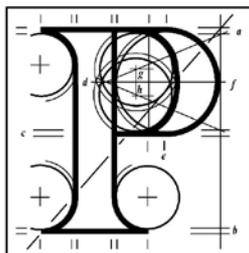


An Bord Pleanála



Inspector's Report

Development: Construct a building for use as a whiskey distillery and visitors centre along with all ancillary site works, including new vehicular access, circulation areas, and new foul water treatment plant at Newtown, Ballyvaghan, Co. Clare.

Application

Planning authority: Clare County Council
Planning application reg. no. P14-377
Applicant: Burren Distillers Limited
Type of application: Permission
Planning authority's decision: Grant, subject to 14 conditions

Appeal

Appellant: An Taisce
Type of appeal: Third party -v- Decision
Observers: None
Date of site inspection: 27th January 2015
Inspector: Hugh D. Morrison

Site

The appeal site is located 2km to the south west of Ballyvaghan, a large village on the north coast of the Burren, through which passes the N67, the national secondary route that extends between the N18 to the east and onwards to Lisdoonvarana and ultimately to Kilkee to the south west. The R477 coastal route around Black Head links this village to Lisdoonvarna, too. This site lies on the lowest reaches of the south eastern slopes to Capanwalla and on the western edge of lower lying ground that separates this hill/plateau from another hill/plateau, Aillwee, to the south west. It is accessed from a third class road (maximum width 4m) that runs on a north/south axis to the west of Ballyvaghan and between the R477 and the N18.

The appeal site itself is of regular shape and it extends over the north eastern portion of a field that is bound to the east by the aforementioned third class road. This site extends over an area of 1.1963 hectares and its form is that of a mound with moderate to steep localised gradients on the east facing slopes and a flattened top that extends to the western boundary. The northern boundary runs through an area of scrubland, while the southern boundary passes through an open area of grassland that is typical of the site. The gated access to the appeal site is sited towards the north eastern corner of this site and nearby the aforementioned mound has been partially excavated.

On the opposite side of the road from the site access is a track that runs east to a modern agricultural building. At a short remove to the south of the site lies a one and a half storey dwelling house and at a somewhat longer remove to the north lies Newtown Castle, which includes a stubby round tower that acts as a local landmark. This Castle is in use as The Burren College of Art. The Waters Country House lies to the north, too, off an elevated road that runs to the north and west of the appeal site.

Proposal

The proposal would entail the construction of a group of buildings (864 sqm) that would be used as a whiskey distillery and visitors centre. These buildings would be sited around a central courtyard in a "U" shape format. The southern arm would consist of two adjoining two storey buildings, which would variously accommodate the distilling area and the visitors centre, and the northern arm would consist of a single storey building, which would accommodate a malt store and packaging area. The courtyard would be enclosed to the west by a single storey building, which would accommodate a pallet storage area, and a small building on the courtyard side, which would be used as the main distillery office.

The buildings on either arm and the office building would be designed to reflect the vernacular architecture of The Burren with simple forms and the use of traditional

finishing materials. The remaining pallet storage building would be built largely into the hillside. Its roof and, where exposed, its sides would be clad in corrugated panels and so this building would be designed to resemble a modern agricultural building.

The existing vehicular access point to the site would be laid out as the formal entrance/exit to the site with improved sightlines in either direction to the north and south along the third class road (2.4m x 160m). An on-site road would terminate in a turning circle and three parking areas with a total of at least 20 car parking spaces would be laid out.

The proposed whiskey distillery and visitors centre would be served by a Super BAF 60 PE wastewater treatment plant and a soil polishing filter area (218 sqm). Provision would also be made for a wetlands (300 sqm). Some loss of hedgerows would be incurred in achieving the aforementioned improved sightlines. Additional tree and shrub planting would be introduced throughout the appeal site, but especially in the vicinity of the entrance and alongside the proposed on-site road.

The proposed whiskey distillery and visitors centre would provide employment for 8 people and the distillery would operate on weekdays between 08.00 and 24.00 and on Saturdays between 08.00 and 13.00.

Planning authority's decision

Following receipt of further information, permission was granted subject to 14 conditions.

Technical reports

- **DoAHG:** Requests that an archaeological impact assessment be undertaken prior to a decision on the current application.
- **Architectural Conservation Officer/Archaeologist:** Considers that the aforementioned request is unnecessary and that an archaeological monitoring condition would suffice.
- **An Taisce:** Objects: Refer to the grounds of this appeal.
- **Chief Fire Officer:** Advises that adequate means of escape from the pallet storage area is required. (By way of response, the applicant submitted an amendment (drawing no. BDL-01-01 dated 24th July 2014)).
- **Road Design Office:** Several concerns expressed with respect to sightlines, the siting of certain parking spaces, the absence of bus parking spaces, the need for auto track swept path analysis to be undertaken on the proposed internal road layout, and traffic generation on local roads, which are accessed off the N67 via junctions with poor sightlines.

- **Environment Section:** No objection subject to a condition requiring the installation of the proposed waste water treatment system and, if deemed necessary, the proposed wetland system.

Grounds of appeal

The controversy over the Burren Interpretative Centre illustrates the sensitivities attendant upon locating tourism facilities in rural areas within the Burren. Such facilities should only be sited in rural areas where there is a sound site specific location rationale for doing so or where there are historic buildings that require a new use. Neither of these conditions pertains with respect to the current proposal and so it should be located within an existing settlement.

