



An
Bord
Pleanála

Inspector's Report ABP-300429-17

Development	Permission for 5 no. bonded warehouses, fire water retention pond, stormwater attenuation pond, access road, internal access routes, water tank and associated infrastructure. The proposed development will be classified as a lower tier establishment under the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations, 2015.
Location	Cloncowan, Longwood, Co. Meath.
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	TA/170926
Applicant(s)	Jonabrook Limited.
Type of Application	Permission.
Planning Authority Decision	Grant permission.
Type of Appeal	Third Party
Appellant(s)	Eco Advocacy CLG.
Observer(s)	None
Date of Site Inspection	14 th March 2018
Inspector	Patricia Calleary

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 6.13 ha is located c.9km southwest of Trim and c.5km northeast of Longwood in County Meath. It is broadly rectangular in shape, save for an extended area included along the roadside for works to improve sightlines, and it slopes gently away from the road in a south to north direction. It encloses an area to the west for achievement of sightlines. It comprises drained and planted forestry that is stated to be in the ownership of Coillte. The trees consist of mainly conifers with some willow, alder, poplar and sycamore species and the lands are stated to be on a second crop rotation. Access to the site is off an existing trackway to the east and this connects with the R160 regional road bounding the site to the south. There is an open drain running along the eastern side of the site from a point c.220m north of the R160.
- 1.2. There is an operating sand and gravel pit to the south of the site on the opposite side of the road. The wider environment is characterised by open countryside. There are a number of individual houses in the vicinity, the closest of which is c. 200m from the primary development area of the site.

2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of five bonded warehouses to be used to store immature spirit and allow it to mature into whiskey over time. It would also include ancillary structures including a fire water retention pond, a stormwater attenuation pond, access road, internal access routes, water tank and associated infrastructure and site development works with access off the R160 regional road.
- 2.2. Each of the bonded warehouse buildings would be constructed as steel frame structures with reinforced concrete panels forming the external walls and compartment walls. The roof would be finished with insulated Kingspan panels. The warehouses would have a collective gross floor area (GFA) of 17,010 sq.m and a

maximum height of 10.71m. The buildings would be ATEX¹ rated and equipped with a fire sprinkler system.

- 2.3. The maturation process would involve two stages. The first stage would occur over a short four-day period in which the new spirit would be filled into 200 litre oak casks, after which it would be allowed to mature for a minimum of three years but normally five years. It is stated that aged whiskey matures over a longer period of 10-18 years. During the maturation process, the casks of whiskey would remain undisturbed and in that period a complex interaction would develop between the spirit, oak wood and oxygen from the air to produce the unique colour and flavour associated with a mature Irish whiskey.
- 2.4. It is stated that staff would be on site periodically to manage the loading and unloading with approximately one to two staff on site for a maximum of two hours per day and that no permanent staff accommodation is required. The site would be monitored by CCTV, while automated alarm systems would be present, and in the event of a fire, the outfall from the fire water retention pond would be sealed off to allow any ethanol in the fire water to turn off prior to discharge to ground.
- 2.5. The proposed development is stated as being classified as a 'lower tier establishment' under the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations, 2015.
- 2.6. **The planning application** was accompanied by written correspondence, a construction management plan and a screening statement for Appropriate Assessment (AA) prepared by Cunnane Stratton Reynolds Planning Consultants. It was also accompanied by an Engineering report by MMOS consulting engineers, commentary on Part B of the Building Regulations by Niall Kelly & Associates consulting engineers, Draft Environmental Mitigation Strategy by Cunnane Stratton Reynolds Planning Consultants and a land use planning assessment (including a safety risk assessment) by AWN Consulting.
- 2.7. **Further information** was submitted by Cunnane Stratton Reynolds during the course of the Planning Authority's consideration of the application. The information was accompanied by a letter from Coillte in relation to the history of the forestry

¹ ATmosphères EXplosibles (French translation for Explosive Atmospheres)

planting, a response on engineering items and drawings by MMOS consulting engineers, an ecological impact assessment by McCarthy Keville O'Sullivan Ltd. and an updated land use planning assessment including a risk assessment, prepared by AWN Consulting.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority issued a decision to grant permission subject to 27 conditions, the following which are of note:

- **C2:** Use of the proposed development limited to the storage purposes of the maturation of spirits and whiskey.
- **C5:** Applicant to submit details of a written agreement with the Health & Safety Authority (HSA) to include specification of building and compliance with COMAH Regulations 2015.
- **C23:** Developer shall be responsible for the full extent of repair of damage to the adjoining public roadway.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planning Officer initially recommended seeking further information in relation to the HSA requirements, surface water arrangements, ecology and third-party submissions.
- Following receipt of further information, the Planning Officer, having regard to the site being suitable from a technical perspective, together with the nature and scale of the development, considered that the proposal would be in accordance with the proper planning and sustainable development of the area.
- A recommendation to grant permission was put forward.

3.2.2. Other Technical Reports

- Road design office – Initially recommends seeking further information (sightlines). Following receipt of further information, no subsequent report received.
- Water Services – Recommends seeking further information in relation to surface water proposals. Following receipts of further information, stated no objection subject to a condition.
- Environment – No objection subject to conditions.
- Fire Services Department – Notes the requirement for a fire safety certificate in respect of each building.
- Heritage Officer – No response.

3.3. Prescribed Bodies

- HSA – Recommends seeking further information initially. Subsequently, following receipt of the further information, the Authority raise no objection and set out a number of points which it considers relevant.
- Irish Water – No objection.
- Department of Community, Heritage and Gaeltacht (DCHG) – Initially states that more information is required. Subsequently, following receipt of further information, provides heritage-related observations and recommendations.
- An Taisce – States there is an onus on the applicant to justify the suitability of the proposed development location with regard to national and local planning policy and raises specific concerns (impact on land use character, appropriate assessment, ecology and amenity).
- EPA – No response.

