



An
Bord
Pleanála

Inspector's Report PL05E.247122

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| Development | Construction of a new distillery complex at Carrick Lower, Carrick, Donegal P.O., Co. Donegal |
| Planning Authority | Donegal County Council |
| Planning Authority Reg. Ref. | 16/50535 |
| Applicant(s) | Drioglann Shliabh Liag Cuideachta Ghnioma |
| Type of Application | Permission |
| Planning Authority Decision | Grant permission |
| Appellant(s) | <ol style="list-style-type: none">1. An Taisce2. Padraig & Trish Carr3. Oliver & Patricia Byrne |
| Observer(s) | <ol style="list-style-type: none">1. Inland Fisheries Ireland |
| Date of Site Inspection | 24 th October 2016 |
| Inspector | Donal Donnelly |

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1.0 **Site Location and Description**

- 1.1. The appeal site is located in the townland of Carrick Lower in south-western Co. Donegal approximately 1km west of the settlement framework boundary of the village of Carrick. The population of Carrick village was recorded at 282 in the 2011 Census. The R263 Regional Route passes through the village and this road forms part of the Wild Atlantic Way. Sliabh Liag, rising to a height of almost 600m and forming one of the highest sea cliffs in Europe, is a signature discovery point on this route. Access to the viewing point for Sliabh Liag is from Carrick village.
- 1.2. The site is situated on the southern side of the R263 in the valley between Sliabh Liag and Cnoc Onna. The frontage onto the R263 measures approximately 320m and the stated site area is 8.86 hectares. Levels within the site fall from the R263 down to the Owenwee River (An Abhainn Bhuí) by as much as 27m over a distance of 260m. The site comprises of two fields separated by an old track, which continues across the width of the site. There is also an agricultural track along the western site boundary that commences at an existing junction with the main road located at the northern corner of the site. This track provides access to stone farm buildings.
- 1.3. The north-eastern slopes of Sliabh Liag provide a backdrop to the site when travelling along the R263. To the south of the site on the opposite side of the river is a forestry plantation and there is a derelict road-fronting dwelling opposite on the R263. There are approximately 6 no. inhabited dwellings between distances of 100m and 200m of the site boundary. The speed limit along this section of the R263 is 80 kph.

2.0 **Proposed Development**

- 2.1. Planning permission is sought for the construction of a new distillery complex to consist of the following:

- A new whiskey distillery facility with visitor centre and associated offices, laboratory, staff and ancillary facilities;
- External ESB substation;
- External cooling tower;
- Vehicular entrance with associated filter lane off the R263, with internal access roads and footpaths, car and bus parking areas;
- Cooling and surface water retention ponds;
- Fire retention pond;
- Commercial barrel store and provision of a filling room with bottling area;
- Sewage treatment plant with associated percolation area;
- Erection of road side signage and associated signage to the factory buildings;
- Construction of a helicopter pad;
- Change of use of old farm buildings to commercial use with elevational amendments and construction of extensions and annexed roof areas to the old farm buildings to provide for a gin/ poitín distillery and museum;
- All associated site development and landscaping works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Donegal County Council issued notification of decision to grant permission for the proposed development subject to 22 conditions.
- 3.1.2. Conditions are attached relating to visibility splays and boundary treatments, as well as public lighting and car parking. All other conditions are of a standard nature.

3.2. Planning Authority Reports

- 3.2.1. The planning application was received by Donegal County Council on 21st April 2016. The application was assessed in an initial Planner's Report dated 9th June 2016, which recommended that further information be requested from the applicant. The applicant sought a 6-month extension of time and this was granted on 15th June 2016; however, the further information request was not issued to the applicant. Unsolicited further information was received from the applicant on 29th June 2016 and this was assessed in a subsequent Planner's Report dated 27th July 2016.
- 3.2.2. Under the assessment of the application within the Planner's Report of 9th June 2016, it is stated that the applicant has failed to show compliance with the required development plan standards for sight lines and stopping distances. Vision lines of 215m and 160m to the west and east respectively are required based on the 85th percentile speeds and only 178m and 159m to the west and east respectively are shown.
- 3.2.3. The proposed development has been screened for the need for a sub-threshold EIA against the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended) for determining whether a development would or would not be likely to have significant effects on the environment. With respect to the characteristics of the proposed development, it is stated that the proposed distillery would have capacity to produce 600,000 litres of pure alcohol and the EIA threshold is 100,000 tonnes per annum. The bottled amount is estimated to be 1,200 tonnes per annum, which is substantially below the threshold amount. It is stated, however, that further information would be necessary to assess the use of natural resources, the production of waste, pollution and nuisances, and risk of accidents.
- 3.2.4. In terms of the location of the proposed development, it is noted that the site is located in a valley sloping towards a tributary of a known salmonid river and is c.

550m from an SAC and 2.2km from an SPA. The site is also in a mountainous scenic area.

3.2.5. In response to the characteristics of potential impacts, the Case Planner recognises that the proposed development has the potential to effect a permanent and significant impact on the local landscape but this is not considered in its own right to be sufficient to merit a determination that a sub-threshold EIA is necessary.

3.2.6. There are concerns regarding the storage of barrels and the necessity for secure compounds, the associated visual impact, fire/ explosive risk and the potential for pollution if there was a fire.

3.2.7. It is considered that insufficient information has been submitted with respect to the treatment of spent wort and wash, and it is unclear what the full implications for air pollution would be. In addition, it is noted that there is no mention of an EPA Wastewater Discharge Licence in the development description. The purpose of the proposed ponds is unclear to the Case Planner and their inlet or outlet connections are not shown. The Planning Authority is not therefore in a position to screen for Stage II AA in the absence of the above details.

3.2.8. It is considered that the proposed development is only related to a site specific product resource in its wish to use Sliabh Liag in its branding, which is considered questionable as a justification and could set an undesirable precedent. However, it is stated that none of the Tier 4 settlements within the vicinity of Sliabh Liag have adequate capacity within their boundaries. The applicant should therefore be asked to demonstrate what site specific product resource is being relied upon.

3.2.9. The proposed development cannot be considered a small rural industrial or business enterprise and it is questionable if Policy ED-P-3 can be used to justify the proposal. The Planning Authority also has concerns regarding the height of the proposed distillery and further information is required in relation to building finishes.

- 3.2.10. It was recommended that the applicant be requested to submit further information to include a visual impact assessment; a site layout showing adequate visibility splays and stopping distances; details on any requirement for a discharge licence and treatment and management of process wastes; details on the purpose of the 4 no. proposed ponds; an assessment of impacts on water quality in nearby rivers and ecological implications for salmon; information on well yields, water consumption, abstraction and rainwater harvesting; boundary treatment details; information on noise impact, storage details and any emissions; clarification if there are any Golden Eagle nesting sites nearby; levels of helicopter traffic; and archaeological testing. As noted, this request was not issued to the applicant.
- 3.2.11. A subsequent and new assessment of the planning application, including unsolicited further information, was carried out by the Planning Authority. With respect to site selection, it is recognised that there are significant difficulties in acquiring a site of sufficient acreage within the small settlement of Carrick. It is also accepted that “good neighbour” complications may have arisen.
- 3.2.12. The Case Planner carrying out this assessment notes that the applicants are local and are seeking to establish a local business and brand based on the local environment. The site is removed from the Sliabh Liag tourist attraction and is not within an Especially High Scenic Amenity Area or within designated views/prospects. The location on the Wild Atlantic Way where the facility can capitalise on a tourist resource is also considered to make practical and orderly sense. It is stated that the proposed development is an important opportunity to develop a viable business that will bring significant economic benefit to the local community. The Planning Authority is therefore satisfied that the proposal comes within the scope of Policy ED-P-11 and there is agreement with the precedent categorisation of whiskey distilleries as a “rural based enterprise” by the Board under PL03.244213. The principle of the proposed development is therefore considered acceptable.

