



An
Bord
Pleanála

Inspector's Report

ABP-317439-23

Development	Construction of a single storey whiskey maturation/storage rackhouse, a septic tank and percolation area and all ancillary site development works and services. A Natura Impact Statement (NIS) will be submitted to the planning authority with the application.
Location	Doonagore Townland, Doolin, Co. Clare.
Planning Authority	Clare County Council.
Planning Authority Reg. Ref.	23202.
Applicant(s)	The Chapel Gate Whiskey Company.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party.
Appellant(s)	The Chapel Gate Whiskey Company.
Observer(s)	None.
Date of Site Inspection	10 th April 2024.
Inspector	Daire McDevitt

1.0 Site Location and Description

- 1.1.** The site, with a stated area of c.1.33ha, is located c.1.2km southwest of Doolin village in Co. Clare. It is located on the western side of the L5138. There are long views of the site from the north given the higher level of the L5138 to the site and limited views from the scenic route on the R478. There are uninterrupted views of the Ocean from the site to the west, north and south. To the east of the site, on the opposite side of the L5138, the topography rises and there are a number of individual houses. The site is located within a designated Heritage Landscape. Site levels fall from the front (east) of the site to the west towards the Cliff Walk, cliff edge and Atlantic Ocean. Access off the L5138 is via an agricultural entrance which is overgrown and at an angle to the road.

2.0 Proposed Development

- 2.1.** Permission is sought for the construction of a single storey whiskey maturation/storage rackhouse (1048 sqm), a septic tank and percolation area and all ancillary site development works and services.
- 2.2.** Public notices submitted with the application refer to A Natura Impact Statement (NIS) to be submitted with the application. I wish to highlight to the Board that no NIS was submitted with the application.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following reasons:

1. The subject site is located within a designated 'Heritage Landscape' where developments are required under Objective CDP 14.5 to avoid the selection of visually prominent sites. The site is in an open and visually exposed position with wide views over the Atlantic Ocean. It is considered that the subject site is unsuitable for the development as proposed, located on a designated 'Heritage Landscape' between the road and the sea and having regard to the scale and footprint of the structure as proposed. The development would

therefore be visually discordant in a highly sensitive landscape and would detract from the visual amenities of the area. The proposed development, by itself and by the precedent that it would set for similar undesirable development in the vicinity would, therefore, contravene Objective 14.5 of the Clare County Development Plan 2023-2029, would seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

2. The road network serving the site is poor in terms of capacity, width and alignment. Taken together with other existing development on this narrow road, the development would create a traffic hazard by reason of the extra traffic generated in this rural area. The proposed development would therefore endanger public safety by reason of a traffic hazard and would be contrary to the proper planning and sustainable development of the area.
3. The proposed development site is situated in close proximity to the Cliff of Moher Special Protection Area (Site Code 004005). Having regard to the information received to date, the Planning Authority is not satisfied that the development, in combination with other proposals or planned developments in the vicinity of the Cliffs of Moher, will not impact on qualifying interests of the Cliffs of Moher SPA, whether directly or indirectly. The proposed development would if permitted be contrary to CDP Objective 15.3 'European Sites' which is to afford the highest level of protection to all designated sites in accordance with the relevant Directives and legislation on such matters.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report sets out an assessment of the proposed development. FI was recommended on traffic and AA. Responses submitted for the assessment of the second planner's report on file and a recommendation to refuse permission for the reasons as set out above in section 3.1 above.

3.2.2. Other Technical Reports

Environmental Assessment Officer report dated 23 May 2023: Raised concerns that the assessments submitted were not clear in terms of exact loading to the new

on-site systems. Considers lacunae/gaps in the information submitted. CEMP should be provided to carry out a full AA Screening. Potential habitat damage/species from development and visitors not assessed in screening.

West Clare MD (North) Senior Executive Technician email dated 3 May 2023: No observations to make.

3.3. Prescribed Bodies

DAU (5th May 2023):

The site is located in an area with a high density of recorded archaeological monuments which are subject to statutory protection and protected by CDP policy and objectives. The Department broadly concurs with the assessment submitted with the application and has no objection on archaeology grounds subject to conditions.

In terms of Nature Conservation it is noted that the site is close to the Cliffs of Moher SPA and pNHA. The SPA is designated for the species Clough as well as internationally important numbers of razorbills and guillemots and nationally important numbers of fulmars and kittiwakes. The Annex 1 Peregrin Falcon also breeds in the site. Prior to any grant of permission the Council must be satisfied that the development will not impact negatively on the Clough population or other qualifying interests of the Cliff of Moher SPA, whether directly or indirectly through disturbed foraging, displacement or loss of habitat. The potential impact must be considered in combination with other proposals or planned developments in the vicinity of the Cliffs of Moher.