3.4. Third Party Observations

3.4.1. Submissions were received from five parties and the following is a collective summary of the principal issues raised.

- Would set an undesirable precedent.
- Site not zoned for warehousing and is unsuitable.
- Would not generate employment.

- Would not comply with Policies ED POL 6, ED POL 19 and ED POL 21.
- Concerns raised regarding health & safety and fire risk.
- Concerns raised regarding location close to a bog.
- Traffic impacts on local road network having regard to the existing quarry proximate to the site.
- Would negatively impact on flora and fauna of the site.
- Would be visually obtrusive.

4.0 Planning History

4.1. Appeal site

- None

4.2. Vicinity (Directly south of the appeal site)

- **PL17.248960:** Planning permission was recently granted by the Board (February 2018) for a water abstraction and bottling facility comprising extension to a yard, new building, septic tank, percolation area and upgrading of vehicular entrance.

4.3. Other

- **ABP-301078-18:** The Board recently received a first party appeal against a decision to refuse permission by Westmeath County Council (2018) for a maturation facility comprising 12 no. maturation warehouses together with ancillary infrastructure, proposed to be located in Moyvore, Co. Westmeath. The proposed development relates to a similar project type and would be an establishment to which the Directive 2012/18 EU (Seveso III) applies. The Planning Authority issued a decision to refuse permission for reasons of visual and residential amenity and that it would set an undesirable precedent for other such similar development.

5.0 Legislative and Policy Context

5.1. Legislative Context

5.1.1. Directive 2012/18 EU (Seveso III), replacing Directive 96/82/EU (Seveso II) was transposed into Irish law on 1 June 2015 under the Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015 (S.I. No. 209 of 2015), hereinafter known as the 'COMAH Regulations'. The Directive aims at preventing major accident hazards involving dangerous substances and chemicals and the limitation of their consequences for both people and the environment. The Directive requires Planning Authorities to have regard to the risks or consequences of a major accident and the need to maintain an appropriate safe distance from residential areas, areas of public use and areas of particular natural sensitivity. Article 12 of the Directive provides for the appropriate consultation procedures and that technical advice is made available and taken into account in consideration of applications for planning permission. In this regard, the HSA provides such advice on planning applications.

5.1.2. The ATEX Directive 2014/34/EU is concerned with products that may be supplied for use in potentially explosive atmospheres. The directive was transposed into Irish legislation by SI No 230 of 2017 European Union (Equipment and Protective Systems for use in Potentially Explosive Atmospheres) Regulations 2017. The ATEX Directive 1999/92/EC deals with the precautions to be taken in workplaces where explosive atmospheres might be present due to flammable dusts vapours or gases (or mixtures of these). This directive was transposed into Irish legislation by Part 8 of the 2007 Safety, Health & Welfare at Work (General Application) Regulations.

5.2. Policy Context

5.2.1. Vision for Irish Whiskey - A strategy to underpin the sustainable growth of the sector in Ireland (Irish Whiskey Association).

5.2.2. Food Wise 2025 – A 10-year vision for the Irish agri-food industry (Department of Agriculture, Food and the Marine).

5.2.3. Policy & Approach of the Health & Safety Authority to COMAH Risk-based Land-use Planning (March 2010) including the following:

- Section 1.2 - New establishments
- Part 7 – Land use planning
- Regulation 24 - Technical advice on land-use planning including the following:

- The COMAH Regulations provide that the HSA (as the central competent authority) shall, advise a planning authority of a consultation distance for that establishment if it is / could be within the Planning Authority's functional area.
- The Central Competent Authority (CCA) will provide technical advice to a planning authority in response to a request.

5.2.4. The Meath County Development Plan 2013-2019 is the applicable plan for the area within which the appeal site is located. Policies that are relevant include the following:

- **Core Principle 8:** To support agriculture and agriculture related development in Meath and strengthen the county as a hub for the vibrant agricultural and food sectors.
- **ED POL 21:** To permit development proposals for industrial or business enterprises in the countryside, where generally the following criteria are met.
 - (i) the proposed use has locational requirements that can more readily be accommodated in a rural location than an urban setting and this has been demonstrated to the satisfaction of Meath County Council.
 - (ii) the development will enhance the strength of the local rural economy.
 - (iii) the resultant development is of a size and scale which remains appropriate and which does not negatively impact on the character and amenity of the surrounding area.
 - (iv) the proposal demonstrates that it has taken into account traffic, public health, environmental and amenity considerations.
 - (v) the proposal is in accordance with the policies, requirements and guidance contained in this plan.
 - (vi) it is demonstrated to the satisfaction of Meath County Council that the proposal would not generate traffic of a type and amount inappropriate for the character of the access roads or would require

improvements which would affect the character of these roads. This policy shall not apply to the National Road Network.

- **Section 4.7:** Prevention of Major Accidents
- **ED POL 46:** To comply with the Seveso II Directive in reducing the risk and limiting the potential consequences of major industrial accidents.
- **ED POL 47:** To permit new Seveso development only in low risk locations within acceptable distances from vulnerable residential, retail and commercial development.
- **ED POL 49:** To have regard to the advice of the Health & Safety Authority when proposals for new SEVESO sites are being considered or modifications to existing Seveso sites are being considered.
- **Appendix 7:** Landscape Character Assessment (LCA) - The proposed development falls within Landscape Character Area (LCA) 6 – Central Lowlands.