- 3.2.13. In terms of siting and design, it is noted that the scale of the development is modest and the mix of traditional and contemporary finishes are well-conceived and complementary. The proposal will also include the sensitive refurbishment and extension of existing stone buildings, which is considered to be relative to the character of the existing structures and the new distillery building.
- 3.2.14. The proposal to discharge surface waters through a petrol interceptor and silt trap and onto attenuation before release to watercourse is considered acceptable.
- 3.2.15. With respect to traffic safety, the Case Planner is satisfied from photographic evidence that there is no material issue in terms of visibility being impeded to the east of the site access.
- 3.2.16. It is considered that there is no requirement for the submission of a mandatory EIS for EIA; the projected annual production is 240,000 to 600,000 litres, with the upper level being significantly sub-threshold. The Planning Authority is also entirely satisfied that the proposed development is of very modest scale and will not result in significant effects on the environment. Thus, there are no material grounds on which to require a sub-threshold EIS for EIA.
- 3.2.17. Responses are set out to the issues raised by third parties. It is considered that any alleged and unsubstantiated health effects associated with the proposed development lie outwith the planning code. In the absence of any evidence of effects on human health and given the modest scale of the proposal, this is not considered to be a material issue.
- 3.2.18. With respect to the objection to the proposed helipad, it is considered that its use will be limited and infrequent and will not therefore result in nuisance. Other issues raised in third party appeals are addressed elsewhere.

3.2.19. The Case Planner considers that the unsolicited further information provides clarification in support of information already submitted and does not constitute significant additional information/ revised plans.

3.3. **Other Technical Reports**

3.3.1. The Roads Engineer raised the issue of visibility consent to the west of the proposed site access. Consent has been agreed and the Case Planner is happy to proceed as the provision of visibility splays can be secured by way of condition. The Engineer is also concerned that visibility to the east may be impeded by a crest in the road but this is considered to be a minor issue.

3.4. **Third Party Observations**

3.4.1. Inland Fisheries Ireland have raised questions regarding the viability of sourcing a potable water supply via a combination of a bored well and rainwater harvesting. Clarification is also sought on proposals for the disposal of process water and there is concern regarding the proximity of the wastewater treatment system to the river.

3.4.2. The Case Planner notes in the subsequent report that the applicant considers that the bored well source is sustainable and that there will be no organic discharges from the distilling process. The Planning Authority is satisfied with the wastewater treatment proposals, the absence of process loadings, the size of the site and the separation distance from the river.

4.0 **Planning History**

4.1. There is no planning history on the appeal site. The following cases relate to similar proposals.

Galway County Council Reg. Ref: 14/1104 (PL07.245056)

- 4.2. The Board overturned the Council's decision and refused permission for the change of use of part of existing agricultural building to pilot micro distillery, together with external boiler and housing, 2 no. grain silos and associated works at Lochán Beag, Indreabhan, Contae na Gaillimhe.
- 4.3. It was stated under the reason for refusal that *"the Galway County Development Plan 2014–2021, in Objective EDT9, "Small Scale Enterprise and Community Services", encourages the establishment of small scale enterprises in the smaller rural villages and settlements of the County. Provision is also made for the establishment of small-scale rural-orientated enterprises in unserviced rural areas outside of town or village settings under Objective EDT11 "Rural Enterprise". Having regard to the policies and objectives of the said Development Plan, the Board considers that it has not been demonstrated that the proposed development would come under the scope of the criteria set out under objective EDT11 in terms of justifying the location of the proposed development in this rural area outside of any settlement through its use of natural resources and raw materials, which will be imported from outside this local area to the site. It is considered that the proposed development, in the absence of specific requirements that would necessitate its location in this rural unzoned area with substandard or absent infrastructure and services, and which is not suitable to accommodate future growth, would constitute piecemeal, haphazard and unplanned development that would be contrary to the stated policies and objectives of the Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area."*

Clare County Council Reg. Ref: P14/377 (PL03.244213)

- 4.4. The Board upheld the Council's decision and granted permission for the construction of 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.

4.5. This development is located in a rural area and the site area is 1.1963 hectares. The proposed buildings have a floor area of 864 sq.m. An estimated metric tonne of barley and 10,000 litres (10 metric tonnes) of water are required daily as raw materials for this distillery.

Kerry County Council Reg. Ref: 08/2305

4.6. Permission granted at Gortanora, Dingle, Co. Kerry for demolitions, change of use, alterations and extensions of a former creamery building and ancillary structures to provide a new distillery and visitors centre.

4.7. The site is on zoned land within the development boundary of the town. The area of the site for the development is 0.217 hectare and the floor area of proposed buildings is 1,040.7 sq.m. The projected output of the distillery was 80,000 bottles in Year 1 rising to 210,199 bottles (65,000 litres of 95% abv gross volume) in Year 6.

4.8. This site has been developed as the Dingle Brewing Company.

5.0 County Donegal Development Plan, 2012-2018

5.1.1. The site is located in a Structurally Weak Rural Area outside the settlement framework boundary of Carrick, a Tier 4 village.

5.1.2. There are a number of economic development policies that could apply to the proposed development. Policies ED-P-3 to ED-P-15 are locational policies for economic development and Policy ED-P-16 sets out a number of criteria to be met for any proposal for economic development use.

5.1.3. Under Policy ED-P-3, it is stated that *“development involving Industrial buildings or processes will not be permitted outside the boundary of settlements in the open countryside unless related directly to a site specific product resource and the development proposed could not be located in a settlement in line with this policy.”*

- 5.1.4. Under ED-P-11, *“it is a policy of the Council to permit a firm proposal for a small rural industrial or business enterprise or a community led enterprise scheme where it is demonstrated that there is no suitable site within any settlement in the locality and the proposal would benefit the local economy or would contribute to community regeneration...”*.
- 5.1.5. With respect to tourism, it is stated that Sliabh Liag is an iconic and strategic tourism product identified for development. The objective and policies for tourism are set out in section 8.1.2 and 8.1.3. It is a policy of the Council (TOU-P-2) *“to develop a broad range of Iconic and Strategic Tourism Products, in accordance with the proper planning and sustainable development of those areas.”*
- 5.1.6. The area around Sliabh Liag is designated as an Area of Especially High Scenic Amenity. However, the appeal site lies outside this designation.

6.0 **Natural Heritage Designations**

- 6.1. The site is as close as 0.55km to the Slieve League Special Area of Conservation (Site code: 000189). The West Donegal Coast SPA (Site code: 004150) is approximately 2.2km from the site.
- 6.2. Other SACs within 15km of the site include Rathlin O’Birne Island SAC (Site code: 000181), Slieve Tooley/ Tormore Island/ Loughros Beg Bay SAC (Site code: 000190) and St. John’s Point SAC (Site code: 000191)
- 6.3. SPA’s within 15km include Inishduff SPA (Site code: 004115) and Rathlin O’Birne Island SPA (Site code: 004120).

