



An
Bord
Pleanála

Inspector's Report ABP-302032-18

Development	Development of a whiskey warehouse.
Location	Kilcurry, Co. Louth.
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	17730
Applicant(s)	Great Northern Distillery Limited
Type of Application	10 Year Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Great Northern Distillery Limited
Observer(s)	Parents Committee Scoil Phádraig Naofa; BOM of Scoil Phádraig Naofa; John Gartlan; Kevina Goss; Oran and Margaret Goss; Seán Murphy; Francis Bellew; Fergus Coburn; Peter Nash; Freddie and Patricia Johnston; Tony Carroll; Cllr John McGahon; The Kilcurry Concerned Residents

Committee.

Date of Site Inspection

8th January 2019

Inspector

Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located in County Louth in the village of Kilcurry, approx. 1.5km north of the M1 motorway, north of the development boundary with Dundalk town.
- 1.2. The site, which is 45ha in area, is agricultural in use with accesses from the R177 Armagh Road and from Church Road in the village. In the immediate vicinity of the site is a Church, community resource centre and crèche, a primary school and a number of dwellings. There are also a number of one-off rural dwellings along the surrounding rural road network.
- 1.3. The subject lands are undulating in nature, with two high ridges toward the northwestern/central portion of the site. The Kilcurry River forms part of the boundary along the northeastern, northern, and western boundaries, with a steep drop from the northwestern section of the site down to the river. This river is connected to the Dundalk Bay SPA and SAC approx. 3-4km southeast of the site at the eastern side of Dundalk town. There is an identified souterrain at the northwestern corner of the site.

2.0 Proposed Development

- 2.1. The applicant is seeking a 10 year permission for the development of a whiskey warehouse facility for the storage and maturation of whiskey in 200 litre casks. Whiskey is stored for a minimum of 3 years, an average of 5 years, and a maximum of 15 years. The development is to consist of the following:
 - 13 no. storage maturation warehouses. Each warehouse has a gross floor area of approximately 4,000 sqm (61.8m deep x 67.7m wide), divided into 2 no. 2,000 sqm compartments per warehousing unit. Each warehouse has a typical ridge height of approximately 10 metres and includes mounted external lighting and CCTV cameras. Each compartment will store a maximum of 23,814 casks of whiskey, with 200 litres per cask. Casks are stored for a minimum of three years.
 - Ancillary buildings and structures include a single storey facilities building which will include a forklift garage; 2 no. water tanks with ancillary pumphouse; ESB substation; 1 no. public lighting pole incorporating CCTV surveillance camera.
 - Installation of a septic tank and associated percolation area;

- 2 no. bored wells; fire water retention pond and a surface water attenuation system consisting of 2 no. attenuation basins with a proposed outfall to the Kilcurry River.
- Berming; landscaping; perimeter fencing and gates, and staff parking area.
- Demolition of existing derelict outhouses and stables.
- Access will be via a new entrance from the R177 Armagh Road and a secondary access is proposed via an upgraded existing entrance from Church Road.
- The proposed development relates to the provision of an establishment to which the Major Accident Directive applies.
- An Environment Impact Assessment Report (EIAR) accompanies the application.
- Part of the site is proposed to be ceded to the community for community use with access via an upgraded existing entrance from Church Road.

3.0 Planning Authority Decision

3.1. Decision

Permission REFUSED for following reasons:

R1: ...The proposed development would materially contravene the objective of the Louth County Development Plan (2015-2021) for development zone 4 (greenbelt) and policy RD38 and would therefore be contrary to the proper planning and sustainable development of the area.

R2: ...To permit the proposed development would contravene materially the settlement hierarchy set out in the development plan in respect of policy SS1 and the designated role of level 4 villages. The proposal would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report sought Further Information on 21st November 2017 in relation to a number of issues, including matters raised by the Health and Safety Authority.

Further information was received on 27th February 2018 and the information submitted was deemed to be acceptable. The Planning Officer's Report recommended a grant of permission, which it stated would materially contravene the land use zoning objective. The application was therefore brought before the councillors on 5th June 2018. A motion to materially contravene the development plan under Section 34(6) of the Planning and Development Act 2000 (as amended) in order to grant permission was rejected by the councillors. Permission was consequently refused by the Planning Authority for the proposed development as it would materially contravene the development plan for development zone 4 (greenbelt) and policy RD38; and would contravene materially the settlement hierarchy set out in the development plan in respect of policy SS1 and the designated role of level 4 villages.

3.2.2. Other Technical Reports

Infrastructure Section – No objection subject to conditions in relation to roads.

Environment Section – No objection subject to conditions.

3.3. Prescribed Bodies

- Health and Safety Authority – Following receipt of Further Information, the authority does not advise against the granting of planning permission in the context of the major accidents directive.
- Inland Fisheries – No objection, subject to mitigation measures.
- Department of Culture, Heritage and the Gaeltacht – No objection, subject to conditions in relation to the souterrain and further archaeological monitoring.

3.4. Third Party Observations

A number of third party submissions were received, which are largely summarised within section 6 hereunder as part of the appeal submissions.

4.0 Planning History

09151 – Permission GRANTED for six dwellings and wastewater treatment systems.

08723 – Permission GRANTED for site development works for six serviced residential sites.

5.0 Policy Context

5.1. National Policy

5.1.1. National Planning Framework

- **National Policy Objective 62** Identify and strengthen the value of greenbelts and green spaces at a regional and city scale, to enable enhanced connectivity to wider strategic networks, prevent coalescence of settlements and to allow for the long-term strategic expansion of urban areas.
- **National Policy Objective 23** seeks to facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.
- **National Strategic Outcome 3** (Strengthened Rural Economies and Communities) includes: Ongoing investment in the agri-food sector to underpin the sustainable growth of the sector as set out in Food Wise 2025.

5.1.2. Food Wise 2025

A 10-year vision for the Irish agri-food industry – Department of Agriculture, Food and the Marine. This document notes that exports of Irish Whiskey have increased by 60% between 2009 and 2014. It states that there are huge opportunities for growth in the whiskey sector and notes that one challenge that must be met is the significant working capital finance needed to fund the minimum three-year maturation process in the whiskey sector. An objective of Food Wise 2025 is to: ‘Develop fiscal and other revenue generating initiatives which will enable the Irish Whiskey industry to fund the minimum three-year maturation process’.

5.1.3. Guide to the COMAH Regulations 2015:

- Part 7 – Land use planning; Regulation 24 - Technical advice on land-use planning.

5.2. Development Plan

5.2.1. Louth County Development Plan 2015-2021

- Ch 2: Core Strategy and Settlement Strategy
 - **Level 4 Settlement:** Kilcurry
 - Level 4 comprises 24 smaller rural settlements. They contain some undeveloped lands which are not the subject of land use zoning objectives. However each settlement has a development envelope as set out in Appendix 2, Volume 2 (a), within which one-off type housing is provided for subject to local qualifying criteria, in order to assist in satisfying rural generated housing need. Within each Level 4 settlement densities of 5 houses per hectare are permissible...Whilst development is anticipated to be primarily residential, low impact local services which contribute to supporting diversification and growth of the local rural economy may also be considered.
 - **Section 3.3.1 Rural Enterprise**
 - **Policy RD 6** To facilitate the location of certain resource based and location specific developments of significant regional or national importance and critical infrastructure projects at suitable locations in rural areas.
 - **Section 3.8 Development Zones**
 - **Development Zone 4:** To provide for a greenbelt area around the urban centres of Dundalk, Drogheda and Ardee.
 - **Policy RD 38** Multi-unit residential, large scale industrial and commercial developments, or other developments of similar scale or nature, would not be considered appropriate within this zone.
 - **Development Zone 5** - To protect and provide for the development of agriculture and sustainable rural communities and to facilitate certain resource based and location specific developments of significant regional or national

importance. Critical infrastructure projects of local, regional or national importance will also be considered within this zone.

- **Policy RD 39** To consider developments falling within the following categories; limited one-off housing*, agricultural developments...certain resource based and location specific developments of significant regional or national importance...
- **Ch 5: Heritage (Natural & Built)**
 - Map 5.5: Landscape Character Areas - The appeal site is within the 'Lower Faughart, Castletown, & Flurry River Basins' Character Area, which is of local importance.
 - **HER 10** To afford protection to the landscapes and natural environments of the County, by permitting only those forms of development that are considered sustainable and do not unduly damage or take from the character of the landscape or natural environment.