- Adverse negative impact to enterprise objectives:

Attention is drawn to Policy 6.10 of the CDP, which undertakes to support and facilitate new small scale rural enterprises, subject to compliance with appropriate planning and services requirements, and to Policy 12.2, which emphasises integrating tourist attractions with accommodation and tourist services in the wider community. The current proposal would be deficient in these respects.

Attention is also drawn to Policy 6.6, which undertakes to ensure that land zoned for employment is properly serviced. This undertaking is critical if green field development is to be resisted in favour of utilising sites within settlements that serve their rural hinterlands. The current proposal has not addressed this approach.

The constricted nature of the appeal site would militate against the subsequent expansion of the proposal. Alternative sites zoned for employment would not be so constricted.

- Adverse negative impact to local roads:

Attention is drawn to the advice of the Road Design Office, which expressed concern over the traffic that would be generated, especially HGVs and PSVs, along a narrow local road network and at junctions with the N67 where there are poor sightlines. The proposal would thus be instrumental in creating traffic hazards that would jeopardise road safety.

Traffic generation has not been predicted with any precision. Thus, while the 8 employees could be anticipated to generate 16 vehicular trips daily, deliveries and visitor generated trips cannot be ascertained.

The DoT's Smarter Travel document has not been addressed and the location selected would militate against the use of sustainable modes of transport and the minimisation of vehicular travel.

The applicant has not prepared a mobility management plan, a transport and traffic assessment and, in addition to the aforementioned information gaps, they have not indicated routes to and from the site for delivery vehicles and the tonnages of materials that would enter and exit the site annually.

- Adverse negative impact to scenic route, recreational walking route, and heritage landscape:

Attention is drawn to Policies 16.5 & 6, which aim to protect and preserve the quality of heritage landscapes, scenic routes, and recreational routes. The current proposal would, due to its size and limited screening, contravene these policies and should instead be located in Ballyvaghan.

The appeal site lies within an unspoilt scenic area with an upland backdrop. The location of the current proposal upon this site would be visually obtrusive and it would harm the character of this area.

The visual impact of the proposal from the Harbour Hill area has not been properly assessed and so the planning authority's visual assessment of it within a heritage landscape is inadequate.

Responses

The planning authority has not responded to the above grounds of appeal.

The applicant has responded. They begin by outlining the importance of the Irish Whiskey Sector to rural development and by summarising key sections of national and regional policy documents that have a bearing on this Sector. They then proceed to respond to the above cited grounds of appeal, as follows:

- Irrelevance of Burren Interpretative Centre case:

The proposed distillery would be a low impact, small-scale, rural enterprise with an ancillary visitor's centre. It would thus not be comparable with the Burren Interpretative Centre, which would have been a large and intensive tourist use within a sensitive ecological area of the Burren National Park.

- Alleged negative impact on enterprise objectives:

The proposed distillery would be intrinsically linked to local agriculture, insofar as locally grown barley would be used and the residue from distilling would provide feed/fertiliser for local farmers.

The appellant creates the impression that, under the CDP, the proposal should be located within a settlement. However, this Plan advocates a flexible approach to the location of rural development. Thus Objective 6.10 seeks to provide for rural enterprise “by permitting the development of rural resource-based industries in rural areas subject to compliance with appropriate planning and services requirements.”

Distilleries are recognised in Ireland and Scotland as being rural resource based enterprises. The planning authority shares this recognition, hence its support for the current proposal.

Extracts from Chapter 12 of the CDP that encourage the spread of tourism throughout North Clare are cited by way of support for the proposed ancillary visitor centre.

The appeal site is located within the Burren and Cliffs of Moher Geopark. One of the aims of this Geopark is to connect visitor attractions so that the area is presented as an integrated tourism destination. The proposal would be an additional attraction that would complement existing ones, for example the nearby Newtown Castle/Burren College of Art and five B&Bs.

- Alleged negative impact to local roads:

Attention is drawn to the accurate summary of projected traffic movements set out in the case planner’s report. Intensive traffic movements would not arise and staff and visitor/delivery trips would not coincide.

Ballyvaghan would not be more advantageous from a smarter transport perspective. While this settlement is served by Bus Eireann, the appeal site is served by the Burren Way and the Burren Cycle Route.

Sightlines at the entrance/exit to the appeal site would be satisfactory and perceived manoeuvrability concerns for HGVs/PSVs at nearby junctions with the N67 would be capable of being addressed under the Traffic Management Plan required by condition 5 of the draft permission. (Similar junctions serve the access routes to the much more heavily trafficked Aillwee Caves without adversely affecting traffic safety).

- Alleged negative impact on scenic route, recreational walking route, heritage landscape:

A Visual Impact Assessment Report (VIA), which utilised carefully selected viewing points, was prepared at the application stage. This Report facilitated the making of a comprehensive visual assessment and so it does not need to be augmented now.

The VIA was prepared in conjunction with relevant EPA Guidelines and it facilitates a thorough interrogation of landscape and visual impacts to be undertaken.

The appeal site was formerly a small stone and gravel quarry and so it is a brown field rather than a green field site. The proposal would avail of the resulting embankment and its scale and design would ensure a traditional appearance in keeping with its surroundings.

The appellant contends that the proposal would contravene Objectives 16.5 and 16.6 of the CDP, which seek to protect and preserve the quality of heritage landscapes and scenic and recreational routes. The applicant does not accept this contention.