3.4. Third Party Observations

None.

4.0 Planning History

Site:

None as per planning register.

Applicant

PA Ref. 15701 refers to permission granted to Louise McGuane (owner of The Chapel gate Whiskey Company) for the development of a warehouse building for the storage of distilled spirits at Gowerhass, Cooraclare, Co. Clare.

There is also an application for a domestic extension associated with Louise McGuane

5.0 Policy Context

5.1. National

National Planning Framework

Sets out 'much of the economic benefits in the agri-food sector are dispersed throughout the country making it particularly vital to rural areas and economic development generally. Continued development of the agri-food sector will be supported through the implementation of Food Wise 2025'.

Policy Objectives relating to same include National Policy Objective (NPO) 23 which seeks to facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector.

National Biodiversity Action Plan (NBPA) 2023-2030

The 4th NBAP strives for a "whole of government, whole of society" approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to "act for nature".

This National Biodiversity Action Plan 2023-2030 builds upon the achievements of the previous Plan. It will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

- Objective 1 - Adopt a Whole of Government, Whole of Society Approach to Biodiversity

- Objective 2 - Meet Urgent Conservation and Restoration Needs
- Objective 3 - Secure Nature's Contribution to People
- Objective 4 - Enhance the Evidence Base for Action on Biodiversity
- Objective 5 - Strengthen Ireland's Contribution to International Biodiversity Initiatives

Climate Action Plan, 2024.

Implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

5.2. Regional

Regional Spatial & Economic Strategy for Southern Region.

5.3 Local

Clare County Development Plan 2023-2029 came into effect in April 2023. The applicant was lodged with the Planning Authority in April 2023 and assessed under the 2023-2029 Plan (decision issued 29th May 2023).

Clare County Development Plan 2023-2029

Relevant policies/objectives include but are not limited to:

CDP 6.20 Agricultural Development

CDP 8.3 Alternative Farm Enterprises.

CDP6.21 Food Industry

CDP 14.5 Historical Landscapes (referenced in reason for refusal no. 1)

It is an objective of Clare County Council: To require that all proposed development in Heritage Landscapes demonstrate that every effort is made to reduce visual impact. This must be demonstrated for all aspects of the proposal – from site

selection through to details of siting and design. All other relevant provisions of the Development Plan and RSES must be complied with. All proposed development in these areas will be required to demonstrate:

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

CDP14.7 Scenic Routes

CDP 15.3 European Sites (referenced in reason for refusal no. 3)

It is an objective of Clare County Council:

- a) To afford the highest level of protection to all designated European sites in accordance with the relevant Directives and legislation on such matters.*
- b) To require all planning applications for development that may have (or cannot rule out) likely significant effects on European sites in view of the site's Conservation Objectives, either in isolation or in combination with other plans or projects, to submit a Natura Impact Statement in accordance with the requirements of the EU Habitats Directive and Planning and Development Act, 2000 (as amended)*
- c) To recognise and afford appropriate protection to any new or modified SPA or SAC that are identified during the lifetime of this Development Plan through the planning application process bearing in mind proposals for development outside of European sites may also have an indirect effect.*

CDP 15.4 Requirement for Appropriate Assessment

5.4 Natural Heritage Designations

The site is not within a designated site.

Cliff of Moher SPA (site code 004005) is c. 400m from the site.

5.5 EIA Screening

Whiskey maturation warehouses are not listed as a development type in Part 1 of Schedule 5 of the Planning and Development Regulations 2001-2018 and accordingly a mandatory environmental impact assessment (EIA) is not required.

In consideration of the development listed under Part 2 of Schedule 5 of the Planning and Development Regulations, 2001-2018 including 7(d) of Part 2 of Schedule 5 (Installations for commercial brewing and distilling; installations for malting, where the production capacity would exceed 100,000 tonnes per annum), the project type, while ancillary to a distilling project, would not fall within an installation for commercial brewing and distilling or an installation for malting. Essentially, the current proposal would involve the maturation stage, which occur post the distilling process. Accordingly, the proposal does not fall within this project category.

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

I refer the Board to Appendix 1 – EIA Pre-Screening form.

6.0 The Appeal

A First Party Appeal was lodged which seeks to address and overcome the planning authority's recommended reasons for refusal.

6.1 Grounds of Appeal

The Grounds of Appeal are summarised as follows:

Rebuttal of Refusal Reason No. 1 (Heritage Landscape and Objective 14.5):

- It is submitted that the reason for refusal is at odds and at variance with the theme of the technical and professional recommendation of the planning officials upon which the decision derives from.