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. Three third party appeals have been submitted against the decision of Donegal County Council by An Taisce and by adjacent property owners. The grounds of appeal and main points raised in each submission can be summarised as follows:

An Taisce

- Appellant is not satisfied that the proposed development complies with certain criteria set out under Policy ED-P-16 of the Development Plan.
- Sustainable enterprises in rural Ireland should only be sited in rural unzoned areas where there is a sound site specific locational rationale (Policy ED-P-3). Planner's report raised similar concerns and this was also the case under PL07.245056. It has not been demonstrated in the current case that raw materials can be economically sourced locally.
- Site has not been adequately justified or assessed for the current scale of development proposed – initially, the proposal consisted solely of the redevelopment of the existing dilapidated agricultural buildings on site.
- It has not been demonstrated that the proposal would not give way to localised or downstream water quality deterioration through the construction and operational phases.
- Recommended further information request to determine impact on surrounding water bodies was not issued to the applicant. Proposal would be contrary to Objective MCZM-0-2 which aims to maintain "...*high water quality and restore water to high status where it has deteriorated, to improve marine and fresh water habitats.*"

- Proposed development, without adequate assessment and mitigation measures, may impact on the status of water and would be contrary to the Water Framework Directive.
- Recommended further information request on yield tests, water consumption, abstraction and rainwater harvesting was not issued to the applicant.
- Information submitted with the application does not demonstrate water consumption demand for the proposed development and the impact of water abstraction for the bored wells on the hydrology of the area.
- Water abstraction may have an impact on the qualifying interests of the Slieve League SAC.
- No condition was attached regarding prohibition for water abstraction from the Owenwee River.
- Traffic survey was carried out in periods of poor weather and promotion of Wild Atlantic Way is likely to increase traffic volumes on the R263. Proposed development is also estimated to attract 5,700 visitors in August. Traffic survey does not reflect normal traffic flow and has not taken account of holiday periods.
- There appears to be significant deficiency in terms of traffic and transport assessment; annual traffic movements to/ from the site; and capacity for expansion.
- There is concern from a safety perspective in relation to the design of the entrance on a significant slope.
- Industrial and commercial nature of the proposal and its scale and intensity would be incompatible with the rural and open character of the area and may be injurious to the amenities of properties in the vicinity.
- Recommended further information regarding the visual impact of the proposed development was not issued to the applicant. Board is requested to assess the

impact on Area of Especially High Scenic Area in the vicinity and views towards Teelin Bay.

Padraig & Trish Carr

- Appellants reside in an adjoining property and have first-hand knowledge of the issues and constraints of water supply in the area – with recent upgrade of pumps, appellant now has enough water supply for a domestic house but there would not be enough to supply a distillery.
- Only productive well in the general area has failed numerous test on quality – this well was previously the source for the local group water scheme until it failed water tests.
- Well and surface water collection point is within the SAC. Regulations governing water abstraction from an SAC are covered under the 2011 Act and/ or the EU Habitats Directive. SI 477 of 2011 states that *“alteration of banks, bed or flow of watercourse is strictly forbidden and not allowed”*. Under habitat type governing Rivers and Streams, including Sliabh Liag SAC, it states that *“extracting water is not permitted”*.
- Applicant spent 3 days drilling for water and trial holes were unsuccessful and no water was found. There was a failure on the part of the local authority to follow correct procedures and seek volumetric tests in keeping with the WFD.
- Any attempt to extract water from the area between the SAC and the river will directly and negatively impact on the Owenwee River and long term impact on salmon recovery of the river.
- It is not clear how run-off water, storm water and wastewater from the production process will be dealt with.

- There is possible pollution risk from the wastewater treatment plant on the Owenwee River. Inland Fisheries Ireland requested further information regarding possible discharges.
- Applicant fails to demonstrate that sight lines are obtainable for a distance of 177m either side of the access – sight lines to west transcend a 3rd party boundary. Stopping distance to east are not achievable.
- Visual impact and loss of amenity of access roadway will be immense and will greatly alter the landscape. Condition 6 will also cause the complete destruction of a century old hedge row.
- Historically, any attempt by locals to build on the southern side of the R263 would have been met with refusal from the Council.
- Area has many waymarked ways and tracking paths and proposal will also be visible from the R263 and various townlands from the north-east, east and west.
- Board is asked to review all pollutants from the proposed distillery in the context of the surrounding landscapes, habitat and residences.
- Appellant has never indicated any support for this development at its present location.

Oliver & Patricia Byrne

- Visual impact of the entire development must be assessed; the distillery as well as the access road, helipad, excavation works, etc.
- It is not correct to suggest that no sites or plots are available within control points of surrounding towns or villages.
- Appellant attempted to bore wells in the general area in the 1990s to no success – historically, the townland of Carrick Lower had chronic water supply problems with both quality and quantity.

- Scale and height of the proposed development in the context of the surrounding buildings and landscapes is queried.
- Site is located in a valley base with steep surrounding slopes, all of which will assist the spread and growth of *Baudoinia Compniacensis*.
- There are concerns regarding the potential noise levels and disruption to the area from the proposed development. Helipad would also have the effect of startling farm stock.

7.2. Planning Authority Response

7.2.1. The Planning Authority responded to the third party appeals with the following comments:

- Proposal has been comprehensively considered in the context of the prevailing policy and strategic objectives for the county.
- Core Strategy contains the strategic objective which seeks *“a balanced approach to rural areas to retain vibrancy and ensure the continuity of established communities”* (CS-O-10). Council also aims *“to develop a sustainable economic model and to embrace innovation, research and development, rural diversification, eco-tourism initiatives, energy advances and the promotion of sustainable start-up enterprises”* (IC-O-1).
- Sustainability of the proposal is considered in the context of, inter alia, the potentially significant sustainable economic contribution to the wider socio-economic benefit for the wider district, compatibility with the wider strategic initiatives along the Wild Atlantic Way, and the viability of the site as a physical setting for the project.
- In terms of socio-economic performance, the area is identified as “disadvantaged” and over a quarter of the workforce in the DED commutes

outside the district. 872 people (July 2016) were on the live register and there is need for sustainable economic development opportunities.

- Favourable recommendation for the proposal is considered to be a sustainable approach in the promotion of the wider Gaeltacht area through investment in rural enterprises and complementary tourism initiatives.
- Planning Authority has taken a critical balanced approach to assessing the potential of the development to make a positive contribution to both the Gaeltacht landscape and the social/ economic landscape of the area.

7.3. Other Party Responses

- 7.3.1. The applicant's agent submitted a response to the main grounds of appeal raised by third parties. This submission includes supplementary information from traffic/ transport consultants, statements from the applicants including letters of support from local organisations, a drilling report and photomontages of the proposal.
- 7.3.2. The main points raised in the appeal response can be summarised as follows:

Principle of development at location proposed

- Location selected is the optimum site for the development due to the proximity to the settlement of Carrick, in which no suitable site is available; the available water source and proximity to local raw materials/ resources (water, seaweed, grain); the location along the Wild Atlantic Way tourist route and Sliabh Liag; and the availability of redundant buildings for redevelopment. There is no site big enough nor which fitted with the lore of whiskey making within the settlement.
- Application documentation and Planning Officer's Report describe in detail the site selection process and how a suitable site could not be secured within the settlement of Carrick. Report attached to the appeal response from the applicant notes that the rural area around Carrick has been known for many years for its

whiskey making and illicit Poitín industry. Parish of Glencolmcille was most prolific in the county for illicit whiskey distillation.

- Sliabh Liag is an artisan distillery using traditional copper stills, producing spirit in small batches – visitors expect to see traditional distilleries in rural locations close to the means of production.
- With respect to the distillery being related to a site specific product resource, the village of Carrick is the gateway to the Sliabh Liag sea cliffs and the development will utilise the essential water ingredient on site for distilling, as well as local seaweed and grain. Applicant submits that distilleries were traditionally built close to an abundance of water, barley and peat. Largest organic barley grower in the County has indicated that they would be interested in growing for the distillery.
- An Dúlamán is the only gin where the seaweed is genuinely distilled and four local seaweeds will be foraged from local headlands working with local partners. Deteriorating stone buildings will be brought back to life as the home of the gin.
- Economic synergies created by complementary tourist resource products would create an environment for significant employment generating potential – distillery and visitor centre will employ 61 at maturity and the community provides cafes, restaurants, bars, shops, music and accommodation to take increased tourist spend.
- Proposed distillery would be fully in accordance with all of the stipulated criteria of Policy ED-P-16 and with all relevant economic and site location policies contained within the Development Plan.