The following policies are also of relevance:

- **ENV 24** To comply with the SEVESO II Directive in reducing the risk and limiting the potential consequences of major industrial accidents.
- **ENV 25** To ensure that land use policies take account of the need to maintain appropriate distance between future major accident hazard establishments and residential areas, areas of substantial public use and of particular natural sensitivity or interest.
- **ENV 26** To have regard to the advice of the HSA when proposals for a new SEVESO site, modifications to an existing SEVESO site or when proposals for development within the consultation zone of a SEVESO site are being considered (including and as detailed in Table 8.2.
- **RD 28** To refer any application for development to the Geological Survey of Ireland, where it relates to mineral extraction, quarrying developments/extensions and any development involving excavations greater than 50,000m³ in volume or one hectare in area.

5.3. **Natural Heritage Designations**

5.4. The following designated sites are located within a 15km radius of the appeal site:

- Dundalk Bay SAC (000455)
- Dundalk Bay SPA (004026)
- Carlingford Mountain SAC (000453)
- Carlingford Shore SAC (002306)
- Slieve Guillion SAC (NI)
- Derryleckagh SAC (NI)

To the east of the site is Kilcurry River, which represents a hydrological link to the Natura network, specifically Dundalk Bay SAC and SPA.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The applicant has appealed the decision of Louth County Council to refuse permission, the grounds of which is summarised as follows:

- The proposed development is of strategic economic importance to the rapidly growing Irish Whiskey sector. The strategic growth of this sector is under threat if the industry is not furnished with the necessary support at a local and national level.
- The facility will aid the growth of the distillery in Dundalk and support other small distilleries across the region who will also require maturation facilities.
- This location was chosen for a number of important reasons. As any maturation warehouse facility will be a development to which the Major Accident Directive applies, it is desirable that these are not located close to existing settlements, due to issues with societal and fire safety risks. It is desirable that there are not located close to existing settlements, areas zoned for residential/institutional development, or areas that could potentially be zoned for these purposes.

- At present, there is just one purpose built maturation warehouse facility in Ireland (Irish Distillers Limited facility), located in a rural area in County Cork. There is Board precedent for granting maturation warehouses in rural areas.
- There are conflicting policies and objectives contained within the Louth County Development Plan 2015, which support the subject development. Section 3.3.1 of the development plan allows for this type of development in the rural area. This provision of the development plan amounts to a conflicting or unclearly stated objective, therefore in accordance with section 37(2)(b)(ii) of the Act, there is sufficient grounds for the Board to grant permission.
- The Louth Local Economic and Community Plan contains a number of high level economic goals, including economic goal 7 which aims to establish Louth as a premier producer in the agri-food, farming and fisheries sector.
- The strategic importance of the development is underpinned by Food Wise 2025 – the government’s 10 year strategy for the agri-food industry, which identifies an explicit action on the need to enable whiskey maturation processes.
- Given the increasing threat of Brexit, there is a clear need to provide certainty and support to the food and beverage industry and for Ireland to be able to capitalise on potential increase in market share in the industry. The expansion of the maturation capacity in Ireland is of particular significance to the economy and bears the hallmarks of strategic infrastructure.
- The decision of the elected members has not been clearly justified. The findings of the EIAR were not fully considered by the elected members. As set out in the EIAR, the development can be accommodated at the Kilcurry location without resulting in undue impacts to the receiving environment.

6.2. Applicant Response

None.

6.3. Planning Authority Response

The planning authority states that it is satisfied that the decision of the elected members not to materially contravene the development plan was based on proper planning and sustainable development principles and not on media reporting as suggested by the application. The decision was taken in accordance with Section 34(6) of the Planning and Development Act (as amended) and with due regard to circular PL02/2018.

6.4. Observations

13 observations were received. The following provides a summary of the issues raised:

Zoning

- Proposed development is a material contravention of the greenbelt and settlement policies of the Louth County Development Plan 2015-2021.
- Section 37(2)(b) of the Planning and Development Act 2000 (as amended) is not applicable to the site. The proposal is not of strategic or national importance. It does not constitute a strategic infrastructure development. The proposal is not supported by regional policy, ministerial policy or government policy.
- The proposed development is not considered strategic in context of Schedule 7 of the Planning and Development Act 2000.
- Greenbelt zoning of the site does not allow commercial/industrial development. This is not a rural enterprise. The site is also located within the settlement boundary of Kilcurry Village, which is a tier 4 settlement, the objective of which is to serve smaller rural catchments and provide local services with some small scale rural enterprises.
- A more considered and strategic approach in relation to whiskey maturation is needed.
- The proposed use does not reflect the pattern of development in the area.

- Planning and zoning in the area is based on local needs only. The proposal will impact on ability of others to build in the local area.
- Part of the lands are location within Flood Zones A and B. Development Plan policies ENV31-ENV40 apply.
- A designated monument, a souterrain, ref LH004-54 is located on the northwestern part of the site.
- The site selection analysis is questionable and the EIAR is deficient in the consideration of alternative sites. The site selection criteria states a 100m buffer is required. This is not a requirement in any documentation related to this use. The proposed development proposes an 80m buffer between some of the warehouses and the site boundary. The discounting of site 4 is not clear.
- The development is not resource based or location specific, therefore it does not need to be located on these lands.
- The councillors voted on the Greenbelt two years ago as part of the development plan process and have voted against the development to retain the greenbelt. The decision made by the councillors was not based on media reporting.

Amenity of the Area

- The applicant is contradictory in stating the proposed use should not be on zoned land or proximate to residential uses. The site is adjacent to an existing village settlement, which is zoned for residential use, with a church, primary school and crèche in proximity.
- Proposal will negatively impact on all community facilities and presents a risk to this community, in particular the school children, in terms of noise disruption, traffic hazard, and dust.
- Air pollution from emissions and black fungus mould associated with this type of development are raised as concerns.
- Fire hazard is raised as a concern.

- Water protection and supply for existing houses served by well is of concern if development goes ahead.
- The applicant's reference to sites in Cork, Westmeath and Meath is not comparable given the proximity of this site to residential dwellings and the nature of the landscape which was forested.
- Traffic implications and road safety not adequately assessed given the plan is to facilitate other distilleries at this location, which could have consequential negative impacts on the residential amenity of the area.
- The length of time to allow for construction, ie over a period of 10 years, would have a detrimental impact on residential amenity.

Landscape

- The proposed development will have dramatic impacts on the landscape and visual amenity of the area.
- The proposed development would damage the amenity of this area and usage of community assets/facilities.
- Depreciation of property values will arise with this development given its scale and proximity to dwellings.

Scale of Development

- The proposed development is to be phased. There is no requirement for the applicant to build a facility of this scale at this location. Only 7 of the warehouses are proposed to be provisionally completed by 2028. The scale of the proposal is linked to the facilitation of other smaller distilleries to use the facility.
- There is no information in the EIAR in relation to the location of other distillers which the development intends to serve and impacts arising from this.

Environmental Impacts and AA

- The site is hydrologically linked to the Dundalk Bay SAC and SPA through a proposed discharge to the Kilcurry River. Mitigation measures of a construction management plan, which has not yet been undertaken, is

considered insufficient. The AA's screening conclusion is unsound and does not meet the requirement of scientific certainty.

- Part of the lands are subject to flooding. The developers have indicated that these grounds are not subject to flooding.

6.5. Further Responses

None.

7.0 Assessment

7.1. Introduction

- 7.1.1. The proposed development is for a whiskey warehousing facility, comprising 13 warehouses, to be utilised for the storage and maturation of whiskey, which requires minimum three years storage following distillation. The whiskey is to be distilled at a facility at McEntee Avenue in Dundalk town, operated by the Great Northern Distillery, filled into casks at that facility and transferred to the subject site for storage.
- 7.1.2. It is stated that the Great Northern Distillery currently produces 6.5 million litres of alcohol a year and has the potential to grow to produce 17 million litres of alcohol per year. It is stated that the proposed development is necessary to facilitate the company's expansion and maturation requirements. Based on the figures submitted that each warehouse can cater for 46,800 casks, which contain 200 litres of alcohol each, each warehouse will be able to accommodate 9.3 million litres of alcohol and the whole development of 13 warehouses would therefore be able to cater for 121 million litres of alcohol. I note that whiskey requires storage for a minimum of 3 years, with an average of 5 years, therefore based on current production of 6.5 million litres, the Dundalk plant would require, assuming a 5 year turn around, approx. four warehousing units.
- 7.1.3. The development is proposed to be phased over a ten year period, with the first phase comprising the construction of four warehouses, infrastructural works and services. The proposed attenuation ponds and fire water retention pond are to be constructed in the first phase. Land, which is identified in the development plan for

community use, was proposed to be ceded to the community once a use/user was identified, however this was omitted from the application given the lack of certainty as to the end user and ability to adequately assess that section of the site in accordance with COMAH regulations.