- It was accepted that the proposed development would not be seen from a scenic road due to its siting, positioning and lower level of the site and that assimilation was assisted further by the low profile and grassed roof of the building.
- The design quality was accepted by the planning authority.
- Objective 14.5 does not establish a contextual baseline of what size or type of structure may or may not be acceptable. Or that defines a requirement on an applicant to demonstrate the suitability of the site selection vis a vis alternative locations.
- Reference to size, use and site selection appears to add new parameters to objective 14.5.
- Clare CDP supports rural enterprise in rural areas and objective 14.5 does not preclude rural enterprises developments within heritage landscape areas.
- The climate conditions of the site are appropriate for a whiskey maturation rackhouse as optimal for the ageing and maturation process.
- The proposed development blends with the landscape in terms of height, finishes and design. Complies with Objective 14.5.
- Query if the design and finishes are considered of high quality and the siting of the structure within the site is considered to assist in assimilating it into the landscape, how can the structure be considered discordant in the landscape.
- It is submitted that viewpoints and montages included with the application support the applicants' assertions that the proposed development is suitable for this site and complies with Objective 14.5.
- It is submitted that the planning authority decision is not based on an ordinary and reasonable interpretation of objective 14.5 and a lay consideration of it.

Rebuttal of Reason No. 2 (Traffic Hazard)

- It is submitted that the traffic associated with the development would be infrequent, which reflects the storage process of the development and the nature of the ageing and maturation process which requires little intervention or access to the site.
- It is submitted that the level of traffic associated with the proposed development will be lower than one would expect with agricultural activity in a

rural location. The site is sited a relatively short distance along the L5138 (c.1.9km) from the R478 to the southwest or alternatively c.1.2km from Fisher Street in Doolin to the northeast.

- The Technical engineering/road staff in Clare County Council raised no objections.
- It is submitted that the anticipated is expected to be comparable with the pattern, number and frequency of existing and expected traffic on this road. And that the development would not give rise to a traffic hazard and that the existing road infrastructure, which is in close proximity to the larger public road network, is of sufficient capacity and standard to facilitate the development, without giving rise to vehicular conflicts on the local road network.

Rebuttal of Reason No. 3 (Appropriate Assessment – potential impact on Cliffs of Moher SPA)

- The application complies with the requirements of objective 15.3 as an AA screening assessment was carried out in accordance with the requirement of the EU Habitats Directive and the Planning and Development Act 2000, as amended and submitted with the application.
- The AA Screening Assessment was submitted determined that stage 2 was not required.
- Clare County Council failed to identify any material reason, based on best scientific knowledge, a requirement to undertake appropriate assessment of the proposed development or material grounds upon which enabled it to recommend a refusal of planning permission on the basis of objective 15.3. It is respectfully submitted that the Board dismiss this reason for refusal.

6.2 Planning Authority Response

A response was received from Clare CC on the 27th June 2023. This broadly reiterates issues raised in the original planning assessment. Points of note include:

- Visual Impact. The site is located within an extremely sensitive location between the road and the sea, in proximity to the Cliffs of Moher walking route and Doonagore Castle.

- The precedent of introducing a commercial development at this location is a concern.
- More appropriate location along the coast to the west where the visual impact would not be so significant.
- Would contravene CDP 14.5 of the Plan.
- Traffic safety concerns due to the narrow road and condition of the road serving the site and the introduction of a commercial development at this location.
- Concerns relating to the in combination effects of the proposed development on the Cliffs of Moher SPA, whereby the full impacts of the proposed development could not be screened out.

6.3 Observations

None.

6.4 Further Responses

None.

7.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development.
- Heritage Landscape
- Traffic
- Appropriate Assessment.

7.1 Principle of Development

The principle of development was not included in the grounds for refusal, notwithstanding I have briefly addressed it in this section in the interest of clarity.

The proposed development comprises a c.1048 sq.m whiskey maturation/storage rackhouse to facilitate whiskey maturation associated with The Chapel Gate Whiskey Company at their existing facility in Cooraclare, Co. Clare (c.44km from the site) where the applicants currently engage in whiskey ageing and maturation. The applicant has submitted that they are seeking through the proposed development to continue growth of an indigenous Clare enterprise.

The current Clare County Development Plan contains CDP6.21 Food Industry sets to encourage and support the development of food network throughout the county in order to support the expansion of the food industry. CDP 8.3 refers to Alternative Farm Enterprises. I note that whiskey is considered to be food production, as per 'Food Wise 2025: A 10 year vision for the Irish Agri-Food Industry 2015', which sets out the Government's ten year plan for the agri-food sector. Within this document, reference is made to the Whiskey and Craft Beer Sector, including a reference to the whiskey maturation process.