Water source/ quality and run-off impacts

- Recent drilling and pump tests and subsequent assessment of water yield and quality confirms that adequate and sufficient water exists within the site to provide for the complete needs of the distillery (drilling report appended).
- Report prepared by applicant states that 47.85 m³ of water are required for a production shift, which will comfortably be covered by the borehole array before rainwater harvesting volumes are considered – there is no need or intention to draw water from the river.
- Recent drilling and testing on bedrock aquifer resulted in an individual borehole capable of a sustainable supply of 23 m³ per day. There will be four boreholes across the site.
- No contaminated water or discharge will be generated by the distilling process – spent grain is removed as cattle feed; pot ale and spend lees (from the wash still and two subsequent stills) will be held in a sealed tank then mixed with “cleaning in place” waters and removed for land spreading under appropriate EPA licence. Distillery will pay for processing at appropriate treatment site if climate conditions do not allow for land spreading.
- It is proposed that all surface water run-off will pass through a petrol interceptor and silt trap prior to entering on-site attenuation before final discharge to the local watercourse. This system is designed to take account of natural drainage and topography. Attenuation ponds will provide capacity to manage surface water run-off associated with hardstandings and will provide temporary storage capacity during periods of high rainfall.
- Wastewaters would only be produced from conventional sanitary and washing facilities, which would be collected and treated in an on-site mechanical aeration sewage treatment unit with tertiary treatment. This unit comfortably exceeds all

separation distances and will have no adverse impact on receiving ground or surface waters.

- Condition 2 requires the submission of a construction management plan – application will not adversely affect downstream water quality during construction or operational phases.
- AA Screening Report concludes that the small volumes of discharge water entering the river will not give rise to any significant effects on the downstream Natura 2000 sites.

Traffic safety

- Planning Authority noted that the 85th percentile speed is in excess of the design speed (80 kph) for the development such that survey results are considered satisfactory.
- Area Roads Engineer conducted a specific inspection of the site entrance and concluded that the issue of a slope interfering with the visibility splay to the east is minor. Planning Authority is satisfied that the proposed development will not endanger public safety by reason of a traffic hazard.
- Further report from traffic consultants is appended with the appeal response to confirm that surveys carried out and speed data recorded and analysed are accurate and valid, as are the calculations relating to stopping distances.

Visual amenity

- Planning Office notes that the proposal is in accordance with the design details agreed during pre-planning and no concerns arise in the context of the scale, siting and design of the proposed development.
- Site is not protected by any amenity designations and is unaffected by any particular protected views or prospects.

- Design intention is to create a simple vernacular building drawing on local building forms with references to the distilling heritage of the area (e.g. arched roof, barn structures) coupled with sensitive restoration and re-use of existing farm buildings.
- Buildings are located below the level of the road and seamlessly and effectively integrate into the receiving landscape without any visual intrusion on the environment.
- Visual impact assessment appended to appeal response demonstrates the likely visual impact from a variety of the most important vantage points.

Air and noise pollution

- Submission lodged by the applicant to the Council states that any effect of “baudoinia compniacensis” on buildings, known as blackening due to an ethanol rich environment, would be solely confined to within the site.
- Beyond the distillery site, the low ambient temperature, natural site exposure and small scale of the facility would mean that the concentrations of ambient ethanol would be so minimal and diffuse as to pose no threat to any parties/ properties in the vicinity.
- Mill producing the grist from the grain is the only noise emitting activity or process and machines are contained within a concrete walled room within the building. Council has imposed a noise condition which the applicant is happy to comply with.
- Letters of support are attached to the submission from Donegal Investment Group (organic growers), Algaran (seaweed products), Fáilte Ireland, Thomas Pringle TD, Oideas Gael, Awake Tourism Ltd., Coiste Forbartha Theilinn (Teelin Development Group), Lough Eske Castle Hotel & Spa, Kilcar Paris Council and Údarás na Gaeltachta.

7.4. Observations

Inland Fisheries Ireland

7.4.1. An observation on the appeal by Inland Fisheries Ireland raised the following points:

- There is no indication that trial wells have been tested to determine yield and/ or water quality for the distilling process.
- Rainwater is not a guaranteed source and if storage is envisaged, how would it affect the production process in terms of water quality?
- Details of cooling ponds and disposal of process waste off site is totally inadequate – 17 m³ per shift of process wastewater with potentially high organic loadings is sizeable. Land spreading of by-product will presumably not be an option all year round.
- Proximity of tertiary wastewater treatment area to river is a concern in view of slope and poor percolation/ peat layer. Additional capacity above 36 PE should be provided.
- IFI was not invited to comment at pre-planning stage and the proposal has the potential for a deterioration in environmental status. Owenwee River's ecological status is good and physio-chemical status is high. Overall status under River Basis District report is good.
- Has the Planning Authority contemplated the need for an EIS?
- Has the application been referred to the National Parks and Wildlife Service and the Council's Executive Chemist?

7.5. Further Responses

7.5.1. The appellants Oliver & Patricia Byrne submitted the following comments on the first party appeal response:

- Without doubt, there are suitable sites available, be they located within the settlement boundaries of Carrick or other nearby settlements.
- A much smaller site than 20 acres would suffice and the proposal to place a development of such scale in a rural setting is not in keeping with rural planning and will eventually impact negatively on the tourist product and the natural beauty of the area.
- Suitability of the site fails on the grounds that it is located in a rural area outside of a settlement and the proposed development is not a site specific product in order to justify its construction at this location.
- Site is located in an area that has chronic water shortages – current supply is barely adequate for the residential households in the area.
- Appellant's own drilled private water supply is used for livestock only, as it is not fit for human consumption due to high mineral content. Applicant has drilled first well immediately adjacent the appellant's well and is feeding off the same source.
- Historically, the area around the distillery has never been noted for growing crops such as barley or oats – these crops will be sourced in the Letterkenny area 50 miles away from the proposed site.
- Application fails to comply with ED-P-3, ED-P-11, ED-O-9 or ED-O-8 and fails to satisfy many of the criteria within Policy ED-P-16 of the Development Plan. Board should review this application on the basis of these policies.
- Environmental Impact Assessment should have been carried out – site sits on the banks of a salmonid river, within the wider catchment of a SAC and in an area of

unspoilt natural beauty. No impact on vapour emissions has been conducted nor an assessment of any other distillery on their respective communities.

- Board should examine the issue of loss of amenity from the perspective of the surrounding area and local residents.
- Local Authority is setting a poor precedent for sustainable development within south-west Donegal – proposal must be examined in the context of the development pattern in Carrick over the past 20 years.
- Appellant has concerns regarding traffic safety at the entrance to the site, being a tourist destination, place of work and a production centre.

7.5.2. The response from Padraig and Trish Carr includes a letter from Slieve League Anglers, a photograph from the R263 travelling eastwards, a sample of campaigning, and a photograph of distillery in operation in the Údarás building next to a community owned site within the town boundary. The main points raised in the submission can be summarised as follows:

- Policies ED-P-3 and ED-P-11 are contained in the Development Plan to have orderly development in a controlled and managed way throughout Donegal – proposed distillery fails to comply with these policies for the following reasons:
 - There is no specific product grown, sourced or found within the Parish of Glencolmcille and there is no specific requirement of the distillery that would justify locating at the proposed site. Furthermore, water supply is problematic to source at this location.
 - Alternative sites are available within the settlement boundary of Carrick, some of which are community owned including a 6-acre site next to the enterprise centre that the applicants are currently using for distilling in an Údarás owned building. This site is within the town boundary, is fully serviced and available for development.

- Without policies in the Development Plan, developers would continue to purchase cheaper sites outside settlement envelopes rather than buying properly zoned lands which would be more expensive. Policy ED-P-11 ensures orderly development of settlements and protection of rural areas from industrial development on an unsustainable basis or haphazard fashion.
 - No evidence has been provided regarding the non-availability of other sites within the settlement envelope – Policy ED-P-11 conditions have not been met.
- Applicant has failed to demonstrate any direct connection with farm diversification or small rural projects which are directly linked to the distillery (Policy ED-P-9). Historically, there is no tradition of growing the raw materials required. In the 1901 and 1911 censuses only 0.7% of the entire parish was either sown for barley, wheat or corn production. It is not accepted that there is a readily available source of seaweed in the locality for gin production.
 - Loss of amenity as a result of permitting the development is considerable – site is located on the Wild Atlantic Way in an area of unspoilt and natural beauty (Objective ED-O-8).
 - Scale of proposal is totally out of keeping with the area when the access road, internal site roads, car parks, coach parks, helipad and footprints of buildings are considered. View travelling eastwards on R263 with Teelin Bay and Sliabh Liag as a backdrop has the potential to negatively impact on the Wild Atlantic Way.
 - In reference to Policy ED-P-16, the proposed distillery is completely incompatible with all surrounding land uses; directly impacts on the amenity of surrounding residents; the provision of water infrastructure has been extremely poorly dealt with; noise levels will be increased from traffic,

processing and helicopters; emission will be generated (Baudoinia Compniacensis); and no measures are provided to integrate the development into the surrounding landscape.