7.1.4. The primary issues for assessment include:

- Principle of Development and Material Contravention
- Landscape
- Amenity of the Area
- Examination of Alternatives
- Other Matters
- Directive 2012/18 EU (Seveso III) Considerations
- EIAR
- AA

7.2. Principle of Development and Material Contravention

7.2.1. The majority of the site is located within Development Zone 4, the objective of which is 'To provide for a greenbelt area around the urban centres of Dundalk, Drogheda and Ardee a greenbelt area'. Development Zone 4 is identified on map 3.1 of the Louth County Development Plan 2015-2021. The eastern section of the site is located within the settlement of Kilcurry, identified for development and amenity use.

7.2.2. The applicant argues this type of use is appropriate on rural lands, as per other ABP decisions on whiskey maturation facilities. While it is accepted the proposal is a material contravention of the development plan, the applicant contends that the proposed development is of strategic economic importance to the rapidly growing Irish Whiskey sector and there are conflicting policies and objectives contained within the Louth County Development Plan 2015-2021, which supports the subject development of such facilities in a rural area, specifically section 3.3.1 of the development plan. It is considered that this provision of the development plan amounts to a conflicting or unclearly stated objective and in accordance with section 37(2)(b)(ii) of the Act, there is sufficient grounds for the Board to grant permission.

- 7.2.3. The observers contend the proposed development is a material contravention of the greenbelt and settlement policies of the Louth County Development Plan 2015-2021 and is not justifiable under Section 37(2)(b) of the Planning and Development Act 2000 (as amended). The proposal is not of strategic or national importance. It does not constitute a strategic infrastructure development and is not supported by regional policy, ministerial policy or government policy. The site is also located within settlement boundary of Kilcurry Village and materially contravenes the settlement strategy for the county. The development is not resource based or location specific, therefore it does not need to be located on these lands. The councillors voted on the Greenbelt as part of the development plan process and have voted against the development in order to retain the greenbelt.
- 7.2.4. The NPF, supported by National Policy Objective 62 highlights the importance of greenbelts as they play an integral role as part of the fabric of our settlements, either through their use for community recreation and amenity purposes, supporting biodiversity or as a natural delineation of the settlement itself, forming the interface between urban and rural areas. Green belts adjoining our urban areas also fulfil a strategic purpose, as a potential asset for future, planned development as an urban extension, particularly at a city scale. The NPF under National Policy Objective 23 also seeks to facilitate the development of the rural economy, specifically agri-food, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage, which are vital to rural tourism.
- 7.3. The Louth County Development Plan notes the importance of greenbelts in defining urban and rural areas and protecting the rural character and landscape of an area from urban encroachment. In section 3.3.1, 'Rural Enterprise' it is stated 'the development of rural enterprise and employment opportunities will be vital to sustain the rural economy. The location of such enterprise and employment opportunities will be encouraged throughout the County in locations and at a scale which are considered appropriate'. Policy RD 6 seeks 'To facilitate the location of certain resource based and location specific developments of significant regional or national importance and critical infrastructure projects at suitable locations in rural areas'. Section 3.10, 'Development Zones', goes on to indicate zones applicable across the county and the purpose of these development zones is to conserve and protect the amenities of rural areas and to promote development in a sustainable manner. Within

those zones it is identified where is considered suitable to accommodate certain resource based and location specific developments of significant regional or national importance.

- 7.4. In accordance with policy RD 38, large scale industrial and commercial developments, or other developments of similar scale or nature, would not be considered appropriate within Zone 4 (greenbelt area). Development Zone 5 relates to an extension area of land beyond the greenbelts and this zone seeks 'To protect and provide for the development of agriculture and sustainable rural communities and to facilitate certain resource based and location specific developments of significant regional or national importance. Critical infrastructure projects of local, regional or national importance will also be considered within this zone'. The development plan through the mapping of its development zones and associated policies clearly distinguishes between development zone 4/greenbelt area and development zone 5/rural area. I do not consider the development plan to be unclear in it's stated objectives in this regard. Policy RD 38 and RD 39 clearly elaborate on the overarching Policy RD 6. I do not agree with the applicant that section 37(2)(b)(ii) of the planning act applies. This is discussed further hereunder in section 7.5.11. Given the physical scale of the development, which covers an area of 45 hectares, the primary purpose of the greenbelt zone will be undermined, contrary to NPF national policy objective 62 and local policies of the Louth County Development Plan 2015-2021.
- 7.4.1. With regard to the zoned level 4 settlement of Kilcurry, the development plan highlights that the purpose of the development area identified for Kilcurry is to primarily support one-off type housing to assist in satisfying rural generated housing need. It is noted in the plan that whilst development is anticipated to be primarily residential, low impact local services which contribute to supporting diversification and growth of the local rural economy may also be considered. Given a portion of the development land within the village will be removed with this development and given the site is a SEVESO site, the proposal will overall hinder the settlement strategy for the county, which aims to strengthen local towns and villages over demand for urban generated rural housing, as supported by Policy SS 1 'To maintain the settlement hierarchy within the County and to encourage residential development within each settlement that is commensurate with its position in the hierarchy and the availability of public services and facilities'.

- 7.4.2. I agree with the applicant that there are specific locational requirements which challenge the location of whiskey maturation warehouses within urban areas and close to settlements and that a rural context is of merit for this specific use. This issue has been addressed in recent Board decisions in relation to this specific landuse. The Board recently granted permission for this whiskey maturation warehousing on unzoned rural lands at Cloncowan, Longwood, Co. Meath (Ref: ABP-300429-17; 5 warehouses on a 6.13ha site) and at Moyvore Co. Westmeath (Ref: ABP-301078-18; 12 warehouses on a 16ha site). However, I note significant differences between these developments and the subject site. The two developments permitted were not on greenbelt zoned lands; they were smaller in landtake; they were located at a greater remove from the nearest settlements; and were part of forested areas or on less visible and relatively flat sites. These differences are significant in the assessment of the landuse and environmental implications of this proposed development.
- 7.4.3. The applicant has set out in the EIAR the site selection parameters which led to the preference of this site over others considered in the wider area of Louth, Meath, Cavan and Monaghan. While I acknowledge the applicant has undergone a site selection process within the EIAR and the selection criteria discussed are valid (which is discussed further hereunder), I note this assessment does not recognise that the land subject of this appeal has a greenbelt designation. Furthermore, while it is stated that unzoned lands are preferable, part of this site is identified as a development area of Kilcurry. This site is undulating with significant regrading works proposed, while the applicant highlights that a flat site is preferable. While the location may be considered ideal in terms of proximity of the development to the associated Dundalk distillery plant, it is not an operational imperative that the warehousing be located this proximate to the distillery and there is no overriding strategic or national imperative that requires the development to be located on protected greenbelt lands. I do not accept that there is no zone 5 rural land available in Louth or no other rural land in the surrounding counties which could equally accommodate a warehouse maturation storage facility of this nature to support the regional economy and growth of the whiskey industry.
- 7.4.4. Notwithstanding my consideration that the proposal is a material contravention of the development plan and its location is contrary to the proper planning and sustainable

development of the area, the Board may wish to consider the matter further, as requested by the applicant, in the context of Section 37(2)(b) of the Planning and Development Act 2000 (as amended). Section 37(2)(b) states that where the Planning Authority has decided to refuse permission on the grounds that a proposed development materially contravenes the Development Plan, the Board may only grant permission where it is considered that:

- i. The proposed development is of strategic or national importance,
- ii. There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- iii. Permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- iv. Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.4.5. I am of the view that, in examining section 37(2)(b), items (i) and (iii) do not apply. While the applicant argues that the proposal is of strategic and national importance, the commercial development of a facility to support a local distillery is not in my view of strategic or national importance, while I acknowledge it is of economic value. I note the national Food Wise 2025 document and the NPF supports strengthening rural economies, however, this must be balanced against the NPF objection 62 in relation to greenbelts and the sustainable development of our communities. While the Government's Food Wise 2025 strategy highlights the need to support the distillery industry and highlights funding issues in relation to maturation, it does not highlight a lack of land availability within Ireland as an issue. It is my view that the proposed development cannot be considered to be of such strategic or national importance to override basic land use considerations in this area, as supported by the NPF in relation to greenbelt zoning and the core settlement strategy for the county. Retaining a greenbelt in this strategic location on the outskirts of Dundalk is important to prevent coalescence of settlements and, as highlighted in the NPF, to

protect such lands for the long-term strategic expansion of urban areas, should they be required. A greenbelt is not, in my view, appropriate for the development of a large scale commercial facility such as is proposed. I do not consider there to be a strategic or national imperative that overrides my assessment of the landuse implications of this proposal. The development would also detract from the development of Kilcurry where dwellings are supported and would, in my view, be an inappropriate use of the development lands identified to serve Kilcurry, contrary to the sustainable development of Kilcurry and the overall settlement strategy for the county, which is to support rural villages/towns as an alternative to rural generated one-off housing.