5.2.5. In addition to the above, the Meath County Development Plan includes policies and objectives in support the rural economy and agricultural diversification, as set out under Chapter 10-Rural Development. Such policies and objectives include the following:

- **RUR DEV SO1:** Support vitality and viability of rural areas
- **RUR DEV SO 4:** Recognise the strategic roles of, among others, food production
- **RUR DEV SO 7:** Support rural-based enterprises

5.2.6. Policy concerning forestry relevant to the appeal includes:

- **RD POL 17:** To encourage the provision of public access to new forests including walking.

5.3. Natural Heritage Designations

5.3.1. There are three Natura sites located within a 15km radius of the appeal site. These are the River Boyne and River Blackwater cSAC - Site Code: 002299 (c. 2km north east, 3.5km to the west and 3.5km north), the River Boyne and River Blackwater

SPA - Site Code: 004232 (c. 3.5km west and a similar distance to the north) and Mount Hevey Bog SAC – Site Code: 002342 (c.10 km south west).

- 5.3.2. In addition to the designated cSAC, SAC and SPA listed above, the following proposed NHAs are within a 15km radius of the appeal site: Royal Canal pNHA (Site Code: 002103), 000557 Rathmoylan Esker pNHA (Site Code: 000557), Ballina Bog pNHA (Site Code: 000390), Trim wetland pNHA (Site Code 001357), Molerick Bog pNHA (Site Code 001582) and Carbury Bog pNHA (Site Code 001388).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was received from Eco Advocacy CLG. The following points are raised in the grounds of the appeal.

- A grant of permission would set an undesirable precedent for commercial/industrial use on rural unzoned lands.
- Questions the suitability of site close to / on a bog and in a low-lying location.
- Increase in traffic in an area heavily trafficked adjacent to a quarry would add to congestion and would result in a loss of amenity for the residents.
- Would generate little or no employment in the area.
- Development does not comply with the core principles and policies of the County Development Plan (Core Principle 3 - promote sustainable economic development to support population of County Meath), ED POL 6 (recognise contribution of rural employment), ED POL 19 (promote innovative economic sectors, ED POL 21 (permit development proposals where certain criteria are met).
- Concerns raised in relation to health & safety at the storage facility, refers to the fire modelling, which is considered are inadequate.

6.2. Applicant Response

- 6.2.1. A response to the appeal was received from Cunnane Stratton Reynolds Planning Consultants on behalf of the applicant. In the first instance, the response raises

procedural and validation issues. The response to the grounds of appeal can be summarised as follows:

- Forestry site is suitable for this type of development, as forestry generally captures organic compounds which evaporate from the maturation process.
- Given the nature of the development for long term storage and that minimal employment opportunities would result, rural site proposal is more suitable than one which is an established industrial estate.
- Site is not a bogland.
- Proposal is supported by multiple planning policies supporting the rural economy, as set out in the Meath County Development Plan.
- Report by AWN Consulting concluded that the level of risk of fatality off site is negligible from a pool fire scenario at a warehouse.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority's response to the grounds of appeal states that the proposed development was considered by the Planning Authority to be consistent with the policies and objectives of the Meath County Development Plan 2013-2019. Reference is also made to the planning officer's report.

6.4. Observations

- None

7.0 Assessment

7.1. Introduction

- 7.1.1. Irish whiskey is made from water and whole cereal (typically, but not exclusively, barley or maize). It is fermented by yeast before distillation and finally maturation occurs in oak casks. The proposed development would primarily consist of five bonded warehouses within which whiskey would mature from 'spirit' to 'whiskey'. The maturation stage is an inherent part of whiskey production, as produce from distilleries cannot be branded as Irish Whiskey by law unless it has been matured for at least three years.

- 7.1.2. It is not stated in the application or appeal response what whiskey distillery or distilleries the development would serve or be associated with. Neither does the application contain specific information around where the mature whiskey would be transferred to after maturation, including where it would be bottled. While this information is therefore lacking in the application, the nature of the development is nonetheless sufficiently clear, in that it relates to the maturation stage only. My assessment of the appeal continues to consider the merits of the development as a standalone proposal comprising bonded warehouses for the maturation stage only and that the development may serve one or several distilleries.
- 7.1.3. In relation to procedural matters raised by the applicant, I am satisfied having regard to separate correspondence from the Board to the applicant, such issues have been separately addressed and the appeal has been deemed a valid appeal.
- 7.1.4. Having regard to the above, I consider that the key planning and environmental issues in determining the application and appeal before the Board are as set out below.
- Principle of the development
 - Directive 2012/18 EU (Seveso III) Considerations
 - Fire Risk and Emergency Response
 - Access and Traffic
 - Design and Amenity
 - Ecology
 - Appropriate Assessment Screening
 - Environmental Impact Assessment requirement

7.2. Principle of the development

- 7.2.1. While not referenced in the application or appeal response, it is well understood that the Irish Whiskey sector is experiencing phenomenal growth. In a report 'Vision for Irish Whiskey – A strategy to underpin the sustainable growth of the sector in Ireland' prepared by the Irish Whiskey Association, it is recorded that in the decade prior to 2014, the sector grew by almost 200%. In 2014, more than 6.7 million 9-litre cases of

Irish whiskey were exported to over 100 countries around the world. This export figure is expected to exceed 12 million cases by 2020 and 24 million cases by 2030. The number of distilleries are also expected to grow.