Contrary to the appellant's contention, the applicant did consider alternative sites for the proposal, i.e. lands directly south of the pier and lands at Glenfort and Loughrask, all at Ballyvaghan. These sites were subject to constraints, such as negative visual impact, potential traffic safety issues, and prohibitive costs.

The appellant is concerned that the appeal site would constrain the future expansion of the proposal. The applicant states that "It is important to note that the proposed distillery is to be developed as a small-scale niche distillery which will produce a high quality and speciality brand of whiskey. As such, the subject site is fit for purpose to meet the applicant's future needs."

The proposal would demonstrably not generate any adverse effects with respect to waste water disposal, hydrology and/or ecology in the area.

Planning history

Appeal site:

13/411: The description of the proposal was the same as that of the current application. Permission was refused on 8th October 2013 for the following reasons:

- Notwithstanding the proximity of the Ballyvaghan Turlough SAC and the impact of the proposal upon groundwater through its abstraction via a well, no hydrological assessment or appropriate assessment was submitted and so the planning authority was not satisfied that this proposal would not negatively impact this SAC.
- Given the location of the site within the Inner Source Protection Area of the Newtown Borehole, the nature of the organic waste that would be disposed of via the proposed treatment system, and the vulnerability of ground water,

the planning authority is not satisfied that the said treatment system would be appropriate and not prejudicial to public health.

- The site lies within a heritage area. Under Objective 16.5 of the CDP, visual impact within such an area must be minimised. The mass, scale, and bulk of the proposed building, its industrial form and the materials specified for its rear portion, along with associated hard standings and the removal of a roadside hedgerow, would cause the proposal to detract from the visual and scenic amenities of the area and so it would contravene the aforementioned Objective.

14/81: To retain excavated works carried out to date: Retention permission was granted on 17th April 2014. The applicant's cover letter stated that excavation occurred since 2000 for the purpose of road construction, that this has ceased, and that there is no intention of carrying out commercial excavation in the future.

PP13-123: Pre-application consultation: An alternative site for a proposed whiskey distillery close to Cork Screw Hill was discussed.

Development Plan

Map G1 of the Clare County Development Plan 2011 – 2017 (CDP) shows the appeal site as lying outside the settlement boundary of Ballyvaghan in countryside that is designated a heritage landscape. The local road that passes this site forms part of the Burren Way and the N67 and the R480, which lie further to the east, are identified as scenic routes.

Objective 16.5 of the CDP addresses heritage landscapes as follows:

To require that all proposed developments in heritage landscapes, demonstrate that every effort has been made to reduce visual impact. This must be demonstrated for all aspects of the proposal – from site selection through to details of siting and design. All other relevant provisions of the development plan must be complied with.

All proposed developments in these areas will be required to demonstrate:

- (i) That sites have been selected to avoid visually prominent locations.*
- (ii) That site layouts avail of existing topography and vegetation to minimise visibility from scenic routes, walking trails, public amenities and roads.*
- (iii) That design for buildings and structures minimise height and visual contrast through careful choice of forms finishes and colour and that any site works seek to reduce the visual impact of the development.*

Assessment

I have reviewed the proposal in the light of the CDP, relevant planning history, and the submissions of the parties. Accordingly, I consider that this appeal should be assessed under the following headings:

- (i) Land use and EIA,
- (ii) Location,
- (iii) Landscape and visual impacts,
- (iv) Archaeological impacts,
- (v) Access,
- (vi) Water supply,
- (vii) Drainage, and
- (viii) AA.

(i) Land use and EIA

1.1 The proposal is for a whiskey distillery and visitors centre. From the submitted plans and accompanying documents, I judge that the whiskey distillery would be the principal use and the visitors centre the ancillary one.

1.2 For the purpose of EIA, an EIS is only required to be submitted for a distillery where the production capacity would exceed 100,000 tonnes per annum. (Refer to Item 7(d) under the heading "Food Industry" in Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2013).

1.3 The capacity of the proposed whiskey distillery has been expressed in terms of the raw materials that would be needed daily. Thus, the completed Part 3 application form states that an estimated 1 metric tonne of barley and 10,000 litres (or 10 metric tonnes) of water would be required daily. If it is assumed that not all the raw materials thus cited form part of the final product, then the weight of the former and latter would not equate with one another. Furthermore, this distillery would operate to a 5.5 day working week. Accordingly, the production capacity would be a tiny fraction of that stated under Item 7(d) cited above.

1.4 Clearly, the proposal does not need to be the subject of a mandatory EIS. The question, therefore, arises as to whether a sub-threshold EIS should be prepared. In this respect, Schedule 7 to Articles 103, 109, and 120 of the aforementioned Regulations sets out criteria for determining whether a development would or would not be likely to have significant effects on the environment. This criteria is

reproduced in the Appendix to the DoEHLG's 2003 publication entitled "Environmental Impact Assessment: Guidance for Consenting Authorities on Sub-threshold Development" and commented upon in the main body of this publication. Furthermore, advice on identifying objectively and subjectively the presence of significant effects is set out in the EPA's 2002 publication entitled "Guidelines on the Information to be contained in Environmental Impact Statements".