- True and accurate traffic survey could have been completed during peak season. Concerns are also expressed regarding the availability of stopping distances.
- Letters of support are from groups outside the Carrick catchment – Carrick Parish Council and Development Association and the umbrella groups Lar Chomhairle Paroiste Gleann Cholm Cille have not endorsed the proposal at its present location. Lar Chomhairle commissioned the original feasibility study for a community lead whiskey distillery.
- Only argument being put forward for not requiring an EIS is the size and scale of the proposal – future expansion can occur, other product diversification, etc.

8.0 **Assessment**

- 8.1. Planning permission is sought for the construction of a new distillery complex at a site located within a rural area outside the village of Carrick on the Wild Atlantic Way and in proximity to Sliabh Liag sea cliffs in south-western Co. Donegal.
- 8.2. Donegal County Council issued notification of decision to grant permission for the proposed development and three third party appeals have been lodged against this decision by An Taisce and residents of the area.
- 8.3. It should be noted that there was a recommendation within an initial Planner's Report to seek further information from that applicant; however, this further information request was not issued. The Planning Authority did, however, receive unsolicited further information from the applicant, which addresses some of the issues raised in the initial Planner's Report.

8.4. Having considered contents of the planning application, grounds of appeal, submissions on file and observations from my site visit, I consider that this appeal should be assessed under the following headings:

- Screening for EIA;
- Appropriate Assessment;
- Development principle;
- Access;
- Visual impact;
- Wastewater treatment and disposal;
- Water supply and impact on water quality; and
- Pollution

8.5. **Screening for EIA**

8.5.1. Schedule 5 of the Planning and Development Regulations, 2001 (as amended) sets out development for the purposes of Part 10 (Environmental Impact Assessment). Under Item 7(d), Food Industry, of Part 2 of Schedule 5, *“installations for commercial brewing and distilling; installations for malting, where the production capacity would exceed 100,000 tonnes per annum”* would require EIA.

8.5.2. The proposed distillery will have a maximum production capacity of 600,000 litres per annum of pure alcohol. At 40% abv, this would equate to approximately 1,500,000 litres or 1,500 tonnes of whiskey per annum which is well below the EIA threshold. The proposed development does not therefore require a mandatory EIA.

8.5.3. In addition to the mandatory requirement for EIA, there is the requirement for a case-by-case examination of the need for EIA for sub-threshold development on sites of

conservation sensitivity, as well as the general requirement that sub-threshold projects likely to have significant effects on the environment must be subject to EIA.

- 8.5.4. In deciding whether or not the proposed development should be the subject of a sub-threshold EIA, Schedule 7 of the Regulations sets out the criteria for determining whether a development would or would not be likely to have significant effects on the environment. The three main criteria are the characteristics of the proposed development; the location of the proposed development; and the characteristics of potential impacts.
- 8.5.5. With respect to the characteristics of the proposed development, criteria that should be considered in this case are the size of the proposed development; the use of natural resources; the production of waste; pollution and nuisances; and the risk of accidents. It is stated in the DoHPCLG's document "EIA: Guidance for Consent Authorities regarding Sub-Threshold Development" that when considering the above factors in the context of the likelihood of significant environmental effects arising, competent/consent authorities should pay particular attention to projects which are close to the national statutory thresholds. As noted above, the proposed development is a small fraction of the threshold and on this basis, I would be satisfied that the characteristics of the proposal are not likely to have a significant effect on the environment.
- 8.5.6. In terms of the location of the proposed development, Schedule 7 refers to the environmental sensitivity of geographical areas likely to be affected by the proposed development. The site is located as close as 560m to the Slieve League Special Area of Conservation. The summit of Slieve League is approximately 3.4km from the site and the Slieve League Coast is as close as 3km. There is a forestry plantation on the opposite side of the Owenwee River which forms the southern boundary to the site. Slieve League to the south-west of the site is within an Area of Especially High Scenic Amenity.

- 8.5.7. An Appropriate Assessment Screening Report has been submitted with the planning application and the Appropriate Assessment carried out hereunder concludes that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European Site. In my opinion, the most significant effects of the proposed development on the environment are covered within the Appropriate Assessment. I would be satisfied that there will be no other significant effects on the nearby geographical areas mentioned above.
- 8.5.8. Relevant criteria to be considered when assessing the characteristics of the potential impacts include the extent of the impact, its magnitude and complexity, the probability of impact and its duration, frequency and the reversibility of impact.
- 8.5.9. The geographical area and size of the population potentially affected by the proposed development will be small scale and low. Similarly, the magnitude of the proposed development will be limited by its size. The complexity of impact increases when a greater number of different aspects of the environment are affected. In this case, the aspects of the environment affected will be limited mostly to surrounding water bodies, and to a lesser degree, air quality.
- 8.5.10. Overall, I would be of the opinion that the proposed development will not give rise to any significant effects on the environment and therefore a sub-threshold EIA is not required in this case.

8.6. Appropriate Assessment

- 8.6.1. The EU Habitats Directive (92/43/EEC) requires competent authorities to review planning applications and consents that have the potential to impact on European designated sites, i.e. Special Protection Areas (SPA's) and Special Areas of Conservation (SAC's). To assist this process, the applicant has prepared a Habitats Directive Article 6 Report/ Screening for Appropriate Assessment.

Stage 1: Screening

- 8.6.2. The first stage of the Appropriate Assessment process is the screening exercise where it should be decided if the effects of a development on a European site are likely and whether or not the effects are significant in light of the Conservation Objectives for the site. It should also be determined if there are cumulative effects with other projects. The precautionary principle should apply if there are significant effects that cannot be excluded, or where the likelihood is uncertain.
- 8.6.3. The first step of this stage is to identify all European sites which could potentially be affected using the Source-Pathway-Receptor model. There are four SAC's within 15km of the site, the closest of which is the Slieve League Special Area of Conservation (Site code: 000189) located approximately 560m to the south-west of the site boundary. The Slieve Tooley/ Tormore Island/ Loughros Beg Bay SAC (Site code: 000190) is 7km north-west of the site and Rathlin O'Birne Island SAC, (Site code: 000181) is located 7.8km to the west. The St. John's Point SAC (Site code: 000191) is 13km to the south-east.
- 8.6.4. There are three SPA's within 15km of the site, the closest being the West Donegal Coast SPA (Site code: 004150) at a distance of approximately 2.2km to the south-west of the site. The Inishduff SPA (Site code: 004115) is 9km south-east of the site and Rathlin O'Birne Island SPA (Site code: 004120) is 10.5km to the west.
- 8.6.5. Having regard to the nature and scale of the proposed development, impact pathways would be restricted to hydrological pathways and mobile species pathways. Using the source-pathway-receptor risk assessment principle, the European sites that could potentially be affected by the proposed development are the Slieve League SAC and the West Donegal Coast SPA. The distance to all other European Sites is in excess of 7km. It can be reasonably concluded that the proposed development would not have a significant effect individually or in

combination with other plans or projects on European sites in excess of 7km from the site having regard to the conservation objectives for these European Sites, the nature of discharge from the development site, and the source-pathway-receptor risk assessment principle.