- 7.2.2. The Government's Food Wise 2025 strategy (a 10-year vision for the Irish agri-food industry) identifies the funding of whiskey maturation as a challenge to the industry and includes a stated action to develop fiscal and other revenue initiatives in response to this challenge.
- 7.2.3. The development is proposed to be sited on unzoned lands, on part of an area currently used for forestry and it is therefore a reasonable consideration as made by the appellants that a rural location, such as that proposed, would not normally lend itself to the scale of the proposed development. However, Policy ED 21 of the Meath County Development Plan 2013-2019 seeks to permit development proposals for industrial or business enterprises in the countryside, where a number of criteria are met. These criteria are set out under Section 5.3.1 above and of relevance to the assessment of this appeal including locational requirements.
- 7.2.4. The current Meath County Development Plan includes policies and objectives in support of the rural economy and agricultural diversification, as set out under Chapter 10-Rural Development. Such policies and objectives include RUR DEV SO1 (support vitality and viability of rural areas), RUR DEV SO 4 (recognise the strategic roles of (among others) food production), RUR DEV SO 7 (support rural based enterprises, RD POL 10 (encourage and facilitate agricultural diversification into agri-businesses).
- 7.2.5. The applicant asserts that this rural location would be more suitable than one an established industrial estate given the nature or the development, where minimal employment opportunities would result. This is a reasonable argument, especially given the extent of the development occupying 6.13 ha of land and where no full-time employees would be located at the site.
- 7.2.6. Given the location of the development on rural lands, I consider that it would be appropriate to require decommissioning and restoration proposals to be secured by way of a planning condition. Should the Board be minded to grant permission, I have attached such a condition in the draft schedule of conditions set out below.

- 7.2.7. On balance, while I have some reservations regarding the lack of information provided around the site selection and site justification, I am generally satisfied that there are specific locational requirements for the proposal in addition to a clear need for the proposal in the wake of the growth experienced, and further growth forecast in the whiskey industry. I am also of the view that it is appropriate to locate maturation facilities on lands away from population settlements, particularly given that the development is a type to which Directive 2012/18 EU (“Seveso III”) applies. I have dealt with this matter concerning the Seveso Directive further under Section 7.3 of my assessment below.
- 7.2.8. Should the Board consider that insufficient information has been provided in relation to the site selection process, the Board may decide to seek further information from the applicant on the site selection and justification for the proposal for the bonded warehouses in the subject forest site in a rural un-zoned location. In addition, the applicant could also be requested to provide an assessment of the feasibility of siting the development on existing available zoned industrial/enterprise and employment lands within the main towns within the region.
- 7.2.9. Having regard to the foregoing, I am satisfied that the principle of the development is acceptable.

7.3. Directive 2012/18 EU (Seveso III) Considerations

- 7.3.1. Directive 2012/18 EU (“Seveso III”) was transposed into Irish law on 1 June 2015 under the Chemicals Act (Control of Major Accident Hazards involving dangerous substances) Regulations 2015, known as the 2015 COMAH Regulations. The COMAH regulations set out the requirements to prevent major accidents involving dangerous substances and to limit the consequences of such accidents on human health and the environment. Seveso/COMAH apply to industrial sites where dangerous substances are used or stored in large quantities, mainly in the chemicals, petrochemicals, storage, and metal refining sectors. The HSA is identified as the central competent authority under the regulations.
- 7.3.2. The proposed development would be categorised as a lower tier establishment under these regulations in that it is stated that it would hold up to 36,960 containers each with a 200 litre capacity, which would equate to 34,742 tonnes. The COMAH

regulations specifically apply to the proposed development, as the inventory would exceed 5,000 tonnes of flammable liquid and as such is considered a category of dangerous substance under Part 1 of Schedule 1 of Regulation 2.

- 7.3.3. The COMAH Regulations provide for an integrated approach to planning decisions concerning such establishments. This includes provision of technical advice by the HSA to planning authorities, including, where appropriate, An Bord Pleanála. Art 138 of the Planning and Development Regulations 2001-2018 requires the Planning Authority to furnish a copy of the technical advice received from the HSA to the Board in the case of an appeal.
- 7.3.4. The HSA set out their relevant policy on **land use planning policy** for COMAH establishments in the document 'Policy & Approach of the Health & Safety Authority to COMAH Risk-based Land-use Planning (March 2010)'. Section 1.2 (New establishments) require planning applications to include a Quantified Risk Assessment (QRA) to be forwarded to the HSA, who will in turn evaluate the submitted QRA before advising the Planning Authority. In relation to new establishments the policy document states that it will be necessary for applicants to demonstrate that they do not present a risk of fatality greater than 5×10^{-6} (per year) to their current non-residential type neighbours or a risk of fatality greater than 1×10^{-6} (per year) to the nearest residential type property.
- 7.3.5. The Planning Authority consulted the HSA during their consideration of the application and the HSA initially responded with a number of queries. These queries formed part of the overall request for further information issued by the Planning Authority to the applicant. In response to the further information request, the applicant provided an updated land use planning assessment (which included a risk assessment of major accident hazards) prepared by AWN Consulting. Documentation showing details of the construction of the building and its fire rating, as prepared by MMOS consulting engineers, was also provided.
- 7.3.6. The QRA considered the impacts of a warehouse fire, toxic combustion products, vapour cloud explosion and flash fire originating in the proposed bonded warehouse development. It demonstrated that in the event of a warehouse fire the thermal dose levels corresponding to 1%, 10% and 50% mortality extended in the north, east and west direction and would only impact on forestry. Consequence modelling also

demonstrated that no toxic effects from combustion products are anticipated as a result of a warehouse fire at the proposed site. A vapour cloud explosion was modelled in which it was found that the contour for light damage (35mbar) does not extend to any off-site residential type receptor. A flash fire was modelled and the 50% lower flammable limit (LFL) contour is stated as being confined to the warehouse compartment.