- 1.5 Under Paragraph 5.25 of the aforementioned 2003 publication, it is stated that "the term "significant effects" has a more global meaning under the EIA Directive than under the Habitats Directive. As a consequence, where an assessment is considered necessary under the latter, it does not automatically mean that an EIA is the necessary form of assessment. In determining if an EIA is necessary in the context of sub-threshold development, all of the other criteria listed in the Appendix must be considered alongside the significance of the effects on an SAC or SPA." In the present case, the applicant has prepared a Natura Impact Assessment (NIS).
- 1.6 The headings of the aforementioned criteria pertain to the characteristics of the proposed development, its location, and the characteristics of potential impacts. Under the first of these headings, the smallness of the proposed whiskey distillery vis-a-vis the threshold under Item 7(d) has already been discussed, under the second, the relationship of the proposal to Natura 2000 sites is addressed in the submitted NIS, and, under the third, the potential impacts, as discussed under the subsequent headings of my assessment, would not lead to significant effects in the sense discussed by the aforementioned 2002 publication.
- 1.7 I, therefore, conclude that the proposal does not need to be the subject of a sub-threshold EIS/EIA.

(ii) Location

- 2.1 The appellant critiques the location of the proposal on the appeal site in the light of the CDP. They thus contend that, as an un-serviced rural site that would be insufficiently integrated with other tourist attractions/accommodation, it should be resisted. They also draw attention to the availability of sites zoned for enterprise in Ballyvaghan, which, unlike the appeal site, would facilitate any future expansion of the proposal.
- 2.2 The applicant has responded by stating that the location of the proposal on the appeal site would be appropriate as the proposal would avail of locally grown barley and the residue from the distilling process would provide feed/fertiliser for local farmers. Accordingly, the proposal would be a rural resource based

enterprise and so manifestly appropriate to the selected rural site. They also state that the appellant suggests that the proposal should be located within a settlement, whereas the CDP is more flexible with respect to the said type of enterprise, and they draw attention to the proximity of other tourist attractions/accommodation to the appeal site, e.g. the Burren College of Art at Newtown Castle and neighbouring B&Bs.

2.3 I accept that the whiskey distillery would be the principal use arising from the proposal and that this use is reasonably categorised as a rural resource based enterprise/industry. The location of such enterprises/industries is addressed under Objective 6.10 of the CDP as follows: “To contribute to the local rural economy and employment (a) by permitting the development of rural resource-based industries in rural areas subject to compliance with appropriate planning and services requirements.” In the light of this Objective, I consider that there is no in principle objection to the location of rural resource based industries in rural areas. I also consider that, notwithstanding the proximity of Ballyvaghan and zoned enterprise sites within this large village, there is no formal sequential test that requires consideration of such sites ahead of rural ones. Nevertheless, if compliance with appropriate planning and services requirements cannot be achieved on rural sites, these sites may prove to be appropriate alternatives.

2.4 I note that the applicant has shown on the submitted plans a proposed source well for the whiskey distillery in the north west corner of the appeal site. They have not stated in their commentary on this well or in their response to the grounds of appeal that the well and the ground water that it would source would be a site specific requirement of this distillery that would rule out, on operational grounds, alternatives.

2.5 The North Clare Local Area Plan 2011 – 2017 (LAP) zones two green field sites within the settlement boundary for enterprise, which front onto the N67. (The larger of the two is depicted as being capable of being accessed off a third class road (minimum width 4m)). The appellant advises that they did consider alternative sites, which were set aside for a variety of reasons. Details of these sites and how they were assessed are set out in Table 1.0 entitled “Site Selection Matrix” in the Visual Impact Assessment and Design Statement. They do not include the said zoned enterprise sites. The applicant also advises that the appeal site would be suitable to meet their future needs and so expansion out with this site is not envisaged. Nevertheless, I note, too, that *prima facie* the larger of the two zoned enterprise sites would be better placed to facilitate any future expansion of the proposal that may arise.

2.6 I accept that the ancillary use of the proposal, as a visitors centre, would ensure that the whiskey distillery functions as a tourist attraction, too. I accept that the

proximity of the existing tourist attraction/accommodation within the locality of the appeal site would facilitate integration of this proposal with these facilities.

2.7 I conclude that, under the CDP, there is no in principle land use objection to the proposal being sited on the appeal site. Conversely, there is no site specific operational requirement that requires it to be on this site as distinct from other possible sites.

(iii) Landscape and visual impacts

3.1 The CDP shows the appeal site as lying within the Landscape Character Area known as the Burren Uplands, at a point where, in terms of Landscape Character Types, a Limestone Valley meets Limestone Uplands. This Plan also shows this site as lying within a Heritage Landscape through which the Burren Way passes along the third class road, which abuts the site. Further to the east, the N67 and the R480 are identified as scenic routes in the CDP.

3.2 Objective 16.5 of the CDP requires that applicants demonstrate that “every effort has been made to reduce the visual impact” of their proposals within heritage landscapes. Thus, prominent locations must be avoided, the visual mitigation of existing topography and vegetation must be utilised, and buildings must be carefully designed to blend in.

3.3 The applicant draws attention to the excavation that has occurred in the mound towards the north eastern corner of the appeal site. This excavation was granted retention permission under application reg. no. 14/81. They express the view that its presence renders the site a brown field one.

3.4 I observed the said excavation during my site visit. Its extent is shown on the proposed site layout plan (drawing no. BDL-01-03). My visit confirmed that this excavation is of limited extent and so, in my view, it does not warrant the description that the applicant has given to the site. That said, I accept that the proposal would provide the opportunity for the scare left by this excavation to be reworked within the totality of the more extensive earthworks that would be necessitated by the proposal. Again, the proposed site layout plan, which cites existing spot heights and proposed finished levels, illustrates, in conjunction with an accompanying section, the same. Thus, the existing mound would be excavated in a westerly direction and so the residual mound would be set back within the western portion of this site.