The National Planning Framework supports same, noting that 'much of the economic benefits in the agri-food sector are dispersed throughout the country making it particularly vital to rural areas and economic development generally. Continued development of the agri-food sector will be supported through the implementation of Food Wise 2025'. Policy Objectives relating to same include National Policy Objective (NPO) 23 which seeks to facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector. The RSES supports the regions agri food industry.

I note the particular nature of this application, and in this instance applications for whiskey maturation facilities decided by the Board in recent years, and principles established therein. In some instance the rural location of same were accepted by the Board, herein I draw the Board attention to ABP Ref. 301078 (Moyvore, Co. Westmeath) and ABP 300429 (Longwood, Co. Meath). I note that the scale of the above developments are larger than that being considered here, but notwithstanding, I am satisfied that the similar principles apply to this subject appeal

Given the nature of the proposed development I consider the use acceptable in principle in a rural location, however each application is assessed on its own merits and in compliance with the relevant national and local guidance, policies, objectives and standards which I address in the following sections.

7.2 Heritage Landscape

The appeal site is located within a designated Heritage Landscape and therefore objective 14.5 of the current Development Plan applies. In the grounds of appeal the appellants have set out their rebuttal of recommended reason for refusal no. 1 which relates to non-compliance with Objective CDP 14.5 of the current Clare County Development Plan.

The appellants have submitted that a detailed appeal that seeks to address the planning authority's reason for refusal. It is submitted that it was accepted that the proposed development would not be seen from a scenic road due to its siting, positioning vis a vis the adjoining L5138 which is at a higher and that assimilation was assisted further by the low profile and grassed roof of the building. That the overall quality of the design was considered acceptable and that Objective CDP 14.5 does not establish a contextual baseline of what size or type of structure may or may not be acceptable. Or that defines a requirement on an applicant to demonstrate the suitability of the site selectin vis a vis an alternative location

The scale of development, a single storey structure with an overall area of c.1048 sq.m is not excessive in the context of the proposed use and the need to design a 'fit for purpose' whiskey maturation/storage rackhouse. However and notwithstanding what I consider good quality design and use of appropriate finishes and materials for a rural context I have serious concerns in this instance that site does not have the capacity to appropriately assimilate the scale of the structure into this sensitive historical landscape. I acknowledge that the proposed development would be sited below a road level and a grass roof proposed and while partially screened from scenic route R478. The proposed development would be visible from approaches along the L5138 and intermittently from the cliff walk. Given the exposed natural of the site vis a vis the surrounding area, and the topography of the area, the context of the site and its sensitive location I have serious concerns that the scale is excessive

at this location. I do not consider that the proposed scale of the development complies with the requirements set out under Objective CDP 14.5 of the current Development Plan and therefore permission should be refused on this basis. Indeed, any development on this site would raise concerns regarding compliance with Objective CDP 14.5.

7.3 Traffic

The appellant has set out in the grounds of appeal that given the nature of the proposed development traffic movement associated with it are infrequent. No public would be visiting the site given the nature of the proposed development and as such it would no result in a traffic hazard by virtue of traffic movements on the adjoining public road.

While I agree that traffic associated with the proposed development may not be associated with public visiting the site, there will be traffic movement associated with the proposed use, Whiskey maturation rackhouse which by its very nature will require vans or trucks to deliver materials to the site, for example barrels wherein the whiskey is stored. Along with staff vehicles which will also need to access the site. All of which inevitable result in an intensification of traffic movement from the site along the L5138 as at present there is no use on site. Furthermore I note that the existing 'agriculture' entrance is overgrown with little evidence of recent use. In addition the L5138 is a single carriageway road which is used by significant number of pedestrians as a route.

I have serious concerns regarding the ability of the L5138 to cater for the additional traffic movements and nature of the vehicles associated with the proposed development, notwithstanding the intermittent mature of same. I consider the proposed development would result in excessive traffic movements which would exacerbate the existing traffic hazard at the junctions of the L1538 and the adjoining roads to the north and south which would be contrary to the proper planning and sustainable development of the area.

7.4 Appropriate Assessment

Firstly I wish to draw the Board's attention to the Public Notices submitted with the application which state 'A Natura Impact Statement (NIS) will be submitted to the

Planning Authority with the application'. The document submitted with the applicant is titled 'Natural Impact Assessment Screening for Proposed Whiskey Maturation/Storage Rackhouse at Doonagore, Doolin, Co. Clare' includes a conclusion that stage 2 (NIS) was not required.

I wish to highlight to the Board and to be clear no NIS was submitted with the application notwithstanding a reference to same in the public notices, Clare County Council considered the application valid and proceeded to assess it.