8.6.6. The second step is to identify the conservation objectives for each of the European Sites that could potentially be affected using the Source-Pathway-Receptor model. The conservation objective of the Slieve League SAC (000189) is to maintain or restore the favourable conservation status of the following habitats and species of community interest:

- 1170 Reefs
- 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts
- 4010 Northern Atlantic wet heaths with *Erica tetralix*
- 4060 Alpine and Boreal heaths
- 7130 Blanket bogs (* if active bog)
- 8210 Calcareous rocky slopes with chasmophytic vegetation
- 8220 Siliceous rocky slopes with chasmophytic vegetation

8.6.7. For the West Donegal Coast SPA (004150), the conservation objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

| Bird Code | Common Name | Scientific Name |
|------------------|--------------------|----------------------------------|
| A009 | Fulmar | <i>Fulmarus glacialis</i> |
| A017 | Cormorant | <i>Phalacrocorax carbo</i> |
| A018 | Shag | <i>Phalacrocorax aristotelis</i> |
| A103 | Peregrine | <i>Falco peregrinus</i> |
| A184 | Herring Gull | <i>Larus argentatus</i> |
| A188 | Kittiwake | <i>Rissa tridactyla</i> |
| A200 | Razorbill | <i>Alca torda</i> |
| A346 | Chough | <i>Pyrrhocorax pyrrhocorax</i> |

- 8.6.8. Step 3 of the screening process is to identify the potential (a) likely and (b) significant effects (direct or indirect) of the project alone on the European sites **solely** within the context of the site's conservation objectives in light of best scientific knowledge in the field.
- 8.6.9. The Slieve League SAC and West Donegal Coast SPA are located as close as 560m and 2.2km from the boundaries of the site respectively. However, there are no hydrological pathways and mobile species pathways to the nearest points of these sites. The nearest pathway is via the Owenwee River (An Abhainn Bhuí) to the parts of the Slieve League SAC and West Donegal Coast SPA, which are further downstream in Teelin Bay and Tawny Bay at distances of approximately 4.2km and 4.16km respectively.
- 8.6.10. It is proposed that water will be supplied on site through a combination of on-site bored wells and rainwater harvesting techniques. It is not proposed to abstract water from the Owenwee River. Process water will amount to 17,000 litres per shift. There will be no organic discharge from the distilling process to the nearby watercourse. By-products (Draff) will be used as animal feed and other wastes will be removed for land spreading or disposal at a municipal wastewater treatment plant. Water used to cool condensers is drawn from and recycled to cooling ponds, and any excess cooling waters are discharged to the surface water management system with final discharge point to the Owenwee River being subject to an EPA discharge licence. Effluent will be treated via a wastewater treatment system with tertiary treatment. The main potential threat to the qualifying interests of these European sites would be from pollution from the site during construction and operational phases.
- 8.6.11. The fourth step of the Screening stage is to identify the potential (a) likely and (b) significant effects (direct or indirect) of the project in combination with other plans or projects on the European site **solely** within the context of the site's conservation objectives in light of best scientific knowledge in the field.

- 8.6.12. There are no other major development proposals in the vicinity of the site. In combination effects would be limited to small scale one off housing proposals with proprietary wastewater treatment systems.
- 8.6.13. The fifth step of the Screening stage is to evaluate the potential effects identified above using the source-pathway-receptor model.
- 8.6.14. There are no direct connections to the nearest parts of the Slieve League SAC and West Donegal Coast SPA. Watercourse connectivity with the nearest European sites is in excess of 4km downstream. The nearest hardstanding will be approximately 80m from the river. Discharge volumes from the site via the surface water drainage system are likely to be low and will be subject to EPA best practice standards to comply with the discharge licence. The proposed wastewater treatment system will be located approximately 90m from the Owenwee River, which is well in excess of required EPA separation distances set out in the Code of Practice. The nearest European Sites are a further c. 4km downstream.
- 8.6.15. Having regard to the nature and scale of the proposed development, the limited and controlled discharge from the site, and the distance between the site and the nearest designated sites downstream, it is likely that there will be no significant direct or indirect effects the conservation status of the habitats, species or bird species within the Slieve League SAC and West Donegal Coast SPA.
- 8.6.16. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites No's: 000189 and 004150, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.7. Development principle

- 8.7.1. The appeal site is located within a structurally weak rural area outside any defined settlement. It is recognised in the Development Plan that while the traditional activities of farming, tourism and forestry still have an important role to play in rural areas, organic and value added food production and tourism also have the potential for job creation.
- 8.7.2. The role of the Council's Economic Development Strategy, however, is to align new economic and employment development with the role and function of settlements as identified in the Core Strategy/Settlement Hierarchy. The appeal site is located approximately 1km west of the settlement framework boundary of the village of Carrick, a Tier 4 settlement. The aim is to promote the integration of appropriate employment uses with other land uses in settlements in an effort to provide balanced sustainable development and to reduce the need to travel.
- 8.7.3. Notwithstanding this, the Development Plan contains a number of economic development locational policies which allow for industrial buildings or processes to be located in the open countryside where they are directly located to a site specific product resource or where it can be demonstrated that there are no other available locations within settlement boundaries.
- 8.7.4. In my opinion, the proposed operation of a distillery could fall under the description of an "industrial process" being a process that is carried out in the course of trade or business other than agriculture and which is for, or incidental, to the making of any article or part of an article.
- 8.7.5. In this regard, Policy ED-P-3 states that *"it is a policy of the Council to permit economic development proposals involving an industrial building or process (as defined in Art 5 of the 2001 Planning Regulations) within the defined settlements on land zoned for such use in a local plan or specified in a settlement framework in this*

Plan subject to any environmental considerations and policy ED-P-2. Industrial development will also be permitted in an existing industrial/ employment area within settlements provided the proposal is of a scale, nature and form appropriate to the location and complies with policy ED-P-2. Elsewhere within the settlements, proposals for industrial use (not comprising light industrial use) will be permitted only in Tier 1 and Tier 2 settlements and where it can be demonstrated: - that there is no available zoned land or land on an existing industrial area; that the proposal is for a firm rather than speculative proposal; and that the development would make a substantial contribution to the economy of the area. Development involving Industrial buildings or processes will not be permitted outside the boundary of settlements in the open countryside unless related directly to a site specific product resource and the development proposed could not be located in a settlement in line with this policy.”

8.7.6. Of relevance to the proposed development is the statement that development involving industrial processes will not be permitted in the open countryside unless directly related to a site specific product resource. The raw materials required for the production of whiskey include water, malt and barley and yeast. None of these materials are unique to the appeal site or the immediate area and the surrounding agricultural lands would not be considered arable. The applicant also submits that seaweed will be used in the production of gin; however, the species of seaweed used can be found around the Irish coast and in any event the appeal site is a considerable distance from the nearest accessible part of the shore. I would therefore be of the opinion that there is no reason that the proposed development cannot be located within a settlement boundary.

8.7.7. The applicant makes the argument that the site was also selected due to its location along the Wild Atlantic Way and beside Sliabh Liag and to the availability of redundant buildings on site. The distillery and whiskey is branded as Sliabh Liag and indeed the mountain forms a backdrop to the site when travelling along the Wild

Atlantic Way. It is submitted by the applicant that the Sliabh Liag Distillery will leverage its proximity to the Sliabh Liag cliffs, much as Bushmills does with the Giant's Causeway.