- 7.3.7. Individual risk of fatality was established using risk curves modelling software and the predicted outcome is presented as Fig 12 of the report represented as boundaries of the inner (1×10^{-5}), middle (1×10^{-6}), and outer land use (1×10^{-7}) risk contours for the site. All three individual risk contours extend outside the boundary of the site to the north and west mainly, and to a lesser extent to the east. The largest contour is stated as extending 50m outside of the site to the north. The area surrounding the contours is laid out in forestry and no risk to individuals is therefore anticipated.
- 7.3.8. Having considered the revised QRA, the HSA stated that the Authority **does not advise** against the granting of permission in the context of major accident hazards. Specifically, in referring to 'Policy and Approach of the Health & Safety Authority to COMAH Risk based land use planning' the HSA state that the siting criteria have been met. It is of relevance to note that there are no other Seveso/COMAH establishments in the surrounding area and accordingly the potential for 'domino effects', risks of an incident at one Seveso site to be spread to other site(s) as set out under 2015 COMAH Regulation 9 (1), do not arise.
- 7.3.9. The HSA also stated that upon notification to the Authority under the COMAH regulations, the Authority stated that it will reassess the major accident hazards at the site to human health and the environment and may request additional measures to be adopted by the operator of the establishment.
- 7.3.10. Having regard to the above and the information on file and noting the comments received from the HSA, I am satisfied that from a planning and land use perspective, the issue of major accidents is well understood and has been adequately considered in relation to human health. In relation to concerns raised by the appellant about chemical leaks, the design includes a floor drain system to convey any potential

spills to a fire water retention pond where they would be retained in a closed system arrangement until they can be removed for safe disposal.

- 7.3.11. I am less satisfied in relation to the consideration of risks to the environment in the event of a major accident as this is not considered in any great detail, for example potential for unplanned spillage of ethanol into a watercourse via the drainage system in the event of a major fire and to the potential for the spread of a major fire on the surrounding forestry area. I note however that it is stated the fire-fighting water run-off would be directed to a tank on site in a controlled manner and after would be pumped out to an appropriate recycling / waste treatment facility.
- 7.3.12. Notwithstanding my concerns about remaining risks to the environment in the event of a major accident, I note that these are matters which are also required to be dealt with as part of compliance with the COMAH regulations in a process outside of the consideration of the planning application. Specifically, the operator of the proposed development will be required to provide evidence that all necessary measures have been taken to prevent major accidents and to limit their consequence for human health and the environment. Furthermore, I also note that the environment section of the Local Authority raised no objection to the development subject to a number of conditions.
- 7.3.13. Overall, I am satisfied that risks to the environment in the event of a major accident would be required to be resolved by the HSA in their role as the central competent authority and, therefore, permission for the proposed development should not be withheld for reasons of Seveso/COMAH considerations, including risks to both human health and the environment.

7.4. Fire Risk and Emergency Response

- 7.4.1. In relation to issues raised around fire risk, the major accident hazards at the site to human health and to the environment are dealt with under Section 7.3 above.
- 7.4.2. It is stated by the applicant that the site would be monitored by CCTV and that automated alarm systems would be present, and in the event of a fire, the outfall from the fire water retention pond would be sealed off to allow any ethanol in the fire water to turn off prior to discharge to ground. It is also stated that the buildings would be designed to minimise the spread of fire. Specifically, the buildings would comprise

of intumescent (fire retardant) coated steel frames with reinforced concrete panels forming the external walls and compartment walls. The roof would be formed from insulated Kingspan panels. A fire suppression system and ATEX rated electrical elements would be incorporated into the design which is a requirement because of the flammable substance proposed to be stored. The buildings would accordingly be protected from ignition sources by selecting equipment and protective systems which meet the requirements of the ATEX Product Regulations.

- 7.4.3. Water for fire-fighting purposes would be provided by way of a static water storage tank on site and a ring main. A fire water attenuation pond would be provided to retain water from the sprinkler system in the event of a fire.
- 7.4.4. In correspondence received during the planning application, the HSA also advised the Planning Authority of the need to consult with the local authority emergency services on any potential impact on local access/egress arrangements in relation to fire prevention and response issued. Based on information submitted at further information stage, I am satisfied that discussions have taken place between the applicant and Meath County Council Fire & Rescue Service. The applicant states that they are advised that the nearest fire stations are Trim (c. 15 mins travel time) and Navan (c.30 mins travel time) each with an average of 5-10 minutes mobilisation time from when first alerted.
- 7.4.5. I am satisfied that the building materials have been selected to minimise the spread of fire. Furthermore, and as set out by the Local Authority's fire officer who was consulted during consideration of the application by the Planning Authority, the developer would be required to submit an application for a fire certificate to the Building Control Authority. In the normal course of events, development would not be entitled to commence on site until such fire certificates are granted in respect of each of the five bonded warehouses. Where an alternative seven-day notice (fast track option) is submitted to the Building Control Authority, while construction could commence and proceed prior to the Fire Safety Certificate being granted in respect of each of the buildings, the buildings could not be used or occupied until the fire certificates are granted. In their assessment of the fire safety certificate applications, the Building Control Authority would consider such matters set out under Part B (Fire safety) of the technical requirements contained within the current Building Regulations insofar as they would relate to matters of fire safety in and around the

warehouse buildings. These matters would include 'means of escape', 'internal fire spread', 'external fire spread' and 'access and facilities for the fire service'.

- 7.4.6. Noting the obligations on the developer under the COMAH regulations and the statutory requirements under the Building Control legislation and noting the considerations of risk of a major accident which I have dealt with under Section 7.3 above, I am satisfied that the fire safety risk and emergency response measures are adequately considered and certain elements would be required to be further dealt with as part of separate statutory approvals. Accordingly, the development should not be refused for reasons of fire safety and emergency response.