7.4.6. The development plan is clear in its policies and objectives for the zoned lands in question, therefore 37(2)(b)(ii) does not apply. Furthermore the pattern of development in this area is related to rural and village related housing and not commercial development of the scale proposed, therefore 37(2)(b)(iv) does not apply.

7.4.7. The applicant and the planning authority acknowledge that the proposed development materially contravenes the Louth County Development Plan 2015-2021 both in terms of the greenbelt designation and the settlement strategy. In considering Section 37(2)(b) of the Planning and Development Act 2000 (as amended), I do not consider the proposal meets the requirements to overturn the decision to materially contravene a county development plan. The scale of the development at this specific location is in my view contrary to the proper planning and sustainable development of the area and would be an incongruous insertion in the rural landscape, undermining the green belt status of the land in question and the settlement strategy for the county.

7.5. Landscape and Visual Assessment

7.5.1. The appeal site is located within the 'Lower Faughart, Castletown, & Flurry River Basins' Character Area. Based on a scale from International Importance to Local Importance, this area is identified as being of local importance. The development plan states that industrial and commercial development, among other uses, are perceived in the character study as the major forces for change in the rural landscape.

- 7.5.2. The applicant contends the proposed development can be accommodated at the Kilcurry location without resulting in undue impacts to the receiving environment, as demonstrated by the EIAR.
- 7.5.3. The observers contend the development will have a dramatic impact on the landscape and visual amenities of the area given its scale and works involved.
- 7.5.4. The terrain of the site is undulating with a number of peaks and valleys. The landscape rises to the mountains to the north, toward the Slieve Guillion Area of Outstanding Beauty. There is an elevation difference of 22m between the river and the highest point, with levels ranging from 16m to 38m. The southern portion of the lands are noticeably lower than the northwestern/central portion.
- 7.5.5. It is stated that a significant amount of terrain sculpting is required to accommodate the proposed development, with 50% of the site undergoing regrading, as the proposed development requires a flat site/flat platform for the warehouses. Bulk excavations of up to 7m in depth below current ground levels and bulk filling and compaction of similar depths is proposed, with rock of up to 5m depth to be excavated across the central/northwestern area. The EIAR states that 320,000 cubic metres of earthworks for all phases of the development will be undertaken, with all of this to be reused on site. A landscaping plan proposes a significant number of trees, shrubs, grassland and perennial wetland. Berms 3.5m to 7m high will be constructed around the warehousing zone of the site with implementation of planting and a woodland along the river (4.5ha in area) and wildflower meadows equal in size. There will no planting within the warehousing zone due to fire risk.
- 7.5.6. I have serious concerns in relation to the impact of the development on the local landscape, notwithstanding the areas landscape designation of local importance. The scale of the ground works are significant, altering the undulating nature of the landscape with the removal of the rocky outcrops, in a dramatic and permanent way, contrary to policy HER 10, which seeks 'to afford protection to the landscapes and natural environments of the County, by permitting only those forms of development that...do not unduly damage or take from the character of the landscape or natural environment'. While the significant earth berm and planting proposed will mitigate the view of this large scale warehousing area, the development does not work with the

topography of the existing site and the proposal would in my view be an incongruous insertion in this rural landscape adjoining a small scale rural settlement.

- 7.5.7. The visual assessment within the EIAR examines the existing environment, proposed elements of the development, and the predicted impacts looking at 10 viewsheds within the area. Each viewshed has three associated photomontages, identifying the existing view, the subsequent view with the warehouses and berm in place, and the view in 5 years with the tree planting in place. Mitigation measures are proposed, including the timing of hedgerow removal relative to the associated element of the development, installation of the berms and their planting to be constructed early in the process. The greatest change occurs in character and views by replacing an open field system with a woodland berm, with little visibility of the warehouses, which have finished floor areas ranging from 27 at the eastern end of the site, stepping up to 28 and 29 at the western end of the site. The surrounding berm has indicated levels of primarily 34, stepping up to 35 and 36 along the north/northwestern side of the site. The overall height of the warehousing units is 10m, so they will be in part visible over the berm, however the proposed trees will obscure them in the medium/long term. It is estimated the scheme will not have any significant or profound residual landscape or visual impacts.
- 7.5.8. Having inspected the site and reviewed the drawings and photomontages submitted, I accept that the warehouse buildings will not be overly visible from the viewsheds shown in a period of five years, subject to the successful planting of the berms and the berms themselves will become the dominant feature. Stated mitigation measures relating to the timing of the regrading works and construction of the berm will limit the short term disturbance to the visual amenity of the area. However, the alteration to the landscape required to fit the buildings into the site will irreversibly and significantly alter the undulating character of the natural environment, which will in my view result in an incongruous insertion in this rural landscape where the scale of development proposed is contrary to the pattern of development experienced heretofore in this greenbelt area. I note that recent Board decisions for similar whiskey distillation sites included a requirement for a closure decommissioning and site restoration plan to ensure that should such a use cease, the rural lands being utilised would revert to agricultural use, as such lands are not suitable for warehousing/industrial uses outside of the permission for a whiskey maturation

facility. Such site restoration to the former landscape would not be possible for this site given the nature of the groundworks involved.

7.6. Amenity of the Area

- 7.6.1. The observers contend the site selection criteria in the EIAR is flawed and is contradictory in stating the proposed use should not be on zoned land or proximate to residential uses, given the existing context of the site, where there are houses, community facilities, and a church in the vicinity. Air pollution, fire hazard, implications for water supply, lack of a Construction Environmental Management Plan, and traffic implications are also raised as concerns. These issues are assessed further hereunder with reference to the submitted EIAR.

Fire Hazard

- 7.6.2. The HSA has examined the site given it is a high tier COMAH site. The development has been designed to take account of risk presented by fire hazard. In the event of a fire, there is a firewater retention pond designed into the scheme with automated shut off valves to the Kilcurry River. I note that in terms of societal risks and potential for impact on neighbouring properties the proposal is not considered to be significant and the HSA does not recommend refusal in this regard.

Fungus Growth

- 7.6.3. Ethanol vapor has been reported to give rise to the growth of a fungus, *Baudoinia compniacensis*, which can result in a blackened appearance on buildings and vegetation within distillery boundaries. The EIAR states that while this fungus is related to distilleries, there is no evidence of adverse impact on the health of employees, visitors or vegetation. The effect on buildings is reversible. A study undertaken in relation to this issue in Scotland is referenced. The applicant states the potential impact on blackening of buildings close to the proposed development are imperceptible, reversible, limited in impact area and temporary, with commitment from the applicant to monitor and rectify any impact that does occur.
- 7.6.4. I am satisfied that scientific evidence to date suggests that such effects are localised and that the risk to buildings and people in the area is not significant.

Noise

- 7.6.5. With regard to construction stage the EIAR identifies external noise limits from the nearest noise sensitive locations (approx. 100m from the site) to significant construction works, utilising BS5228-1. Predicted noise for construction plant involved in site clearance and groundwork, particularly rock breaking activities, are set out and are predicted to be within the specified limits under BS5228-1.
- 7.6.6. In terms of operational noise, I note that no significant mechanical services plant are proposed. Noise will be emitted from trucks using the site, however I note the levels of traffic will be relatively low. The earth berm around the perimeter of the site is also identified as a noise mitigation measure and taken in conjunction with the distance to the nearest noise receptors, it is anticipated that noise emissions will not be significant during the operational phase.
- 7.6.7. A series of construction and operational phase noise mitigation measures are proposed, such as the limiting of construction hours during which high noise activities will take place, establishing channels of communication with residents and the Local Authority, selection of low-noise plant and machinery, maintenance of site roads etc.
- 7.6.8. I am satisfied that given the nature of the development and distance from neighbouring buildings and with standard construction safeguards in place, unacceptable noise levels would not arise. Noise could be regulated by the attachment of an appropriate planning condition.