I refer the Board to appendix 2 Appropriate Assessment Screening.

Having regard to the information on file I have concerns that the applicant has not demonstrated that the proposed development does not require a stage 2 AA and the submission of a Natura Impact Statement that addresses the potential impacts on the integrity of the Cliffs of Moher (site code 004005) or any other European site, in view of the sites' Conservation Objectives.

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the likelihood of the proposed development having a significant effect 'alone' on the qualifying interests of the Cliff of Moher SPA (site code 004005) cannot be excluded. It is therefore determined that Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000 is required on the basis of the effects of the project 'alone' or in combination.

This conclusion is based on:

- The zone of influence of potential impacts;
- The potential for construction-related impacts within the European Sites and related impacts on disturbance / displacement of species.
- The application of the precautionary approach;
- Proximity to European Sites and the potential for pathways to same; and

The nature and extent of predicted impacts, which could affect the conservation objectives of the European Sites.

8.0 Recommendation

I recommend that permission is REFUSED for the reasons and considerations set out below

9.0 Reasons and Considerations

1. Having regard to the location of the proposed development within a and areas designated a 'Heritage Landscape' in the Clare County Development Plan 2023-2029 and subject to Objective 14.5. It is considered that the scale of the proposed development results in a visually discordant feature at this location given the open and visually exposed nature of the site with wide views over the Atlantic Ocean. The proposed development would detract from the visual amenities of this sensitive heritage landscape and be contrary to Objective 14.5 of the Clare County Development Plan 2023-2029, would contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed scale of the development would endanger public safety because of additional traffic movements on the L5138 which is a seriously substandard minor road in terms of width and alignment. The traffic generated by the proposed development would endanger public safety by reason of a traffic hazard and obstruction to road users.
3. Having regard to the information on file I have concerns that the applicant has not demonstrated that the proposed development does not require a stage 2 AA and the submission of a Natura Impact Statement that addresses the potential impacts on the integrity of the Cliffs of Moher (site code 004005) or any other European site, in view of the sites' Conservation Objectives. Accordingly, the Board is precluded from granting permission

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Dáire Mc Devitt
Inspectorate
29th November 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317439-23		
Proposed Development Summary	Construction of a single storey whiskey maturation/storage rackhouse, a septic tank and percolation area and all ancillary site development works and services.		
Development Address	Doonagore Tld., Doolin, Co. Clare.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	x		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	x	N/A	No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2

AA Screening Determination

Screening for Appropriate Assessment

Screening Determination

Introduction

As highlight in section 7.4 of my report, the Public Notices submitted with the application state 'A Natura Impact Statement (NIS) will be submitted to the Planning Authority with the application'. The document submitted with the application is titled 'Natural Impact Assessment Screening for Proposed Whiskey Maturation/Storage Rackhouse at Doonagore, Doolin, Co. Clare' includes a conclusion that stage 2 (NIS) is not required. To be clear no NIS was submitted with the application notwithstanding a reference to same in the public notices.

Step 1: Description of the project

I have considered the development comprising a whiskey maturation/storage rackhouse) and associated site works in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The site primarily consists of wet grassland. No Annex I habitats were recorded within the site during the surveys (2nd and 3rd December 2022) and no species listed for protection under the Habitats Directive or the Wildlife Act were recorded as using the site. Invasive species (Montbretia) recorded along the roadside boundary during surveys.

The Cliff of Moher SPA (site code 004005) is c. 400m to the west and south west of the site. The site has an area of c.1.33ha and fall steeply from the public road (L5138) in a northwest direction towards the Cliff edge and Atlantic Ocean.

The site is bounded by the L5138 to the east and the 'cliff walk' to the west which runs along the cliff edge and Atlantic Ocean.

The proposed development comprises the construction of a whiskey maturation/storage rackhouse, septic tank and percolation area and ancillary works.

The site is bounded to the east by the L5138 off which access to the proposed development is proposed, this links the L5138 to the R 478 (scenic route). The L5138 is located at a higher level than the site with a shape contrast in the levels at this point, the levels continue to fall in towards the northwest to the Doolin Cliffs and adjoining ocean. The site is exposed with little screening along all boundaries with the exception of the eastern boundary with the public road where the difference in ground levels assist in screening the site to a point. There is a stream along the eastern boundary of the site which drainage from the higher ground flows towards a ditch along the stream.