- 8.7.8. I would be in agreement that the only site specific product resource is the use of Sliabh Liag as branding for the product. In my opinion, this is a somewhat tenuous link and one that could be exploited by others wishing to establish businesses outside of defined settlements, and particularly in scenic locations. An undesirable precedent would be established that would be contrary to Development Plan Objective ED-O-5 which seeks *“to encourage sustainable mixed use settlements in which residential and appropriate employment developments are located in close proximity to each other.”*
- 8.7.9. Notwithstanding the above, there may be grounds for locating the proposed development on the appeal site if it can be adequately demonstrated that there are no suitable sites within the boundary of a settlement in the locality. Under ED-P-11, *“it is a policy of the Council to permit a firm proposal for a small rural industrial or business enterprise or a community led enterprise scheme where it is demonstrated that there is no suitable site within any settlement in the locality and the proposal would benefit the local economy or would contribute to community regeneration. An application under this policy must be accompanied by evidence to support the case of economic benefit to the local economy and detailed information on the search conducted to secure a suitable site within the boundary of the local settlement(s). Any retail element to a proposed development under this policy must be clearly ancillary to the primary industrial/business use.”*
- 8.7.10. The proposed business is clearly a small rural enterprise that will provide economic benefit to the local economy through the provision of substantial employment for a location such as this. However, I would not be convinced that the applicant has fully investigated that there is a suitable site for the development of the distillery within the

boundary of the local settlement. The applicant has submitted a table assessing six sites under criteria such as location in proximity to Sliabh Liag/ Donegal Gaeltacht, existing buildings, water availability, ease of access, space to grow and site availability. I note, however, that the company who propose to operate the proposed distillery are already producing spirits and there appears to be no information on where this activity is currently being carried out. An appellant submits that alternative sites are available within the settlement boundary of Carrick, some of which are community owned, including a 6-acre site next to the enterprise centre that the applicants are currently using for distilling in an Údarás na Gaeltachta owned building. It is stated that this site is within the town boundary, is fully serviced and available for development.

8.7.11. The applicant states that there is no site big enough nor which fits with the lore of whiskey making within the settlement boundary. However, an appellant questions the scale of the appeal site and submits that a much smaller site would suffice. The site area is given as 8.86 hectares. By way of comparison, Old Bushmills Distillery occupies an area of approximately 13.5 hectares. This distillery is the oldest in the world and produces over 9 million litres of whiskey per annum. It also includes a bottling facility for other distilleries including Jameson's. It would therefore be of much greater scale than that proposed. Only a small area of the appeal site will be built upon and it appears that the primary motivation for choosing this site is its location within a scenic area on the northern slopes of Sliabh Liag. In this regard, the location has been chosen to promote the brand rather than to consolidate the settlement. I refer the Board to other recent distillery precedent cases in Counties Clare and Kerry which are located on substantially smaller sites than the appeal site.

8.7.12. In conclusion, it may be accepted that from a historical perspective, distilleries are functionally related to the countryside. However, there is no site specific product resource that might warrant the development of a distillery at this location. Furthermore, the applicant has not carried out an exhaustive search of sites within

the settlement of a scale appropriate to the proposed distillery. Therefore, the proposal fails to comply with the locational requirements of Development Policies ED-P-3 and ED-P-11. I would also be of the opinion that there are no unique or exceptional circumstances where the proposal may be considered of regional or national significance under Policy ED-P-9. In addition, I consider that the proposal would only be acceptable under Policy ED-P-14 if situated on lands within the ownership of Údarás na Gaeltachta.

8.8. Access

- 8.8.1. A new entrance to the site will be formed along the frontage onto the R263 Regional Road. This road forms part of the Wild Atlantic Way tourist route. The speed limit along this stretch of road is 80 kph; however, a speed survey conducted on behalf of the applicant found that the 85th percentile speed was in excess of 80kph. A solid white line restricts overtaking along the entire site frontage and further to the east and west. The vertical and horizontal alignment of this road restricts forward visibility, particularly to the eastern end of the site frontage.
- 8.8.2. The proposed access will include a new slip lane of approximately 55m in length on the westbound approach. The access will have wide corner radii to allow larger vehicle to enter and egress the side. The access road will curve to the east along the contours of the site before turning south and falling a height of approximately 4m down to the proposed parking area to the western side of the new distillery building. There will be a new 6m wide service road continuing a distance of approximately 150m between the new distillery building and the existing buildings that will be restored.
- 8.8.3. It is stated in Section 10.2.10 of the Development Plan that *“permanent visibility splays shall be provided to enable emerging drivers using the direct access to have adequate visibility in each direction to see oncoming traffic in sufficient time to make their manoeuvre safely without influencing the major road traffic speed.”* A vision line

of 160m is required for a speed limit of 85 kph at a distance of 3m back from the edge of the carriageway. The stopping distance for approaching motorists travelling at a speed of 80 kph is 160m.

- 8.8.4. There are broken yellow lines along both sides of the road. These standard broken edge of carriageway lines consist of 2m yellow marks and 2m gaps. The number of yellow marks visible before the crest of the hill on the road to the south-east from the location of the proposed site access is approximately 20 no. Therefore, the crest of the hill is at a distance of approximately 80m from the site access. It may be possible to see the roof of an approaching car on the far side of the crest; however, I would have serious reservations regarding the visibility from the proposed access to the right hand side for emerging motorists. As noted above, the required sight line from the access is 160m and the available uninterrupted sightline falls significantly short of the requirement.
- 8.8.5. In addition to the above, I inspected the approach to the proposed site access for westbound motorists and recorded a number of time series photographs of a car passing the site frontage from a location approximately 200m from the proposed access. I observed that the westbound vehicle disappears from view for a brief period due to the vertical and horizontal alignment of the road before re-emerging into view again somewhere around the location of the proposed access. In my opinion, this also gives rise to serious issues from a traffic safety viewpoint in terms of forward visibility and stopping distances.
- 8.8.6. I would also have some concerns regarding the rising gradient of the access road and site access, particularly for delivery vehicles or buses egressing the site. Larger slower moving vehicles making a right turn exit from the site will require a longer period of time to clear the westbound carriageway and this may also adversely affect the safety and free flow of vehicles travelling on the R283.

8.9. Visual impact

- 8.9.1. The appeal site lies in a scenic area within a valley between Sliabh Liag and Cnoc Onna. Sliabh Liag provides an imposing backdrop to the site and there are longer range views down to Teelin Bay to the south-east. The R263 forms part of the Wild Atlantic Way; however, the site itself lies outside the Area of Especially High Scenic Amenity. Furthermore, there are no designated views or prospects that would be affected by the proposed development.
- 8.9.2. It is stated within planning application documentation that initially it was proposed to refurbish and extend the existing stone agricultural buildings along the western boundary of the site as the only structures accommodating the proposed distillery. However, the drawings submitted with the planning application also show the main distillery building at a separate located approximately 180m east of the existing buildings.
- 8.9.3. The proposal also includes significant areas of hardstanding to accommodate car parking, bus parking, access roadways, turning areas for delivery vehicles and a helipad. The distance between buildings and the need for separate parking areas, in my opinion, results in an excessive form of development covering more of the site than is necessary. I consider that clustering of the proposed development around the existing stone buildings would have minimised the visual impact and the level of new development required. As noted above, I have reservations regarding the scale of the site and consider that a facility such as this could be accommodating in a more compact location within a settlement boundary.
- 8.9.4. I would also have some concern regarding the degree of fill required for the access road to negotiate the site gradient. The roadway will be raised by as much as 4m above the existing level of the site and this will require the use of high retaining walls. The long roadway and footpath connecting built areas would allow tourists to enjoy

the surrounding views but no other explanation is given for locating the distillery away from existing buildings on site.

8.9.5. I have no objection to the design of the proposed distillery building itself. The building will have a split level design with lower level accommodating pot stills and washback over two levels. Externally, the design respects the rural vernacular with barrel vaulted roof, narrow gables, timber shutters and stone and render finishes.

8.9.6. The proposed renovation and extension of the existing building will be carried out tastefully and it would appear that an existing free-standing gable will be incorporated into the proposed gin palace. This part of the proposal would comply with Development Plan Policy BH-P-5 which seeks *“to ensure the repair, reuse and appropriate refurbishment of vernacular/historic buildings, which make a positive contribution to the built heritage of the area including those as referred to on any National Inventory of Architectural Heritage listing.”*

8.10. **Wastewater treatment and disposal**

8.10.1. It is proposed to serve the site with a mechanical aeration wastewater treatment system followed by puraflo peat bio filter tertiary system, with effluent discharging to a 300mm deep gravel layer formed over 900mm of imported soil. The system will have a PE of 36 and the soil polishing filter will have an area of 135 sq.m.

8.10.2. It is noted in the Site Assessment that ground conditions are generally soft underfoot in the mid section of the site where the treatment system is proposed, and firm within upper sloped areas and by the river bank.

