage to operations; looked at access, ground conditions, land to the East flooding, peat, AONB, coastal area and other protective environment designations and was difficult to find a site.

Members observed the prolonged disruption due to phased construction period, particularly the provision of the access and asked what was the timeframe?

P Glackin advised the construction of the site access must be the first thing they do and will take 6-8 weeks to complete. He advised that there is a proposed condition that no other works take place until this is complete.

Members queried the importance of the microclimate issue to the business and requested a reminder of how the 10.0 MLA would be produced.

C Egan advised that whiskey maturation was sensitive issue and brand provenance is a very important part of the brand. He took members through his slide on the breakdown of the 10MLA and verification of the figures by HMRC.

Members referred to the objection of expansion of figures within Companies House 2015 and sought an explanation to how the figures had changed.

C Egan advised it was based on 2015 case sales, what was distilled today would sell in 3-40 years' time, and confirmed the 8-10% increase annually in case sales. C Egan advised of a change of ownership in 2015, the current owners had bought in anticipation of further growth of 8-10% going forward. C Egan advised that this is an international business with different accounting mechanisms for different agreed by Auditors.

The Chair invited J Dallat, MLA to present to Committee in support of the Application. J Dallat presented to Committee stating he had not been lobbied and was speaking independently as a public representative.

J Dallat advised he had contacted the Distillery and was satisfied there was no alternative if the Distillery was to prosper and remain competitive. J Dallat advised he had met with two residents, he had a keen interest in Whiskey, the 3 years maturation legal minimum requirement would require more barrels and more warehouses. Bushmills was a Premier product in a niche market and must be allowed to develop in the area it needed to.

J Dallat, MLA, advised he was on the Environment Committee at Stormont and had total regard to the environment and jobs and is proud of the iconic Bushmills Distillery and would want to ensure it would continue in the future. J Dallat stated the Distillery was closely linked to the tourist industry.

There were no questions from Members.

The Chair invited A Gillen, DFI Roads to the Committee.

Members questioned whether the public roadway was being widened.

A Gillen advised of a new access, road widening at the site entrance to Straid Road/Haw Road junction to make it 6m wide and larger kerb radii at junction to facilitate HGV's. He advised there were no other proposals to make alterations to other sections of the public road network. He advised that it was not uncommon for developers to make road improvements to facilitate the proposed development but could only ask for improvements that are reasonable and required for that development. A Gillen advised that the

majority of the lorries will be entering the site from the Bushmills direction, along Straid Road and up Haw Road.

The Chair invited further points of clarification from Elected Members to Officers.

Members queried the assessment by the Planning Officer on the capacity of the existing warehouses.

M Wilson, Senior Planning Officer advised he went round each warehouse at the Distillery on 8 June 2018 in the afternoon, signed in as a Visitor and was taken round each warehouse for 2 hours; that he had taken photographs of the inside and outside of the warehouses; given the height and dimensions of the warehouse, he walked in halfway, made a judgement call of barrels stacked with walkway in between. The Officer advised the images were available within the Planning file, that within warehouse 27 there was still space, warehouse 16 was empty and that some barrels were from late 1990's and others from 2017.

Members referred to Condition 2 and Condition 3 and questioned whether there was anything more that could be done and whether a Legal Opinion had been sought?

D Dickson, Head of Planning, referred to erratum and addendum and that the conditions had been amended to ensure they were enforceable, and had been considered in conjunction with the manager of the enforcement section within Planning.

Members questioned the Fire Safety report.

R McGrath, Senior Planning Officer, advised clarification had been sought from the Fire Authority and HSENI. He spoke to the Principal Officer within HSENI. HSENI advised that it is not standard practice to prepare a report at this stage; before the developer is able to operate within the site they will be required to comply with the COMAH Regulations and prepare the safety report at that time. R McGrath advised that the safety report had been prepared for the previous application for Old Bushmills Distillery within their current site as a COMAH was already in place. He advised that that HSENI had taken account of the existing surrounding landuses for this current application and had not raised any issues. At a Technical level, the Fire Authority was the competent authority.

M Wilson, Senior Planning Officer advised HSENI were invited to the meeting, but they were not in attendance; they had been consulted, had given advice and did not advise against granting consent. M Wilson advised that the operator is an experienced operator who currently works within the COMAH Regulations at its existing site.

Members referred to PPS 4 and the disputed contribution to the economy that had been made and questioned how do we estimate a significant contribution to the regional economy?

M Wilson, Senior Planning Officer stated the Distillery was a World Wide Brand, and policy PED5 of PPS4 applied. M Wilson referred to paragraph 8.33-8.41 within the Planning Committee report, there had been growth over the last 10 years, employed 170 staff underpinning the expansion, warehouse, construction jobs, 4 additional permanent jobs created, the Distillery had been there for 400 years and it needed to expand. He stated that a new Distillery would bring more jobs, the product is to be sold but it has to mature for a minimum of 3 years.

Members referred to Paragraph 8.26 within the Planning Committee Report and sought an explanation of the new Distillery link.

M Wilson, Senior Planning Officer, advised of outline approval for a new distillery and that the full planning application had been received indicating the commitment for further expansion by Old Bushmills Distillery. He advised that the conditions 2,3,4 and 5 tie the shed to the Distillery and cessation of use if no longer required. He advised that a Section 76 Agreement would only be used if the controls could not be dealt with by condition; in this case conditions were appropriate.

There were no further questions.

The Chair confirmed the Hearing had been completed, there being no further business the Chair thanked everyone for their attendance, the Hearing concluded at 1.22PM.

Chair