Submissions/observations:

The DAU in their submission dated 5/05/23 noted that the site is close to the Cliffs of Moher SPA and pNHA. The SPA is designated for the species Clough as well as internationally important numbers of razorbills and guillemots and nationally important numbers of fulmars and kittiwakes. The Annex 1 Peregrin Falcon also breeds in the site. Prior to any grant of permission the Council must be satisfied that the development will not impact negatively on the Clough population or other qualifying interests of the Cliff of Moher SPA, whether directly or indirectly through disturbed foraging, displacement or loss of habitat. The potential impact must be considered in combination with other proposals or planned developments in the vicinity of the Cliffs of Moher.

Clare County Council 3rd reason for refusal reads:

The proposed development site is situated in close proximity to the Cliff of Moher Special Protection Area (Site Code 004005). Having regard to the information received to date, the Planning Authority is not satisfied that the development, in combination with other proposals or planned developments in the vicinity of the Cliffs of Moher, will not impact on qualifying interests of the Cliffs of Moher SPA, whether directly or indirectly. The proposed development would if permitted by contrary to CDP Objective 15.3 'European Sites' which is to afford the highest level of protection to all designated sites in accordance with the relevant Directives and legislation on such matters. I note that the planning authority set out that if the principle of development was considered acceptable a revised AA Screening or NIS would have formed part of a further information request.

2. Potential impact mechanisms from the project

The site is not located within or abutting a European site. The closest site is Cliffs of Moher SPA, located c. 400m to the w and sw.

The Screening submitted by the applicant titled “Natural Impact Assessment Screening for Proposed Whiskey Maturation/Storage Rackhouse at Doonagore, Dooan, Co. Clare” refers to sites within 15km of the site. These include Cliffs of Moher SPA, Black Head-Poulsallagh Complex SAC, Inisheer Island SAC and Inagh River Estuary SAC.

Table 1. European Sites

Site & Conservation Objective	Qualifying Interests	Distance from site
Cliffs of Moher SPA (site code 004005) Conservation Objective: To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA	Fulmar (<i>Fulmarus glacialis</i>) [A009] Kittiwake (<i>Rissa tridactyla</i>) [A188] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200] Puffin (<i>Fratercula arctica</i>) [A204] Chough (<i>Pyrrhocorax pyrrhocorax</i>) [A346]	c.400m to the west and south west.
Black Head-Poulsallagh Complex SAC (site code 000020) (This SAC is adjacent to Galway Bay Complex SAC (000268). The conservation objectives for this site should be used in conjunction with	Reefs [1170] Perennial vegetation of stony banks [1220] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260]	c.2km to the north

<p>those for the adjacent site as appropriate).</p> <p>Conservation Objective:</p> <p>To maintain the favourable conservation condition of QI as defined by attributes and targets</p>	<p>Alpine and Boreal heaths [4060]</p> <p>Juniperus communis formations on heaths or calcareous grasslands [5130]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Limestone pavements [8240]</p> <p>Submerged or partially submerged sea caves [8330]</p> <p>Petalophyllum ralfsii (Petalwort) [1395]</p>	
<p>Inisheer Island SAC (site code 001275)</p> <p>Conservation Objective:</p> <p>To maintain the favourable conservation condition of QI as defined by attributes and targets</p>	<p>Coastal lagoons [1150]</p> <p>Reefs [1170]</p> <p>European dry heaths [4030]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Lowland hay meadows (Alopecurus pratensis,</p>	<p>c.9km to the north west</p>

	Sanguisorba officinalis) [6510] Limestone pavements [8240]	
Inagh River Estuary SAC (site code 000036) Conservation Objective:	Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]	c.6.2km to the south east

Using the source-pathway-receptor, the zone of influence where hydrological or aerial pathways could connect the proposed development to a designated site were considered.

Potential Effects

In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie), as well as by the information on file, and I have also visited the site.

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

The proposed development will not result in any direct effects such as habitat loss on any European site.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Disturbance and displacement impacts on QI/SCI
- Deterioration of water quality from pollution of surface water during site preparation and construction phase through the release of silt/hydrocarbons/oil into the adjoining watercourse.
- Deterioration of water quality arising from pollution of surface water runoff during the operational phase through vehicular movements and contaminated runoff.
- Deterioration of water quality arising from operational wastewater discharges.

No Natura 2000 sites have a direct hydrological connection to the proposed development site.

The site is not within or adjoining any Natura 2000 sites and I do not consider that there is potential for any direct impacts such as habitat loss, direct emissions, or species mortality/disturbance.

Given the proximity of the proposed development to the SPA there is the potential for indirect potential impacts from the project on the Cliff of Moher SPA QI arising from potential impacts during construction and operational phases which have the potential for disturbance related to increased dust, noise, lighting, and human activity which have the potential to impact on nesting and foraging behaviour.