8.10.3. A trial hole was excavated on site and the water table was encountered at a depth of 1.2m. It is stated in the Site Assessment that a P-test was not possible due to flooding/ run-off of water and rain following pre-soak. However, two test holes were formed in an area in proximity to the river. A P-test result of 30 was recorded at this

location and it is submitted that imported soil could be potentially used at the location of the proposed polishing filter for a raised bed.

8.10.4. It appears that the proposed wastewater treatment system for domestic use is being installed on site in compliance with the EPA's Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10), when it may have been more appropriate to assess the proposal under the EPA's Wastewater Treatment Manuals: Treatment Systems for Small Communities, Business, Leisure Centres and Hotels. The purpose of this manual is to provide guidance in the selection, operation and maintenance of small wastewater treatment systems (i.e. for population equivalents between 10 - 500). Furthermore, it is unclear if the applicant has given consideration to seasonal variations in wastewater flows. It is stated in the Wastewater Treatment Manuals that variations in flows caused by an influx of visitors for certain periods can cause operational problems. In this regard, the treatment system needs to be able to withstand shock loads and should also be capable of functioning at low flows.

8.10.5. Overall, I would have concerns with the ground conditions at the location of the proposed wastewater treatment system and soil polishing filter. Clearly, there is a high water table at this location and this is evidenced by the failure of P-tests. I am also not satisfied that detailed consideration has been given to the problems associated with the treatment of wastewaters in this case with large annual flow variations.

8.10.6. It should also be noted that Inland Fisheries Ireland raised concerns regarding the proximity of the tertiary treatment area to the river having regard to the nature of the site in terms of slope and poor percolation/ peat layer. It is advised that some additional capacity above the proposed 36PE should be provided and that more information is needed on maintenance, back-up systems and sludge disposal. It should be noted, however, that the proposed wastewater treatment system would be

located at a distance well in excess of any buffers or separation distances to watercourses outlined with the EPA's Code of Practice and Wastewater Treatment Manuals.

8.11. Water supply and impact on water quality

- 8.11.1. Inland Fisheries Ireland also raised a number of issues within an observation on the appeal relating to water supply and the disposal of process water.
- 8.11.2. The proposal to abstract water on site from bored wells and to augment this source with rainwater is noted by IFI. However, it is submitted that there is no indication that the trial wells have been tested to determine yield and/ or water quality for the distilling process. It is also stated that rainwater harvesting is not a guaranteed source and it is questioned how storage would affect the production process in terms of water quality.
- 8.11.3. With respect to disposal of process water, IFI consider that details relating to cooling ponds and disposal off site is totally inadequate. There are sizable daily volumes of processed wastewater involved ($17\text{m}^3/\text{shift}$) with potentially high organic loadings and it is presumed that the resulting by-product will not be land-spread all year round.
- 8.11.4. Finally, it is highlighted that the status of the Owenwee River is deemed to be "good" and the physio-chemical status is deemed to be high according to the Rossan Point Water Management Unit Plan. Furthermore, the overall status is deemed to be "good" under the North-Western International River Basis District status report (Water Framework Directive).
- 8.11.5. Within the response to the third party appeal, the results of water well drilling and testing have been submitted, together with a report from the applicant which outlines

details regarding the proposed water source, water usage and water disposal systems.

- 8.11.6. The water consumption for a production shift is 47.85 m³ comprising 12m³ for mashing, 30m³ in distilling and 5.5m³ for cleaning, with a small additional amount required for dilution. Results of drilling and testing carried out on the underlying bedrock aquifer confirm that a borehole array consisting of 3-4 individual wells similar to the one tested would have a sufficient yield to supply the distillery development. The results revealed that the borehole is capable of providing a sustainable supply of 23 m³ per day. A laboratory analysis of the water samples found no E. Coli or Enterococci bacteria but found elevated levels of Iron and Manganese present. It is stated that the groundwater quality, following treatment, would be capable of meeting EU drinking water standards.
- 8.11.7. The applicant submits that 31 m³ of the process waters are lost to air as water vapour from the cooling process. Spent grain is removed as cattle feed and the residue from the distilling (pot ale and spent lees) is combined with “cleaning in place” waters and removed for landspreading under EPA licence or processed at an appropriate treatment site. No distilling residues will be discharged to the river. Surface water will be conveyed to attenuation ponds and there will be no discharge beyond clean surface water to the river.
- 8.11.8. Overall, I would be satisfied that, notwithstanding the large quantities of water required for the distilling process, there will not be significant risk of pollution of the nearby watercourse. If the Board is minded to grant permission for the proposed development, conditions can be attached requiring submission of a waste management plan prior to commencement of development. Conditions can also be attached relating to land spreading and to prevent any abstraction of water from the Owenwee River. With respect to water required for the distilling process, it is in the

applicant's own interests to ensure that there are appropriate yield and quality of supply.

8.12. **Pollution**

8.12.1. Appellants who are residents of the area are concerned that the distilling process can assist the spread and growth of the fungus *Baudoinia Compniacensis*.

However, it was considered in the Planner's Report that the small scale of the proposed distillery is unlikely to present comparable issues to those discovered globally at larger facilities. I would also be in agreement that unsubstantiated health effects associated with proposed developments are usually not considered to be a planning matter.

8.12.2. Concerns have also been expressed regarding the potential noise impact of the proposed development. I would be of the view that if the Board is minded to grant permission for the proposal that a condition should be attached omitting the helipad. There would be no way controlling the level of air traffic using this facility in what is currently a quiet rural area. I would have no issue with noise generated by the distilling process or by traffic attracted to the facility.

9.0 **Conclusion**

9.1. In conclusion, I consider that the proposed development fails to comply with the economic development locational policies of the Development Plan, which seek to align development opportunities with the role and function of local settlements. The appeal site lies in a scenic rural area outside the settlement boundary of Carrick and there are no site specific product resources that would make it essential for the proposed development to locate at this site. In addition, I do not consider that a site of this scale is necessary for the proposal.

- 9.2. I would also have serious concerns regarding the proposed access arrangements having regard to the type of vehicles that would be required to use the site. Sight lines for egressing motorists are restricted and this would have implications for the safety and free flow of traffic on the R263 Regional Route.
- 9.3. Finally, I consider that it has not been adequately demonstrated that the proposed development can be adequately served by means of the proposed wastewater treatment system having regard to the ground conditions at the site and the seasonal nature of the proposed distillery and visitor centre.

10.0 Recommendation

- 10.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

11.0 Reasons and Considerations/ Reasons

1. It is a policy of the Council (ED-P-11) to permit firm proposals for small rural industrial or business enterprises or community led enterprise schemes where it is demonstrated that there is no suitable site within any settlement in the locality. This policy is considered by the Board to be reasonable. Having regard to the unnecessarily large scale of the site and of the proposed development, together with the location of the site approximately 1km from the Carrick settlement envelope, the Board is not satisfied on the basis of the submissions made in connection with the planning application and the appeal, that the applicant has adequately demonstrated that there are no suitable sites for the proposal within the boundary of the local settlement. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The appeal site is located on the R263 Regional Route at a point where a speed limit of 80 km/hr applies. Having regard to the proposed access arrangements, in

particular the vertical and horizontal alignment of the access junction and public road to the east, together with typical vehicles that will use the site, it is considered that the proposed development would give rise to a traffic hazard and would interfere with the safety and free flow of traffic on the R263. The proposed development would, therefore, be unacceptable in terms of traffic safety and convenience.

3. Having regard to the seasonal and business nature of the proposed development and the ground conditions within the site, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that the site can be drained satisfactorily by means of the proposed proprietary wastewater treatment system, which has not been designed in compliance with the EPA's Wastewater Treatment Manuals: Treatment Systems for Small Communities, Business, Leisure Centres and Hotels. The proposed development would, therefore, be prejudicial to environmental and public health.

Donal Donnelly
Planning Inspector

28th November 2016