Traffic

- 7.6.9. The existing traffic conditions are surveyed within the EIAR and assessed against the proposed development during the construction and operational phases.
- 7.6.10. When operational the site will generate no more than 8 in/out lorry trips a day and 6 in/out car trips per day, which is overall not considered significant. It is acknowledged that there will be a higher level of traffic in the initial set up stage as stock is delivered to the site, however this is short term in nature and the road network is cable of accommodating the increase in traffic movement. The proposed route of lorries to and from the distillery is identified as being primarily along the R177 with no use of the local road network.
- 7.6.11. The potential for construction traffic impacts is examined. Earthworks provide for a significant amount of cut and fill with no requirement to export excessive cut material

or to import fill material. Traffic volumes will therefore be low, with earth moving machinery remaining on site. Construction works are expected to employ 25 people with up to 24 deliveries of material per day over a six month period, with 50 in/out trips, and 50% of this comprising lorry trips. It is stated that the phasing programme proposed will be limited to four transient periods over a ten year span. The construction element of each phase would generate the largest volumes of traffic to and from the site, but this would be short term in nature. While the applicant indicates the facility may also be used by other distilleries in the region, I do not consider the traffic volumes associated with this land use so significant as to result in traffic management concerns.

- 7.6.12. A series of best practice mitigation measures are proposed for the construction and operational phases. I am 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 as a result of traffic movements.

Air Pollution

- 7.6.13. The level of earthworks during the construction phase has the potential to give rise to significant dust generation. An overall medium risk of temporary dust soiling impacts and an overall low risk of temporary human health impacts of the proposed earthwork activities are identified in the EIAR. A range of dust mitigation measures are proposed which are to form part of a Construction Environmental Management Plan which will result in no nuisance to nearby receptors. I accept the information as presented is reasonable and will not result in significant impacts on air quality or the climate and the project is not therefore considered likely to have adverse impacts on human health. Mitigation measures proposed in the EIAR in my view will satisfactorily address these issues.

Construction Environmental Management Plan (CEMP)

- 7.6.14. While concerns are raised by observers in relation to the lack of a CEMP presented with the planning application, I acknowledge that such a plan is a live and changing plan as details of a development and construction management team are finalised post permission. A condition relating to the submission and agreement with the planning authority of a CEMP prior to the commencement of development on site,

would be required in the event that permission were recommended to ensure all the best practice and mitigation measures proposed within the EIAR and any conditions attached to the permission are incorporated within one document, including construction safety, traffic management, environmental risk management, and waste management.

7.7. Examination of Alternatives

- 7.7.1. The observers contend that the applicant has failed to adequately scrutinise alternative sites in the EIAR. The issue of alternatives is addressed in Chapter 2 of the EIAR. It states that the alternatives considered included eighteen sites in counties Louth, Meath, Cavan and Monaghan.
- 7.7.2. The site selection analysis involved assessment of site suitability based on operational considerations; societal risk; accessibility; and land use considerations and precedent. In terms of operational considerations the EIAR states that a level site is generally required and steeply sloping sites are undesirable. Given the SEVESO designation of this facility, the site needs to be designed to accommodate fire water retention ponds and associated water storage, collection and monitoring. In addition, to facilitate future expansion and justify investment, a usable site area of 15ha is required by the applicant. In terms of societal risk, the applicant considered that a 100m buffer and minimum 50m would be required to meet COMAH land use planning considerations. In terms of accessibility the applicant from a logistical and sustainable transport point of view considers it desirable to have the warehouse facility within 40 minutes drive of the Great Northern Distillery, with good access to national or regional roads that can accommodate HGVs. With regard to land use considerations, it is preferable that sites are not located close to existing settlements or on zoned residential/institutional lands or lands that could be potentially zoned for these purposes; visual impact is a key consideration given the scale of the development; ecological issues; flooding; and cultural heritage.
- 7.7.3. I note the applicant has analysed a number of sites in the wider area. However, the EIAR does not acknowledge that the site at Kilcurry is within a designated green belt area which has a significant value in land use planning terms, as supported by the NPF and the Louth County Development Plan 2015-2021. I further note the significant level changes across this site, which does not make it an ideal location for

a warehousing facility of the scale proposed. I accept as set out in the analysis that rural lands are acceptable for this type of use given its specific requirements and the development plan acknowledges that zone 5 relates to rural area and such areas can be considered. I do not accept that there are no rural zoned lands within the wider area of Louth, Meath, Cavan and Monaghan that can be utilised for such a facility. While the location may be considered ideal in terms of proximity of the development to the associated Dundalk plant, it is not an operational imperative that the warehousing be located this proximate to the distillery and there is no overriding strategic or national imperative that requires the development to be located on protected green belt lands, which have a strategic value in land use planning terms.

7.8. Other Matters

- 7.8.1. Concern in relation to the impact of the berm on internet connectivity for the school which relies on a line of sight for connection was raised. This was addressed by way of further information. A subsequent comment from the broadband provider queried the height of the proposed trees on top of the berm which could interfere with connectivity. Should the Board be minded to grant permission, this issue could be addressed by way of condition to ensure the design and landscaping plan for the berm does not interfere with broadband provision at this point.
- 7.8.2. Concerns are raised in relation to property values in the area. I have no information before me to believe that the proposed development, if permitted would lead to devaluation of property values in the vicinity, particularly given the distance of existing dwellings from the site boundary in question.

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

- 7.9.1. 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/COMAH) 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 Health and Safety Authority is identified as the central competent authority under the regulations.

- 7.9.2. The proposed development would be categorised as an upper tier establishment under the COMAH Regulations given the quantities of whiskey (flammable material) to be stored on site, which is considered a category of dangerous substance under Part 1 of Schedule 1 of Regulation 2.
- 7.9.3. 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 (as amended) 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.
- 7.9.4. 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. Having reviewed the further information request, the HSA stated that the Authority does not advise against the granting of permission in the context of the major accident hazards. 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.
- 7.9.5. 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.

8.0 Environmental Impact Assessment

8.1 Introduction

- 8.1.1. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application.

A summary of the results of the submissions made by the planning authority, prescribed bodies, appellant, observers and applicant has been set out at Section 6.0 of this report. The main issues raised specific to the EIA can be summarised as follows:

- The effect of this SEVESO site on the safety of the people in the village and surrounding area; impact on human health; and impact on the development potential of the village.
- The effect of the alterations to the ground levels on the landscape and visual amenity of the area.
- The effect of the development on ground water, water supply and flood risk.

These issues are addressed below under the relevant headings and as appropriate in the reasoned conclusion and recommendation.

8.1.2. The EIAR is laid out in one volume, with an appendices and a separate non-technical summary document. Chapter 15 sets out a summary of the mitigation measures and alternatives have been considered in chapter 2.

8.1.3. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR adequately identifies and describes and the effects of the proposed development on the environment, and complies with article 94 of the Planning and Development Regulations 2001, as amended.

8.1.4. This EIA has had regard to the application documentation, including the EIAR, and the observations received, as well as to the assessment of other relevant issues set out in section 7 of this report above.

8.2. **Assessment of the Likely Significant Direct and Indirect Effects**

The likely significant direct and indirect effects of the development are considered under the following headings, as presented in the EIAR:

- Landscape & Visual Assessment
- Material Assets

- Soils and Geology
- Hydrogeology
- Hydrology
- Biodiversity
- Noise and Vibration
- Air Quality & Climate
- Cultural Heritage
- Population & Human Health
- Interaction of Impacts

Landscape & Visual Assessment

- 8.2.1. Chapter 4 of the EIAR addresses landscape and visual impact and includes a number of photomontages.
- 8.2.2. The lands in question are undulating with two high points in the landscape. Views to the northeast are toward the Slieve Gullion Area of Outstanding Beauty where mountain tops are visible. The Kilcurry River runs along the northern and western boundary of the site with a steep embankment along the northern/northwestern boundary down to the river.
- 8.2.3. The applicant states that a level platform is required for the warehousing units for operational reasons. There is an elevation difference of 22m between the river and the highest point. Levels ranging from 16m in the eastern section to 38m in the western section. The southern portion of the lands are noticeably lower than the northwestern portion. I note there will be a large volume of excavation work on the site (approx. 320,000 m³), particularly in the north-central area, involving significant regrading of the ground levels, with the EIAR indicating there are stated excavations of up to 7m in depth below current ground levels, in addition to excavation of rock of up to 5m depth. I am of the opinion that the proposed development will result in a significant direct negative impact on the landscape, given the scale of groundworks proposed and the significant alteration of the levels across the site. The issue of landscape and visual assessment is discussed further in greater detail under section 7.5 of my assessment above.