With regard to the Insheer Island SAC and Black Head-Paoulsallagh Complex SAC I am satisfied given the distances from these Natura 2000 site and the intervening presence of the Atlantic Ocean. Any potential indirect impact via on site surface water discharge to this marine environment which would be the subject of

significant dilution effects and as such can be screened out from further consideration.

I also consider given the absence of a reasonable pathway/connection to the Inagh River Estuary SAC via the Atlantic Ocean can also be screened out from further consideration.

A common thread throughout Clare County Council Technical reports refers to the absence of information in relation to the potential for indirect effects and potential for in combination effects. It is submitted that the assessments as submitted have are no clear in terms of the loading to the new on-site treatment system and therefore there are lacunae in the information and a full assessment cannot be carried out, Reference also made to the requirement for a CEMP and whether this will contain mitigation measures to reduce or remove the risk of significant effects. Having regard to the nature and scale of the project, separation distance from the site and lack of potential pathways to the Natura 2000 sites reference above I do not consider that, with the exception of Cliff of Moher SPA (004005), that further consideration of same is required and can be excluded from the project's zone of influence.

3. European Sites at risk

Having regard to the potential impact mechanisms from the proposal, the European site(s) and qualifying features potentially at risk are outlined in the following table.

Table 1 European Sites at risk from impacts of the proposed project

Effect mechanism	European Site(s)	Qualifying interest features at risk	Impact pathway/Zone of influence
A) Surface water pollution during construction phase.	Cliffs of Moher SPA	Fulmar (Fulmarus glacialis) [A009] Kittiwake (Rissa tridactyla) [A188]	Potential indirect impact on foraging behaviour of the birds due to proximity. Potential indirect impact via stream running along the eastern boundary which discharges to the Cliff of

B) Surface water pollution during operation phase		Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200] Puffin (<i>Fratercula arctica</i>) [A204]	Moher SPA (Mal Bay Catchment).
C) Noise and disturbance during construction phase		Chough (<i>Pyrrhocorax pyrrhocorax</i>) [A346]	
D) Noise and disturbance during operation phase			

Having regard to the above table, Cliffs of Moher SPA (site code 0040005) is considered to be the only Natura 2000 sites at risk from the proposed development.

Cliffs of Moher SPA

This site extends a distance of some 9.5 km along the north Clare coast from Faunmore in the north to just south of Cancregga Point in the south. The cliffs, which rise to 203 m in height, are formed of horizontal beds of coal measure sandstones and shales. Cleavage in the rock is so good that the term flagstone has been applied, and the Liscannor Flag is the rock type best exposed in a quarry near Hag's Head. The line of cliffs shows faulting and slumping to good effect but these are difficult to observe from the cliff top. The site includes the cliffs, the land adjacent to the cliff edge (inland for 300 m) as well as the adjacent sea area to a distance of up to 500 m from the cliff base. The sheer cliffs are largely unvegetated, though some wide slopes support a Fescue (*Festuca*) sward. The scarce Roseroot (*Rhodiola rosea*) occurs on the cliffs. The cliff-top vegetation is a

typical maritime sward, including such species as Thrift (*Armeria maritima*), Sea Campion (*Silene vulgaris* subsp. *maritima*), Buck's-horn Plantain (*Plantago coronopus*) and Rock Samphire (*Crithmum maritimum*). An interesting lichen flora has been recorded from the cliffs. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species: Fulmar, Kittiwake, Guillemot, Razorbill, Puffin and Chough. The site is also of special conservation interest for holding an assemblage of over 20,000 breeding seabirds.

The horizontally-layered flagstones of the cliff face provide ideal nesting ledges for seabirds. A survey in 1998/99 recorded a Razorbill population (5,159 pairs) just below the threshold of international importance and nationally important populations of Fulmar (3,566 pairs), Kittiwake (7,698 pairs), Guillemot (13,375 pairs) and Puffin (1,365 pairs). In addition, small numbers of Shag (31 pairs), Herring Gull (10 pairs), Great Black-backed Gull (3 pairs) and Black Guillemot (2 individuals) were recorded.

Breeding Peregrine (2 pairs) and Chough (12 pairs in 2002/2003), both species listed on Annex I of the E.U. Birds Directive, are recorded on the cliffs. Studies have shown that Chough forage mainly within 350 m inland of the cliff edge.

The Cliffs of Moher SPA is one of the most important seabird colonies in the country, with nationally important populations of five species. A nationally important population of Chough were recorded breeding at the site in 2002/03. The site holds the largest Kittiwake and Razorbill colonies in the country, and the second largest Fulmar colony (after Clare Island). The presence of two species that are listed on Annex I of the E.U. Birds Directive, Chough and Peregrine, is of note. Owing to the importance of the bird populations, the site was designated as a Refuge for Fauna in 1988.