3.5 Notwithstanding the aforementioned site layout plan and section, I am surprised at the omission from the application of site survey plans and sections showing in detail the topography of the existing site and accompanying plans and sections showing in detail the envisaged finished levels. From what can be ascertained, the finished level of the proposed soil polishing filter and its proximity to the

proposed pallet storage building suggests that the southern elevation of this building would be more exposed, in practise, than indicated by other depictions of it in the submitted plans. (As it is, the applicant submitted a revised southern elevation of this building (drawing no. BDL-01 dated 24-07-2014), which shows an increase in the exposure of this elevation and a reduction in the adjoining mound in conjunction with the insertion of fire escape doors). Furthermore, the absence of plans and sections illustrating the finished shape of the site to the south and the extent to which earthworks/retained mound could provide screening for the proposed turning circle for buses and the accompanying car park to the south of the proposed buildings, means that the landscape and visual impacts of the proposal cannot be fully assessed.

- 3.6 The proposed site access would be accompanied by proposed sightlines with x and y distances of 2.4m and 160m, respectfully. The southerly sightline would entail the removal of a considerable portion of the hedgerow/stone wall along the frontage of the site with the third class road. The depiction of this sightline on the proposed sightline distances plan (drawing no. BDL-01-03) shows the y dimension connecting with the far road side verge rather the nearside one and so, in practise, a longer portion of hedgerow/stone wall would require to be removed than that shown. Thus, the exposure of the site, at least in the short to medium term before replacement planting has had time to become established, would be considerable.
- 3.7 (As an aside the applicant has not submitted a survey of the existing hedgerow/stone wall and so the species and condition of the vegetation comprised in this hedgerow and the antiquity of the wall are unknown. Thus, the potential ecological and conservation value of these features remains to be assessed in conjunction with the corresponding implications of their partial loss).
- 3.8 Returning to Objective 16.5 cited above. The applicant has responded to the requirements of this Objective by submitting a visual impact assessment that examines views of the proposal from three vantage points, i.e. Point No. 1 on the N67 due east of the site, Point No. 2 due south on the third class road adjacent to the nearest dwelling house to the site, and Point No. 3 a more distant one to the south on the R480. The accompanying commentary rates the visual impact as being slight to moderate in the case of No. 1, imperceptible in the case of No. 2, and slight in the case of No. 3.
- 3.9 The submitted photomontages show the existing site as a baseline, along with corresponding ones that show the proposal superimposed. Due to the absence of the aforementioned detailed plans of the finished topography of the site, I am not able to verify the accuracy of the depiction of the developed site in these photomontages. In particular, the imperceptible rating of view point No. 2 is not one that I can confirm.

- 3.10 I consider that the viewpoints selected for the aforementioned photomontages are appropriate. However, I consider that further viewpoints need to be examined. Thus, to the west of the appeal site there is a track from which the top of the mound on the site is presently visible. The effect of setting back the mound may mean that the eastern portion of the site would become visible. As this would be the most developed portion, the visual impact could be significant. Likewise, a viewpoint on the third class road should be selected along the site's frontage with the same so that the visual impact of the proposal in the absence of the existing hedgerow/stone wall can be assessed. Again, this impact could be significant.
- 3.11 In terms of Objective 16.5, I consider that the appeal site is visible within the surrounding landscape but its prominence is eased by its positioning on the lower slopes of Cappanawalla hill/plateau. The design of the cluster of proposed buildings would self-consciously reflect the vernacular of the Burren. However, the opportunity to ease the perceived size/scale of the pallet storage building by constructing it into the mound on the site would, in practise, not be fully realisable. Beyond the resulting increase in the visual impact of the this building, as I see it, the main visual difficulty with the proposal would arise from its layout, specifically the servicing facilities to the south of the cluster of buildings and the creation of an appropriate southerly sightline for the proposed access. The extensive earthworks that would be entailed in the former and the loss of vegetation that would result from the latter would lead to landscape and visual impacts that have yet to be fully depicted by the applicant. Likewise the envisaged mitigation for the same is unknown.
- 3.12 I, therefore, conclude that the applicant has not demonstrated that they have made "every effort" to reduce the visual impact of the proposal. In particular the site layout would lead to a significant reworking of the topography of the appeal site without the full quantification of this reworking being made clear. Consequently, the resulting landscape and visual impacts of the same cannot be fully assessed. In these circumstances, I consider that it would be premature to grant permission to the current application.

(iv) Archaeological impacts

- 4.1 The submitted application is not accompanied by any archaeological assessment of the appeal site.
- 4.2 The DoAHG was consulted at the application stage. A response from an archaeological perspective was forthcoming. This response stated that, due to the extent of the proposal within an area in which there is a high density of archaeological monuments, an Archaeological Impact Assessment should be prepared prior to determining this proposal.

4.3 The County Archaeologist took a contrary view for which he gave the following reasons:

- Archaeology did not form a reason for refusal of the previous similar application reg. no. 13/411,
- The closest recorded monument is Newtown Castle, c. 250m to the north, and the closest *fulacht fia* (a burnt mound) is 380m to the west, and
- The site itself is not within an archaeological complex or zone.

Consequently, an archaeological condition precedent was recommended and one (no. 13) was subsequently attached to the planning authority's draft permission.