Material Assets

- 8.2.4. Chapter 5 of the EIAR addresses the potential effects as a result of the delivery of infrastructure to the site during the construction and operational phases of development.
- 8.2.5. I am satisfied that traffic impacts have been appropriately addressed in terms of the construction and operational phases of the development. The ground movement works during the construction phase will involve the reuse of material on site, therefore traffic volumes are not considered significant. During the initial operational phases traffic volumes will be higher than normal to deliver the stock to the site, thereafter, the level of activity and traffic generation to the side is considered relatively low, given the storage nature of the use.
- 8.2.6. The information submitted by the applicant and the impacts identified would be avoided, managed and mitigated by the measures which form part of the proposed scheme. This issue is addressed in greater detail in section 7.6 of my assessment above.

Land, Soils and Geology

Landuse

- 8.2.7. Chapter 6 addresses existing land use and potential impacts on land use. It is noted that there are 31 buildings within 100m of the site, 27 of which are residential, a school, a childcare facility, a church and a public house to the northwest. The prevailing land use is agricultural/rural in nature. The EIAR states the site consists of predominantly unzoned lands within a rural setting, with two acres identified for 'amenity' use and approximately 4 acres zoned as a 'development area'.
- 8.2.8. The EIAR states the proposed change of use from agriculture to light industrial whiskey maturation use and community use on the amenity area, will not be significant and the change to community use will be moderate and positive. A 50m buffer is proposed from the warehouse buildings to the site boundary. Given the sites designation as a Seveso facility, regulations require the HSA is consulted where specified uses/infrastructure are within 300m of such a facility. The HSA have stated no societal risk implications were identified at the development or outside the development boundary, therefore there is a neutral effect on future land use planning in Kilcurry.

8.2.9. I accept the applicant has addressed the issue of land use within the EIAR and that the HSA has been consulted, as required, with the health and safety aspect of the site adequately addressed. However, I note that the EIAR does not specifically address the site main designation as a greenbelt, which has a strategic value in land use planning terms, as supported by the NPF. Greenbelts have a strategic function in defining urban and rural areas, and in protecting the rural character and landscape of an area from urban encroachment. The removal of development land from the designated village area also has implications in terms of the settlement strategy and rural housing policy for Louth. I consider the proposed development will have a significant direct and adverse effect on the existing land use designations in this area. These issues are discussed further under section 7.2 of the assessment above.

Soils & Geology

8.2.10. Sections 6.3 and 6.4 of Chapter 6 provides information on the existing soil and geological conditions and section 6.6 assesses the impact of the proposed development on these aspects of the environment.

8.2.11. According to the EIAR, the site sub-soils are generally composed of silty clays overlaying sands and gravels with weathered limestone occurring at depths of approx. 3.5m generally. A programme of geotechnical trial pitting was carried out on site between the 9th and 11th November 2016, with a total of 68 trial pits excavated to assess the suitability of the overburden and underlying bedrock for the construction of the proposed warehouses. Environmental trial pitting was also undertaken on site between 5th and 9th December 2016, with a total of 85 trial pits excavated. Mapping indicates that the general composition beneath the site comprises of acid brown earths/brown podzolics underlain by till derived from lower paleozoic sandstone and shale. A section of the land adjacent Kilcurry River on the western boundary of the site and two locations in the northern portion of the site are classified as having rendzina/plinthosols underlain by bedrock outcrop or subcrop. A waterlogged area to the northeastern corner of the site is identified as lacustrine type soil underlain by lake sediments. A large portion of the site is underlain by dinantian limestones and an area along the western boundary with the Kilcurry River is identified as calcareous sandstone.

- 8.2.12. Potential impacts during construction and operational phases are identified including potential contamination of soil from spillages/surface water run off; potential contamination of soil in event of fire from contaminated run off; groundwater seepage from excavation slopes; stability of weathered bedrock; removal of materials from the development. Mitigation measures are proposed and the final residual impact is rated to be imperceptible.
- 8.2.13. I note there will be a large volume of excavation work on the site, particularly in the north-central area, involving significant regrading of the ground levels with stated excavations of up to 7m in depth below current ground levels and bulk filling and compaction of similar depths, in addition to excavation of rock of up to 5m depth, to create level areas for the warehousing. A finished floor area of 29.25 AOD is proposed in the area of warehouse 12 and the limestone bedrock varies from 29m AOD to 33.5m AOD. A series of drainage channels are proposed to manage flow of surface water to the proposed attenuation ponds in the southwest, where the excavation of soil and breaking of bedrock will be required, with approx. 4.5m of till and limestone bedrock to be removed. Table 6.5 of the EIAR identified level of soil cut and rock cut associated with each warehouse. An investigation of 7 trialpits down to weathered bedrock was undertaken to determine the 'ripability' of the weathered bedrock and depth to groundwater. The works will result in water seepage from the excavation slopes in the north central area. Drainage measures will be put in place to manage ground water and surface water and to address potential of slope instability which is considered to be imperceptible. I note that the excavation material is to be utilised on site for the construction of a berm and the impact is considered to be imperceptible.
- 8.2.14. It is not proposed to carry out works along the steeply sloped western boundary with Kilcurry River. With regard to a waterlogged area comprising lacustrine deposits, it is proposed to construct the eastern side of the complex and berms on this area. It is stated that the soils and geology are capable of accommodating the construction of the warehouse units, with implementation of mitigation measures resulting in no likely significant impact on soil and geology and residual impacts being imperceptible.
- 8.2.15. I consider that no significant adverse effects in respect of soils and geology are likely to arise as a result of the proposed development

Hydrogeology

- 8.2.16. Chapter 7 of the EIAR provides information on the existing groundwater conditions in the vicinity and assesses the impact of the proposed development on this aspect of the environment.
- 8.2.17. The majority of the site is underlain by limestone bedrock over a Locally Important Aquifer. The northwestern end of the site is classed as a poor aquifer and along the western boundary, the aquifer is over bedrock and is classified as a Locally Important Aquifer, which are moderately productive. A review of borehole records in a 1km radius was undertaken. The aquifer vulnerability rating over the footprint of the proposed warehouses is stated to be high. The aquifer vulnerability toward the western part of the site along the river, where sandstone bedrock is exposed, is extreme (rock or karst). It is also classified as extreme where historical quarrying was undertaken (dating from late 19th to early 20th century) and it is assumed that there is no overburden offering protection. Given these has been filled since, the EIAR states it could be argued that this designation should be revised. Overall the aquifer under the site is classified as 'good' and 'probably not at risk'. With regard to the impact on the aquifer, dewatering may be required where there is cut below the water table such as in the deeper excavations for the firewater and attenuation ponds. The impact of ground movement and excavation works is considered to be slight given the medium importance of the aquifer in the area and that it is likely that significant excavation into bedrock should only occur in the firewater and attenuation pond area.
- 8.2.18. It is proposed to bore two abstraction wells on the site to supply potable water to staff and occasional site washing. The boreholes will also be used to supply water to the on-site fore water storage tanks, however once these tanks are filled, the wells will not be used regularly for this purpose.
- 8.2.19. Having regard to the separation distances from residences which may be using wells and studies undertaken as part of the EIAR, I consider the water supply proposals to be acceptable.
- 8.2.20. With regard to the potential impacts on the aquifer during and post construction, I consider the impact of soil and rock excavation during the construction phase, which

has the potential to result in pollution, has been adequately assessed, with mitigation measures proposed for both the construction and operational phases reasonable.