7.5. Access and Traffic

- 7.5.1. Concerns are raised in the grounds of the appeal about the risks of traffic hazard associated with the increase in traffic movements which would be generated as a result of the development. The applicants have stated there would be in the order of between one and two truck movements per day, which is considerably low and which I am satisfied is representative of the intended use of the buildings, which is for the long-term storage of whiskey while it matures. In this regard, I note that no employees would be based on the site for longer than a two-hour period in any given day.
- 7.5.2. The proposed development would utilise an existing access point onto the R160 regional road, which would be upgraded. A secondary access is also proposed to serve as an emergency access. The Transportation section of the Local Authority states that the required sightlines need to be in accordance with Transport Infrastructure Ireland (TII) publication GEO-03060, which requires 160m visibility in either direction from a 3m setback and that this is achievable and specifically referenced in the letter of consent received from the landowner.
- 7.5.3. Subject to appropriate setbacks to provide the required sightlines referenced above, the access and egress arrangements and road access is adequate to cater for the projected volume of traffic and as such would not give rise to any unacceptable traffic hazard or compromise the road safety or carrying capacity of the surrounding road network. Having regard to the low level of traffic movements anticipated, I am equally satisfied that the proposed development would not result in an unacceptable

level of disturbance or adverse impact on the amenities of existing dwellings or to road users in the vicinity of the development.

7.6. Design and Amenity

- 7.6.1. The site is located Landscape Character Area 6 (Central Lowlands) as set out under the Landscape Character Assessment and accompanying maps within the current Meath County Development Plan. It would be sited within an area of high landscape character of regional landscape importance and with a medium sensitivity. 10 likely indicative types of development which can be accommodated in each of the character areas are listed on Map 4, none of which include the type or similar type of development. The closest category is 'large farm buildings.'
- 7.6.2. Whilst large in scale with a functional form, the buildings would be set back a considerable distance of c.145m from the public road and would be screened by the existing forestry which it is intended to maintain. In the short to medium term the development would not have a significant adverse impact on the visual amenity of the area or be visually intrusive in the surrounding landscape. In the longer term, the trees would likely be felled following which the warehouses would become more prominent. In this regard, I consider it would be appropriate to attach a condition to any grant of permission to secure a landscape plan that would include proposals to screen the development and reduce the visual impact in the long term. This should include a proposal to re-establish a satisfactory level of tree cover when the current crop would be felled and over the life of the development. The landscape plan should include a timetable for implementation and an ongoing management element in order to ensure that the replacement landscaping is properly established and maintained and would serve its intended purpose.
- 7.6.3. Overall the scale of the development would have some localised visual impacts but these would be mitigated by the distance from receptors, and by the design, finishes and colour associated with the buildings and by landscaping.
- 7.6.4. It is stated that there is evidence that the site is currently or has been used as a walking route by the general public. Policy RD POL 17 of the development plan encourages the provision of public access to new forests, including walking routes. While such an informal amenity would invariably be lost, the forest site is on its

second crop rotation and cannot be considered a new forest in this regard.

Furthermore, the forest site does not comprise any designated public right of way or protected views or prospect designated within the development plan and I am satisfied that in this context the loss of informal walks on lands that are stated to be in the control of Coillte would not be unacceptable.

- 7.6.5. Impacts on the amenity of the community at a wider scale would be limited as the site, and particularly the physical structures would be well separated from residential receptors. As such, the siting and design of the proposal are not considered to result in a significant detrimental impact on the residential or broader community, such that would warrant withholding permission.

7.7. Ecology

- 7.7.1. The further information response received by the Planning Authority included an Ecological Impact Assessment prepared by McCarthy Keville O'Sullivan Planning and Environmental Consultants. It identified the closest proposed national heritage area (pNHA) as Rathmoylan Esker pNHA. Field surveys identified the habitats as Conifer plantation, Bog woodland (containing birch), recolonising bare ground (forest service road), Bramble Scrub, Dry meadows and grassy verges and a primary drainage ditch to the east. None of the habitats are listed in Annex I of the EU Habitats Directive. No invasive species were recorded on the site. It is submitted that the proposed works would not result in any significant impact on floral habitats within or outside of the proposed development site.
- 7.7.2. With the employment of best practice construction measures, there is no potential for significant impacts anticipated on fauna. Bats are identified as being likely to forage and commute within the vicinity of the proposed development site, though the habitat lost to facilitate the development would not be likely to be significant for bat species.
- 7.7.3. It is submitted that there is no surface water connectivity between the development site and any ecologically-sensitive habitat and hence impacts on ecological sites are not anticipated. With the employment of best practice measures, the potential for the introduction, establishment and spread of invasive alien species is not anticipated.
- 7.7.4. The DCHG noted that the site likely provides feeding, roosting and breeding habitat for a number of species, as protected under the Wildlife Acts. The findings of the

applicant's ecological assessment are also noted by the Department. In this regard and in order to mitigate the potential habitat, the Department recommended attachment of conditions to any grant of permission, in order to require adherence to the ecological assessment mitigation measures and removal of trees/shrubs at the site are carried outside the bird nesting season.

7.7.5. Ethanol vapor has been reported to give rise to the growth of a black ascomycete fungus, *Baudoinia compniacensis*, also known as 'Whiskey fungus' and it is reported to have been observed on building and other artificial surfaces near whiskey distilleries and warehouses, as well as forming a coating layer on tree bark, branches and leaves. This has not been referenced in the application or appeal. However, I am satisfied that scientific evidence to date suggests that such effects are localised and that it does not cause anything other than cosmetic effects. The potential for the effects of ethanol vapour should therefore not form a reason for withholding permission.