4.4 I have consulted the website of the National Monuments Service and I can confirm that the appeal site is not identified in their relevant map of the Burren as having any known archaeological remains. I am therefore minded to accept the approach adopted by the County Archaeologist in this matter.

4.5 I conclude that an archaeological condition precedent should be attached to any permission granted to the proposal.

(v) Access

5.1 The completed Part 4 application form provides some information on the traffic that would be generated by the proposal.

- With respect to operational traffic, weekly deliveries of flour and other incidental deliveries would occur. Eight staff would be employed and so I would anticipate that they would tend to travel to and from work by car. The weekday hours of operation would be from 08.00 to 24.00 and so I anticipate that maybe two shifts a day would be worked resulting in a possible overlap in traffic at the time of change over between shifts. Elsewhere, the applicant states that residue from the distilling process would be distributed to local farmers. The traffic that would be generated by the distribution/collection of this residue has not been acknowledged.
- With respect to non-operational traffic, a daily coach visit and maybe 5 – 10 cars over the course of a day are predicted during the tourist season. The Burren Way passes the appeal site and so I anticipate that some visitors may be walkers. The Burren Cycle Way passes along the N67 and so some cyclists may divert from there, too. Nevertheless, the expected attendance of vehicular borne visitors appears low. In this respect, the proposed provision of 20 car parking spaces would facilitate a considerably higher attendance,

although the proposed waste water treatment system would be designed for a daily maximum of 70 visitors.

5.2 The appellant expresses concern that beyond traffic generated by staff, delivery and visitor traffic cannot be ascertained. The applicant disagrees and they emphasise that staff and visitor/delivery traffic movements would not coincide. I consider that while the appellant has perhaps overstated the situation, the absence of information on distribution/collection traffic and the unpersuasive information on visitor traffic does mean that a full picture of traffic movements is unavailable.

5.3 The appellant draws attention to the advice of the Road Design Office in which concern is expressed over the extra traffic that would be generated by the proposal on the local road network and, in particular, the use by this traffic of junctions between these roads and the N67, where there are poor sightlines. The applicant has responded by drawing attention to the traffic management plan that is required by condition 5 of the draft permission. This plan would address the aforementioned concerns. They also state that the junctions are similar to the one on the N67 with the R480, which serves traffic generated by the popular Aillwee Caves visitor attraction.

5.4 During my site visit, I attended the junctions thus cited. The third class road, the L10282, which serves the appeal site runs on a north/south axis and is denoted on the Ordnance Survey map of the area as having a maximum width of 4m.

- At the northern end of the L10282, it forms a junction with the R477. Although it meets this regional road at an acute angle, the sightlines to the east and west are reasonable. However, the meandering alignment of the R477 means that forward visibility is limited and so it is subject to a continuous white centre line. Right hand turning movements from this road onto the L10282 are hazardous.
- At the southern end of the L10282, it forms a junction with the N67 along with another third class road, the L10283. The two third class roads join the national secondary road at acute angles from the north and south west at a point where the N67 bends away from them both. The resulting junction is inherently complicated. The sightline from the L10282 to the north along the N67 is limited, due to the proximity of a further bend in this road to the north. To the south it is good. The meandering alignment of the N67 means that forward visibility available to road users approaching the junction from the north is limited and so it is subject to a continuous white centre line. Right hand turning movements from this road onto the L10282 are thus hazardous. Furthermore, such movements, along with left hand turning movements from the L10282 onto the N67, when made by HGV/PSVs are

difficult and, if they entail a reversing phase, then they are particularly hazardous.

- At the mid-point of the L10282, a third class road links runs between it and the N67 on a roughly north west/south east axis. This road is denoted on the Ordnance Survey map of the area as having a maximum width of 4m. It forms a “T” junction with the N67 at a point where the national secondary road is of variable horizontal and vertical alignment and where there are effectively no roadside verges. Accordingly, sightlines from the third class road and forward visibility on the national secondary road are all poor.

5.5 The applicant’s citation of the junction between the N67 and the R480 as a comparable to the aforementioned junctions is misplaced. The portion of the national secondary road that runs by this junction is of straighter alignment and more generous width than at the aforementioned junctions and so the sightlines and visibility available to road users are of a higher order.

5.6 Given the foregoing limited information on traffic generation and the description of the hazards attendant upon the junctions that connect the L10282 with the R477 and the N67, I am concerned that deferring consideration of the issues arising to a post-decision traffic management plan presupposes that satisfactory resolution of the same will be forthcoming. From the information before me, such resolution is not self-evident and so I consider that it would be premature to grant permission.

5.7 The Road Design Office advice cited by the appellant critiques the on-site access, manoeuvring and parking arrangements. Thus, attention is drawn to the landscaping proposals along the initial stretch of the site access road and how this landscaping would obscure the visibility needed for the safe operation of car parking spaces nos. 8 – 12 (inclusive). Attention is also drawn to the absence of a parking space for PSVs and the question is raised as to whether the proposed turning circle for such vehicles would be adequate. Additionally, cycle stands should be provided. While these matters could be addressed by condition, as they may have implications for the ultimate shape and landscaping of the site, they should be resolved before any further assessment of visual and landscape impacts is undertaken.