- 8.2.21. I am satisfied that the issue of fire risk has been adequately designed into the scheme. The scale of the firewater retention pond is adequate and regulation by the HSA of the facility will ensure oversight of such systems on an ongoing basis. A Construction Environmental Management Plan (CEMP) is proposed, among other mitigation measures which in my view is acceptable to address management during the construction and operational phases.
- 8.2.22. Given the nature and scale of the earthworks involved, I consider the advice of a geotechnical engineer should be sought in relation to the critical design aspects of the proposed embankments, particularly where rock is to be excavated and the temporary works including storage, placement of and re-handling of soil and fill materials, protection of existing river banks and embankment and associated drainage proposals. The final design of these features and elements should be subject to the approval of the geotechnical engineer to ensure slope failure would not occur. Should the Board be minded to grant permission, a condition in relation to this issue is recommended.
- 8.2.23. With regard to the proposed wastewater treatment system to serve the office, a Site Suitability Assessment was undertaken and included with the application. The GSI groundwater vulnerability map indicates that the proposed percolation area is located in an area of high vulnerability. The site is over a locally important aquifer which is moderately productive only in local zones, with high vulnerability. The site has a groundwater protection response of R1, where an on-site system is acceptable subject to normal good practice. The trial hole showed a 0.8m layer of silt/clay overlaying sand and gravels. T value of 10 is indicated. Groundwater was not encountered and bedrock was not encountered at 3.3m. A septic tank system is proposed. I consider that no significant adverse effects will arise from the proposed septic tank and percolation area.

Hydrology

- 8.2.24. Chapter 8 addresses the existing hydrology of the site and assesses the predicted impacts on the environment.

- 8.2.25. Kilcurry River, which is located along the north/northwestern and western boundary of the site, joins the Castletown River approx. 1.3km downstream before it enters Dundalk Bay, which is a designated SAC, SPA, and pNHA. A river walk-over survey of the Kilcurry River (salmonid watercourse) was undertaken and 6 surface water monitoring points were selected and the water analysed in terms of quality and invertebrates. Surface water level and flow measurements were also undertaken at the location of the proposed storm water discharge from the site to the river.
- 8.2.26. Predicted impacts were examined and related to potential of contaminated surface water run off (during and post construction) and in the event of a fire the potential for liquid alcohol to be released to Kilcurry River via surface run off. In terms of mitigation measures, a stormwater management system has been designed in accordance with the principles of the GSDS and SUDS measures. The total impermeable area being created on this site is 68,000sqm. The EIAR identifies an attenuation storage volume of 3589sqm is required for the 100 year event, including a 20% increase for the effects of climate change and urban expansion. It is proposed to form a series of stormwater wetlands retention ponds in the southern section of the site. The first basin can hold 4150m³ and the second can hold 1383 m³, which combined is excess of the requirement for 4780m³. The construction of silt traps and dual networks of surface water surface water sewers to address run off from roofs separately from run off from roads, with systems in place to deal with any accidental spillage of ethanol when casks are being unloaded/moved. To prevent ethanol entering the river, it is proposed to incorporate two remotely operated penstock valves with backup electrical supply in the surface water drainage system and a separate firewater drainage system will be installed which discharges to a separate firewater retention pond and is sized to accommodate the contents of a full 2000sqm warehouse compartment and associated firefighting water. The residual impact in terms of hydrology is considered to be imperceptible.
- 8.2.27. I note that the EIAR states a 'damp meadow' lies between the church and the farm buildings, this being a low laying part of the site. This area is to be replaced with a berm, which will force water to a created low laying basin 150m to the south where attenuation ponds are proposed. I note the composite map for Kilcurry within the development plan identifies small areas subject to 1 in 100 fluvial flooding, one of which corresponds to the damp meadow. The EIAR does not reference this map in

its assessment of flood risk, but refers instead to the OPW and PFRA for the country which indicated for Kilcurry that a section of land on each side of the Kilcurry River where it borders the site is susceptible to a 1 in 100 fluvial flooding event. The EIAR states it is not envisaged that the proposed development will give rise to or exacerbate flooding at this location or upgradient or downgradient of the site. The site will be developed to ensure a greenfield run off rate to the Kilcurry River in proportion to the percentage of proposed impermeable development.

8.2.28. I am satisfied that the issue of hydrology has been satisfactorily addressed in the EIAR and that no impacts on the surrounding land in terms of surface water management or flood risk will arise.

Biodiversity

8.2.29. Chapter 9 addresses the biodiversity of the site and assesses the predicted impacts on the environment. An ecological impact assessment was undertaken of the site.

8.2.30. The main ecological interests within the site are the Kilcurry River and the Cully Woodland. Boundary hedgerows, treelines, the Kilcurry River and the Cully River area to be retained intact and remain unaffected directly by the proposed development. A number of mitigation measures are proposed during the construction phase, including the following: appointment of an ecological clerk of works prior to the commencement of works; protective fencing to be erected prior to any works a 30m protective zone from the Kilcurry River; and the wetland features should be constructed prior to any disturbance of the existing ground conditions within the site.

8.2.31. There is a confirmed bat roost present in the stone agricultural buildings which will be demolished as part of the development. A bat derogation licence will be required from the NPWS given the works involve the destruction of a roost of bats, which are protected species. Also as a minimum, bat boxes should be erected one year prior to the demolition of the buildings to provide alternative roosting opportunities for the bats on the site.

8.2.32. I have considered the biodiversity and mitigation measures proposed and am satisfied this topic has been properly described in the EIAR and considered in the course of this EIA. Should the Board be minded to grant permission, I recommend that the mitigation measures proposed be addressed by way of condition, specifically the issue of the bat derogation licence.

8.2.33. The proposed development would not be likely to have any significant effect on species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC. In this regard I refer to section 9 of this report below which addresses appropriate assessment.

Noise and Vibration

8.2.34. Chapter 10 considers the issue of noise and vibration. The existing noise climate was surveyed and consideration given to potential short term construction impacts and long term impact of the operational phase.

8.2.35. This issue is addressed in more detail in section 7.6 of the assessment above. Overall I am satisfied that the potential noise impacts of the proposed development have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse effect is likely to arise.

Air Quality & Climate

8.2.36. Chapter 11 of the EIAR addresses the potential impacts in relation to air climate and climate at construction and operational phases of the development.

8.2.37. Given the development is for the storage and maturation of whiskey, this is not considered an odorous process and therefore there are no operational impacts in this regard. Traffic generation overall is considered low and will therefore not have a significant impact at operational stage.

8.2.38. Ethanol vapor has been reported to give rise to the growth of a fungus, *Baudoinia compniacensis*, which can result in a blackened appearance on buildings and vegetation within distillery boundaries. It is stated that while this fungus is related to distilleries, there is no evidence of adverse impact on the health of employees, visitors or vegetation. The effect on buildings is reversible. A study undertaken in relation to this issue in Scotland is referenced. The applicant states the potential impact on blackening of buildings close to the proposed development are imperceptible, reversible, limited in impact area and temporary, with commitment to monitor and rectify any impact that does occur. I am satisfied that scientific evidence to date suggests that such effects are localised and that the risk to buildings in the area, given in this instance the distance from the warehousing to neighbouring buildings, would not result in a significant impact on air quality during the operational phase.

8.2.39. The primary sources of impacts is identified as being at construction stage and related to dust generation. An overall medium risk of temporary dust soiling impacts and an overall low risk of temporary human health impacts of the proposed earthwork activities are identified. A range of dust mitigation measures are proposed which are to form part of a Construction Environmental Management plan which, the EIAR states, will result in no nuisance to nearby receptors. I accept the information as presented will not result in significant impacts on air quality or the climate and the project is not therefore considered likely to have adverse impacts on human health arising from dust emissions.

Cultural Heritage

8.2.40. Chapter 12 examines the issue of cultural heritage. A geophysical survey was undertaken and 106 test trenches were excavated across the site. Features including pits, stakeholes, ditches, linear features, three possible kilns, the remains of a souterrain were found, suggesting a continuous human presence in Kilcurry from the prehistoric period. A 10m exclusion zone is recommended around the souterrain to ensure its protection during construction and it is recommended a management plan be put in place to ensure the future preservation of the feature. Other features of note are recommended to be preserved by record rather than in-situ.

8.2.41. I am satisfied that the EIAR has adequately addressed matters relating to cultural heritage.

Population & Human Health

8.2.42. Chapter 13 considers impact on population; employment and socio economic factors; tourism recreation and amenity; and human health including health and safety.