7.7.6. Having regard to the information on file and gathered during my site visit, I am satisfied that with the adherence to mitigation measures, significant effects on the ecological environment are not likely to arise as a result of the development. Accordingly, permission should not be withheld for such reason.

7.8. **Appropriate Assessment Screening**

7.8.1. There are three Natura sites located within a 15km radius of the appeal site. These are listed under Section 5.3 above and are considered in turn below. The Appropriate Assessment (AA) screening report which accompanies the application considered two sites, namely the River Boyne and River Blackwater cSAC (Site Code: 002299) and Mount Hevey Bog SAC (Site Code 0023420). In addition, I consider the River Boyne and River Blackwater SPA (Site Code: 004232) is relevant given its location (c. 3.5km west and a similar distance to the north). I have considered each in turn below.

7.8.2. The **River Boyne and River Blackwater SPA** qualifying interests include Annex I bird species Kingfisher/*Alcedo atthis*. The general conservation objectives associated with the SPA seek to maintain or restore the favourable conservation

condition of the bird species (Kingfisher/*Alcedo atthis*) listed as having Special Conservation Interests for this SPA.

- 7.8.3. The **River Boyne and River Blackwater cSAC** qualifying interests include habitats and/or species listed on Annex I/II of the EU Habitats Directive (Alkaline fens, Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae). The site is also selected for three species listed in Annex II (Atlantic Salmon /*Salmo Salar*, Otter/*Lutra* and River Lamprey/*Lampetra Fluviatilis*). In addition, the site also supports many more of the mammal species occurring in Ireland including Pine Marten, Badger, Irish Hare and common frog, which are protected species under the Wildlife Act 1976. The general conservation objectives associated with the cSAC seek to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the cSAC has been selected.
- 7.8.4. A local surface drainage ditch commences c.220m north of the R160 regional road. It is stated in the screening report that it appears to join another drain, 400m to the north and this drain flows west and may eventually flow into the Blackwater. However, the intention is to provide for a site bund with surface water attenuation and a fire water tank that will retain fire water on site and prevent spillages off site. The tank will collect any fire water and be pumped out to an appropriate recycling / waste treatment facility.
- 7.8.5. **Mount Hevey Bog SAC** qualifying interests include Active raised bogs, Degraded raised bogs still capable of natural regeneration and Depressions on peat substrates of the Rhynchosporion. The conservation objectives associated with the Mount Hevey Bog SAC include:
- 7110 – Active raised bogs: ‘To restore the favourable conservation condition of Active raised bogs, which is defined by a list of attributes and targets’,
 - 7120 - Degraded raised bogs still capable of natural regeneration: ‘The long-term aim for Degraded raised bogs still capable of natural regeneration is that its peat-forming capability is re-established; therefore, the conservation objective for this habitat is inherently linked to that of Active raised bogs

(7110) and a separate conservation objective has not been set in Mount Hevey Bog SAC' and

- 7150 - Depressions on peat substrates of the Rhynchosporion: 'Depressions on peat substrates of the Rhynchosporion is an integral part of good quality Active raised bogs (7110) and thus a separate conservation objective has not been set for the habitat in Mount Hevey Bog SAC'.

- 7.8.6. This SAC is situated c.10 km away from the proposed development and there are no source-pathway-receptor links between the proposed development and this SAC and the development will not result in any loss of habitat or species that contributes to the SAC's designation within any designated area as a result of the proposed scheme.
- 7.8.7. The AA Screening statement recognises that on-site birds would be disturbed during construction and operation, but this would occur as a result of tree felling in any case. It is also proposed to programme the construction works outside of the nesting period or on the basis of bird surveys that demonstrate no nesting birds would be on site where construction works occur on a phased basis. This is considered a reasonable measure which can be controlled by attaching an appropriate planning condition in the event of a grant of permission.
- 7.8.8. All firewater would be retained on site and prevent spillages off site. It is submitted that in the event of a fire, sprinkled water would be discharged to a sealed impermeable firewater attenuation pond and that the pond would provide storage until such time as the liquid could be pumped into a tanker for removal for appropriate disposal.
- 7.8.9. While I have some reservations in relation to the impact of a major accident would have on the environment generally because of the large volume of ethanol which would be stored and which I have outlined in detail under Section 7.3 above, my concerns do not extend to effects on the identified European sites, having particular regard to the separation distance of the appeal site to the European sites and the consideration of the conservation objectives of these sites.
- 7.8.10. The DCHG raised no objection to the development on grounds of appropriate assessment and noted that the development is a reasonable distance from any Natura sites and that there appears to be no direct link to any Natura sites.

- 7.8.11. While the River Boyne and River Blackwater SPA (Site Code: 004232) was not considered in the applicant's Appropriate Assessment screening report, I have taken into consideration potential for significant effects in view of this site's conservation objectives as part of my overall screening for AA and noting the views of the DCHG, I can conclude that no significant effects on the conservation objectives of this European site would arise as a result of the development.
- 7.8.12. Having regard to the foregoing, it is reasonable to conclude on the basis of the information on file supplemented by information which I have gathered on the River Boyne and River Blackwater SPA (Site Code: 004232), 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 the River Boyne and River Blackwater cSAC (Site Code: 002299), River Boyne and River Blackwater SPA (Site Code: 004232), Mount Hevey Bog SAC (Site Code: 002342), or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

7.9. Environmental Impact Assessment requirement

- 7.9.1. Whiskey maturation warehouses are not listed as a development type in Part 1 of Schedule 5 of the Planning and Development Regulations 2001-2018 and accordingly a mandatory environmental impact assessment (EIA) is not required.
- 7.9.2. In relation to consideration of the development listed under Part 2 of Schedule 5 of the Planning and Development Regulations, 2001-2018 including 7(d) 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), the project type, while ancillary to a distilling project, would not fall within an installation for commercial brewing and distilling or an installation for malting. Essentially, the proposals do not involve any production element. Accordingly, the proposal does not fall within this project category.
- 7.9.3. Part 10 of Schedule 5 outlines types of development with specified thresholds. While the closest category would be 10(b)(iv) – Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the

case of other parts of a built-up area and 20 hectares elsewhere, I am satisfied that given the rural location, the proposal cannot be reasonably considered an urban development and consequently the development is not of a type which would fit within this category. In also considering category 10(a) 'Industrial estate development projects, where the area would exceed 15 hectares', I am satisfied that the development of five bonded warehouses in the rural area does not relate to an industrial estate and therefore is not a development type which would fit within this category and at an area of six hectares would be well below the specified threshold.