5.8 The appellant also expresses concern that the location of the proposal on the appeal site would militate against the use of sustainable modes of transport and the minimisation of vehicular travel. The applicant has responded to this concern by contending that while Ballyvaghan is served by Bus Eireann, the appeal site is served by the Burren Way and the Burren Cycle Way. While I note that these two Ways also serve Ballyvaghan, I accept that the passing of the former along the

third class road that serves the appeal site and the latter along the nearby N67 does mean that sustainable modes of transport would serve this site, too.

5.9 I conclude that the applicant has submitted insufficient information on traffic generation and they have yet to address the issues posed by sub-standard junctions between the third class road network, upon which their proposal would rely, and the R477 and N67. In these circumstances, I consider that it would be premature to grant permission to the current application.

(vi) Water supply

6.1 The application is accompanied by a Tier 2 Hydrogeological Assessment. This Assessment discusses the water supply for the proposal within the context of the hydrogeology of the area. This supply would be drawn from ground water beneath the appeal site and it would meet demand arising from the following requirements:

- Use in the distilling process itself,
- Use in the cooling and heating of the stills, and
- Toilet and kitchen facilities.

6.2 A trial well (TW1 in the north eastern corner of the appeal site) has been installed for the purpose of establishing whether sufficient water would be available of an adequate quality. This test concluded that there would be sufficient water available in the aquifer in question and that quality would be consistent with that of water in neighbouring boreholes. Drinking Water Guidelines would be met, although there would be the need to both sterilise the in-coming water by means of an ultraviolet filter and to reduce its hardness.

6.3 The Assessment comments on the test pumping exercise that was undertaken in TW1 to the effect that a more extensive exercise would need to be carried out during a dry period to ascertain the behaviour of the well/aquifer. In the absence of such an exercise, known permeability values from the nearby Newtown borehole have been applied. (TW1 lies within what was previously the inner source protection area for this borehole and Figure 8 of the Assessment shows them as abstracting from the same aquifer).

6.4 The Assessment has identified a location for a permanent well (PW1) in the north western corner of the appeal site. This Assessment has calculated a Zone of Contribution for both TW1 and PW1 and denoted these Zones spatially in Figure 7. Within these Zones, livestock would not be permitted to graze. Beyond this precaution, the design of PW1 would address the need to mitigate the risk of contamination by means of surface water and groundwater flowing through the epikarst layer.

6.5 I conclude that the proposal would be capable of being supplied by sufficient water of an adequate quality.

(vii) Drainage

7.1 The Tier 2 Hydrogeological Assessment also addresses drainage. With respect to water usage, any excess from the distilling process would take the form of steam and that which would be used for cooling and heating the stills would, as uncontaminated water, be returned to the aquifer via TW1. With respect to waste water from the toilet and kitchen facilities, this would pass through a mechanical waste water treatment plant (WWTP: Super BAF PE-12 or 60 PE) and onwards to a wetland and percolation area from where it would be discharged to the ground.

7.2 The WWTP thus selected would be capable of dealing with the seasonal variations in its usage and the wetlands would provide an additional stage in the processing of waste water, which is deemed to be prudent due to the proximity of sensitive local receptors, such as the underlying karst aquifer and the Newtown borehole.

7.3 The completed site characterisation form refers to a trial pit that was dug in a location adjacent to the eastern boundary of the appeal site. The T and P results from this pit indicated that, due to the presence of very free draining sub-soil, imported granular sub-soil to a depth of 1.5m would have been required. Furthermore, as this location was close to the site's front boundary, it was not seen as appropriate. Accordingly, the Assessment identifies a new location for the percolation area towards the south western corner of the site, where glacial deposits, of gravelly sandy silt tills run to a depth of c. 6m. These deposits would form an excellent biomat beneath the proposed percolation area. The presence of the same is evident from the excavated face of the mound to the north east. As the functioning of the said biomat could be compromised by the disturbance of these deposits, the view has been taken that a further site characterisation exercise should not be undertaken. The location in question would be 70m down gradient from PW1 and, variously, 115m and 400m away from the nearest domestic borehole and the Newtown borehole. These distances are considered to be satisfactory.

7.4 Notwithstanding the foregoing paragraph, the proposed site layout plan and accompanying section in drawing no. BDL-01-03 show the percolation area as being sited on a portion of the appeal site wherein the mound has been lowered from c. 46.07m OD to 36m OD. The glacial deposits previously identified as being conducive to the formation of a biomat would thus not only be disturbed but largely removed. Accordingly, I am unable to reconcile the advice in the applicant's Tier 2 Hydrogeological Assessment with the site layout plan and

section that are shown on this drawing. Given that the said biomat would promote further attenuation of the waste water discharging from the percolation area, the implications of its depletion/absence are such that the Assessment's conclusion that the proposed WWTP would operate satisfactorily and without risk to sensitive local receptors cannot be taken as read.

7.5 I, therefore, conclude that, whereas the applicant's Tier 2 Hydrogeological Assessment identifies a satisfactory on-site system for handling waste water from the proposed toilets and kitchen, the submitted plans do not appear to reflect this system and so I am unable to conclude that what is envisaged would, in practise, be satisfactory.

(vii) AA

7.1 The applicant has undertaken a Stage 1 AA screening exercise for the proposal. They refer to application reg. no. 13/411, for a similar proposal to the current one, which was refused partly on the grounds that no hydrogeological assessment or Natura Impact Statement (NIS) was submitted. These omissions have now been made good and so a Stage 2 AA is available, i.e. the NIS.