8.2.43. The EIAR states the proposed development will have a neutral effect on the economic activity of adjacent farms. While traffic will increase at construction stage and have a slight negative impact, it is not considered that this would not be of a scale to encourage people to move from the area or discourage people from moving into the area. The proposed development will support the expansion of the Great Northern Distillery in Dundalk and therefore it is considered it will have a moderate positive impact on the economy of the business and of the region given the increase in exports for a business which this development will support.

- 8.2.44. The Great Northern Distillery intend to cede access to the zoned amenity land to the community once an appropriate community body have been identified, although I note that no proposal forms part of this application as it cannot be assessed against the sites impact in terms of the Major Accidents Directive.
- 8.2.45. The proposal is not readily visible form the road and is not on an identified tourist route, therefore the effect on tourism will be imperceptible. The impact on visual amenities and fisheries is fully explored in the chapters of the EIAR on landscape, hydrology and biodiversity.
- 8.2.46. The development has been assessed against the COMAH regulations as it is an identified upper ties COMAH establishment. Risk based land use planning contours were mapped and do not extend outside of the site boundary, therefore the proposed development will not result in human health impacts or any land use restrictions outside of the site.
- 8.2.47. I am satisfied the EIAR has adequately addressed the issue of population and human health and no significant adverse effect is likely to arise.

Interaction of Impacts

- 8.2.48. Chapter 18 of the EIS relates to the interaction of effects and cumulative impact of effects. In terms of cumulative impact, there are no other industrial or warehousing developments proposed in the area and therefore no cumulative impacts arise in this regard.
- 8.2.49. I have considered the interaction between the factors mentioned above and am satisfied that based on the information submitted by the applicant, including the mitigation measures put forward in relation to geology, surface water management and biodiversity measures, that the proposal is not likely to have a significant negative effect on the environment. However the interaction of the proposed landuse and landscape alterations will in my opinion result in a significant adverse effect on the existing environment, permanently altering the existing undulating landscape through the scale of groundworks proposed; and the creation of a large scale light industrial use will be an incongruous insertion in a rural landscape, incompatible with the greenbelt designation, and contrary to the pattern of development in the area.

8.3. Reasoned Conclusion

8.3.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and other information provided by the developer, and the submission from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Potential effect from SEVESO designation, which will be mitigated through application of the COMAH regulations, design of the buildings and firewater retention pond, separation of surface water drainage system from surface water drainage of warehouse units, and implementation of SUDS protection measures.
- A significant direct effect on land and the landscape by the change in use and appearance of this 45 hectare site from undulating agricultural land to light industrial use which involves significant cut and fill of soil and rock. Given the location of the site within the rural greenbelt of Dundalk, the groundworks proposed would in my view have a significant adverse effect on the land and landscape, which will not be avoided, mitigated, or otherwise addressed by means of condition.
- Potential indirect effects on ground water, surface water and water supply, which will be mitigated during the construction and operation of the development by the proposed system for surface water drainage, SUDS measures and attenuation and firewater retention ponds, and by the application of best management practices.
- Potential effects arising from noise and vibration during construction which will be mitigated by appropriate management measures.
- Potential effects on air during construction which will be mitigated by a dust management plan including a monitoring programme and an inspection protocol to control fungal growth will be put in place and inspections of properties near the boundary of the site will take place annually and fungal growth cleaned where it appears.

- Potential effects on cultural heritage which will be mitigated through the establishment of a 10m exclusion zone around an existing souterrain and other features of note will be preserved by record rather than in-situ.
- The proposed development is not likely to have significant adverse effects on population and human health.

The likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed. The effect on the environment in terms of land use and landscape, in my opinion, constitutes grounds to refuse to approve the application.

9.0 Appropriate Assessment

- 9.1.1. The application was accompanied by an appropriate assessment screening report. The application site is not in or immediately adjacent to any Natura 2000 site, so the proposed development would not have any direct effect on any Natura 2000 site. There are two Natura 2000 sites downstream of the application site to which there could be a hydrological connection – Dundalk Bay SAC (000455), Dundalk Bay SPA (004926).
- 9.1.2. The conservation objectives of the SPA are to maintain or restore the favourable conservation condition of the following bird species:
- A005 Great Crested Grebe *Podiceps cristatus* wintering
 - A043 Greylag Goose *Anser anser* wintering
 - A046 Light-bellied Brent Goose *Branta bernicla hrota* wintering
 - A048 Shelduck *Tadorna tadorna* wintering
 - A052 Teal *Anas crecca* wintering
 - A053 Mallard *Anas platyrhynchos* wintering
 - A054 Pintail *Anas acuta* wintering
 - A065 Common Scoter *Melanitta nigra* wintering
 - A069 Red-breasted Merganser *Mergus serrator* wintering
 - A130 Oystercatcher *Haematopus ostralegus* wintering

- A137 Ringed Plover *Charadrius hiaticula* wintering
- A140 Golden Plover *Pluvialis apricaria* wintering
- A141 Grey Plover *Pluvialis squatarola* wintering
- A142 Lapwing *Vanellus vanellus* wintering
- A143 Knot *Calidris canutus* wintering
- A149 Dunlin *Calidris alpina* wintering
- A156 Black-tailed Godwit *Limosa limosa* wintering
- A157 Bar-tailed Godwit *Limosa lapponica* wintering
- A160 Curlew *Numenius arquata* wintering
- A162 Redshank *Tringa totanus* wintering
- A179 Black-headed Gull *Chroicocephalus ridibundus* wintering
- A182 Common Gull *Larus canus* wintering
- A184 Herring Gull *Larus argentatus* wintering
- A999 Wetlands & Waterbirds

9.1.3. The conservation objectives of the SAC are to maintain the favourable conservation condition of the following habitats:

- 1130 Estuaries
- 1140 Mudflats and sandflats not covered by seawater at low tide
- 1220 Perennial vegetation of stony banks
- 1310 Salicornia and other annuals colonizing mud and sand
- 1330 Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)
- 1410 Mediterranean salt meadows (*Juncetalia maritimi*)

9.1.4. I would suggest that in terms of potential impacts, surface water (silt laden run-off and firewater in the event of fire) and wastewater impacts during the construction and operational phases of the development are most relevant. I am satisfied that the proposed construction management methodology is adequate to ensure that no significant effect would arise during the construction phase. The volume and rate of

surface runoff from the development would be controlled by the surface water attenuation system described so that it is in accordance with current greenfield runoff. Various features of the stormwater management system would also operate to avoid a deterioration in the quality of the surface water through the emission of sediments or pollutants, including the the attenuation systems and petrol interceptors. These are standard features in modern stormwater management systems that form an integral part of the project and whose efficacy in this regard is established. It is therefore unlikely that any significant effects would occur downstream as a result of the development that could potentially affect any Natura 2000 sites. Foul wastewater will be treated via an onsite septic tank and percolation area in accordance with the EPA Code of Practice.

9.1.5. The development would not be likely to have any significant effects on any Natura 2000 site, either directly or indirectly. This conclusion is consistent with the appropriate assessment screening report submitted with the application. Similarly there are no direct or indirect effects that would be likely to have significant effects on any Natura 2000 site in combination with any other plan or project.

9.1.6. It is therefore reasonable to conclude that on the basis of the information on the file, which is adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on Dundalk Bay SAC (000455), Dundalk Bay SPA (004026) 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 required.

10.0 Recommendation

10.1. It is recommended that permission is refused, for the reasons and considerations set out hereunder.

11.0 Reasons and Considerations

1. The site is located in Development Zone 4 'to provide for a greenbelt area around the urban centre of Dundalk, Drogheda and Ardree' and in the development envelope of a Level 4 settlement, Kilcurry, as identified in the

Louth County Development Plan 2015-2021. The Board considers that the proposed development would materially contravene the zoning objective relating to development zone 4 and associated policy RD 38, as set out in this plan and would materially contravene the settlement strategy for Kilcurry and the county. The Board pursuant to the provisions of section 37 (2)(b) of the Planning and Development Act, 2000, is precluded from the granting of planning permission for the proposed development as none of the provisions of section 37 (2)(b) (i), (ii), (iii) or (iv) of the said Act apply in this case. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the undulating nature of the landscape, the level of cut and fill of soil and rock required to accommodate the proposed development, in addition to the scale of the development and the proposed berm, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, and would militate against the preservation of the rural environment and natural landscape, contrary to policy HER 10 of the Louth County Development Plan 2015-2021, and would set an undesirable precedent for other developments within the greenbelt zoned area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Una O'Neill
Senior Planning Inspector

17th January 2019