4. Likely significant effects on the European site(s) 'alone'

Taking account of baseline conditions and the effects of ongoing operational plans and projects, this section considers whether there is a likely significant effect 'alone'.

The nesting habitat of the QI species of the Cliff of Moher SPA are rock faces/cliffs, there are generally marine foragers but some species are also known to forage on inland areas near the Cliffs. The Applicants Screening submits that no loss of

foraging grounds is likely to be associated with the proposed development. The Natura Impact Assessment Screening for Proposed Whiskey maturation/Storage Rackhouse at Donagore, Doolin, Co. Clare” submitted does not fully address this matter and therefore I consider there is a lacunae in the information submitted and as such a complete Appropriate assessment screening can be conclude and the requirement for stage 2 cannot be ruled out.

Furthermore there are discrepancies between the information contained in the “Site Assessment Report “and the “Natura Impact Assessment Screening for Proposed Whiskey Maturation/Storage Rackhouse at Donagore, Doolin, Co. Clare” submitted with the application in relation to the loading of the proposed on -site system. The applicant’s Screening also notes that a CEMP would be prepared and submitted to the planning authority as compliance with conditions attached if permission is granted. Based on the information available it has not clearly been set out what potential measure could be contained in such a document and if they could be considered mitigation measures for the purpose of reducing or removing potential impacts on the adjoining SPA. The AA submitted does not fully address this matter and therefore I consider there is a lacunae in the information submitted and as such I cannot determine that a stage 2 Appropriate Assessment is not required. The planning authority is their assessment concluded that having regard to the information received to date, the Planning Authority is not satisfied that the development, in combination with other proposals or planned developments in the vicinity of the Cliffs of Moher, will not impact on qualifying interests of the Cliffs of Moher SPA, whether directly or indirectly-

Potential for contaminated runoff indirectly to the SPA via the adjoining stream and Outstanding issues relating to the loading of the proposed on site system and measures to address potential silt laden run off and of works to the existing raised sod ditch to ensure no discharges to the surface water stream which runs along the eastern boundary which discharged to the Mal Bay catchment.

In the absence of this information the potential for significant effect on Cliff of Moher SPA cannot be ruled out without appropriate mitigation measures in place

The submitted Screening report does not consider the development to be a threat to the conservation objectives for the species listed in the SPA as it would not lead to the decrease in the population trend of any bird species, would not lead to any decrease in the range, timing or intensity of use of any areas within the SPA by the QI species and would not lead to the loss of any habitat/ foraging or nesting.

I accept that that the development will not have a direct impact on the conservation objectives for the species. However, there may be an indirect impact on the wetlands habitat which is listed as a QI by virtue of the overall ecological environment through the potential for waterborne pollution or disturbance to QI bird behavior. Therefore, the proposed development has the potential to undermine the conservation objectives of the species which are listed as a QI for the Cliff of Moher and which other QI may be dependent on.

Table 2: Could the project undermine the conservation objectives 'alone'

European Site and qualifying feature	Conservation objective (summary)		Could the conservation objectives be undermined (Y/N)?			
			Effect A	Effect B	Effect C	Effect D
Cliffs of Moher SPA						
Fulmar (<i>Fulmarus glacialis</i>) [A009] Kittiwake (<i>Rissa tridactyla</i>) [A188] Guillemot (<i>Uria aalge</i>) [A199] Razorbill (<i>Alca torda</i>) [A200]	To maintain or restore favourable conservation condition.	Y	Y	Y	Y	Y

Puffin (<i>Fratercula arctica</i>) [A204]					
Chough (<i>Pyrhacorax pyrrhacorax</i>) [A346]					

Conclusion

I conclude, based on the available information, that the likelihood of the proposed development having a significant effect 'alone' on the qualifying interests of Cliffs of Moher SPA from construction and operational stage effects associated with water quality and QI species disturbance cannot be excluded. In accordance with the precautionary principle, a Stage 2 Appropriate Assessment is required on the basis of the potential effects of the project 'alone'. Further assessment in-combination with other plans and projects may also be required.

Overall Conclusion- Screening Determination

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that the likelihood of the proposed development having a significant effect 'alone' on the qualifying interests of the Cliff of Moher SPA (site code 004005) cannot be excluded. It is therefore determined that Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000 is required on the basis of the effects of the project 'alone' or in combination.

This conclusion is based on:

- The zone of influence of potential impacts;
- The potential for construction-related impacts within the European Sites and related impacts on disturbance / displacement of species.
- The application of the precautionary approach;
- Proximity to European Sites and the potential for pathways to same; and

The nature and extent of predicted impacts, which could affect the conservation objectives of the European Sites.