- 7.9.4. I am satisfied that the development would not come within any other category within Part 2 of Schedule 5. I conclude that the proposed development is not a prescribed class of development for the purpose of section 176 of the Planning and Development Act 2000, as amended, and the requirement for EIA and the preparation of an EIA report does not arise.

8.0 Recommendation

- 8.1. I recommend that permission is **granted** for the proposed development for the reasons and considerations set out below and subject to the conditions listed under.

9.0 Reasons and Considerations

- 9.1. The Meath County Development Plan 2013-2019 includes policies and objectives in support of the rural economy and agriculture-related development including the food sector. In addition, it is considered that the proposed development has locational requirements that can more readily be accommodated in a rural location than in an urban setting and which is provided for under Policy ED 21 of the Development Plan. Having regard to Section 4.7 - Prevention of Major Accidents and related policies ED POL 46, ED POL 47 and ED POL 49 which collectively require consideration of the Seveso III Directive requirements and having regard to the documentation on file and to the advice provided by the Health & Safety Authority to the Planning Authority on the effects of the proposed development on the risk or consequences of a major accident, it is considered that subject to compliance with the following conditions, the proposed development would be acceptable in terms of public safety and compliance with the requirements of Directive 2012/18 EU (Seveso III) as transposed into Irish law

by the Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015. It is further considered that the development would not seriously injure the amenities of the area or property in the vicinity, would not give rise to an unacceptable traffic hazard and would not result in any unacceptable loss of or impact on ecological habitats or species. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted the 8th day of August 2017 and the 19th day of October 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The land and buildings to which this permission relates shall be utilised for purposes of maturation of spirit to whiskey only, unless a further grant of permission has been applied for and granted.

Reason: To define the use permitted by this permission.

3. Detailed specification for all proposed external materials and finishes (including trade names) shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. External cladding shall be dark green in colour.

Reason: In the interest of visual amenity.

4. Details of any external lighting to be used within the site has been submitted to and agreed in writing with the Planning Authority prior to installation. Such details shall include the location, type, angle of direction

and wattage of each light which shall be so positioned and angled to prevent any glare or light spillage out from the site boundary. No external lighting shall be installed except in accordance with the duly approved scheme.

Reason: In order to avoid light pollution in the interest of amenity.

5. No development shall commence until a landscaping scheme has been submitted to and agreed in writing with the planning authority to suitably screen the proposed development over the life of the facility. The scheme shall comprise a planting plan and schedule which shall include details of:
- i) Existing and proposed ground levels in relation to an identified fixed datum;
 - ii) Existing area of tree cover, landscaping features and vegetation to be retained;
 - iii) Location design and materials of proposed boundary treatment, fences and gates;
 - iv) Proposed soft and hard landscaping works including the location, species and size of every tree/shrub to be planted;
 - v) A programme for the timing, method of implementation, completion and subsequent on-going maintenance;

All of the hard and soft landscaping works shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority;

Any trees/shrubs which within a period of five years from the completion of the agreed landscaping scheme fail to become established, die, become seriously diseased, or are removed or damaged shall be replaced in the following planting season with equivalent numbers, sizes and species as those originally required to be planted unless otherwise approved in writing by the planning authority.

Reason: In the interests of visual amenity and to integrate the development into its surroundings.

6. The proposed vehicular access arrangement to the site and proposed

roadside boundary treatment shall in accordance with the requirements of the Planning Authority.

Reason: In the interest of traffic safety and preservation of biodiversity.

7. All fire precaution measures and procedures shall fully comply with the technical and detailed requirements of Meath Fire and Rescue Service. The Developer shall submit confirmation of such compliance from Fire and Rescue Service prior to the commencement of development.

Reason: In the interests of public health and safety.

8. The mitigation measures outlined in the ecological assessment report shall be adhered to.

Removal of vegetation shall not occur during the breeding bird season (1st March to 31st August). If this seasonal restriction cannot be accommodated, a suitably qualified ecologist with experience in nest-finding will be required to check all vegetation for nests (under licence from NPWS to permit potential disturbance to nesting birds) prior to removal or trimming.

Reason: In the interest of protecting bird species.

9. The construction of the development shall be managed in accordance with the Construction Management Plan received by the Planning Authority on 8th August 2017 and which shall be updated as necessary to ensure compliance with statutory obligations and best construction practice.

Reason: In the interests of public safety and residential amenity.

10. Prior to commencement of development, a detailed closure, decommissioning and site restoration plan, including a timescale for its implementation should the development cease to operate on a permanent basis, shall be submitted to, and agreed in writing with, the planning authority. The site shall be restored and structures removed in accordance with the said plan within three months of decommissioning/cessation, to the written satisfaction of the planning authority.

Reason: To ensure the satisfactory reinstatement of the site on cessation

of the proposed development.

11. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads that may be damaged by construction transport coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the reinstatement of public roads that may be damaged by construction transport.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Senior Planning Inspector

18th April 2018