7.2 I note that the current proposal would entail the abstraction of appreciable volumes of water from a karst aquifer underneath the appeal site. I note, too, that this proposal would generate waste water that would discharge to the ground via a WWTP, wetlands, and a percolation area. Beneath the mound of glacial deposits on the appeal site is an epikarst of very high permeability. This epikarst intersects with the observable water table range to the east and further to the east it runs to the Rathborney River, which is variously at surface and subterranean levels (cf. Figure 8 in the Tier 2 Hydrogeological Assessment). This River feeds the Ballyvaghan Turlough SAC. Accordingly, a source/pathway/receptor route could be established between the appeal site and this SAC and so I consider that it is appropriate that a Stage 2 AA be undertaken.

7.3 The Conservation Objective for the Ballyvaghan Turlough SAC (site code 000996) is "To maintain or restore the favourable condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected: Turloughs (a priority habitat)." Turloughs are groundwater dependant systems and so they are susceptible to changes in hydrology that may affect the water table and/or changes in groundwater quality.

7.4 The applicant's NIS considers the effect of the proposal upon the aforementioned Conservation Objective. As the appeal site and the SAC are 840m apart, no direct impact, in terms of either habitat loss or alteration, on the one hand, or disturbance or displacement of key species, on the other hand,

would arise. Turning to indirect impacts, the Statement draws extensively upon the Tier 2 Hydrogeological Assessment.

- It does not address the impact that the abstraction of ground water could have upon the SAC. The aforementioned Figure 8 shows the aquifer in question at a much deeper level than the observed water table and the Rathborney River to the east, with the one being separated from the other by low permeable limestone. Thus, the possibility of a source/pathway/receptor route between this aquifer and the SAC appears unlikely. However, in the absence of a more extensive pumping exercise, during which the level of the turlough in question is monitored, this possibility cannot be discounted. The NIS does not address this possibility and so the existence or otherwise of an indirect impact in this respect remains to be addressed.
- It does discuss the impact that the overall proposed WWTP could have. As this discussion reproduces the scenario set out in the said Assessment, which I have commented upon under the heading of Drainage above, the conclusion reached that no significant impact on the conservation objective of the SAC would arise remains a potential one only, as the envisaged mitigation measures, primarily the retention insitu of the glacial deposits underneath the percolation area, do not form part of the submitted plans.

7.5 The applicant's NIS also considers in-combination impacts. However, as Newtown, the townland of the appeal site, has not been the subject of any planning applications since 2006, such localised impacts would not arise and I am not aware of any impacts from over a wider area.

7.6 I conclude that, as the submitted NIS does not address the potential impact of water abstraction upon the SAC and as it relies on a scenario for the handling of waste water set out in the Tier 2 Hydrogeological Assessment that has not been translated into the submitted plans, I am not in a position to state that the proposed development would not adversely affect the integrity of the European site (No. 000996) in view of the site's conservation objectives.

Recommendation

In the light of my assessment, I recommend that the proposal to construct a building for use as a whiskey distillery and visitors centre along with all ancillary site works, including new vehicular access, circulation areas, and new foul water treatment plant at Newtown, Ballyvaghan, Co. Clare, be refused.

Reasons and considerations

1. Under the Clare County Development Plan 2011 – 2017, the site lies within a heritage landscape in which, under Objective 16.5, it is incumbent upon the applicant to demonstrate that they have made every effort to reduce the visual impact of their proposal.

The applicant has submitted minimal information with respect to the proposed change in levels and the removal of vegetation that would be necessitated by the proposed development. Consequently, the depiction of this development in the submitted Visual Impact Assessment cannot be verified. Also, the range of viewpoints selected in this Assessment is insufficiently representative. Furthermore, few details of the type and extent of landscaping proposed, which may mitigate the landscape and visual impacts of the development, have been submitted.

Accordingly, the applicant has not demonstrated that they have made every effort to reduce the visual impact of their proposal and so to grant permission would contravene the aforementioned Objective of the Development Plan and, as such, it would be premature and thus contrary to the proper planning and sustainable development of the area.

2. The applicant has not submitted a comprehensive account of the anticipated traffic movements that would be generated by the proposal. Furthermore, they have not addressed how such movements would be managed in view of the narrow third class road network that serves the site and, in particular, the sub-standard junctions that connect this network to the R477 and the N67. To grant permission, in these circumstances, would potentially endanger public safety by reason of traffic hazard or obstruction of road users and so it would be premature and thus contrary to the proper planning and sustainable development of the area.
3. The submitted Tier 2 Hydrogeological Assessment advises on the proposed percolation area. The submitted proposed site layout plan and accompanying section (drawing no. BDL-01-03) show this area sited in a position and at a level that does not reflect this advice. Consequently, the compatibility of the proposed percolation area with the maintenance of the quality of local groundwater has not been demonstrated. To grant permission, in these circumstances, would potentially be prejudicial to public health and so it would be premature and thus contrary to the proper planning and sustainable development of the area.

4. The submitted Natura Impact Statement does not address the potential impact of water abstraction upon the Ballyvaghan Turlough SAC (site code 000996). Furthermore, this Statement envisages that waste water from the proposal would be handled in accordance with advice set out in the Tier 2 Hydrogeological Assessment and yet this advice is not reflected in the depiction of the proposed percolation area in the submitted plans. Accordingly, it would be premature to conclude that the proposal would not adversely affect the integrity of the said SAC in view of the site's conservation objectives and so to grant permission in these circumstances would be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison

Inspector

24th February 2015