



Development	Construction of four and five storey office block with public café and exhibition space, car parking and associated site works
Location	Roman Island, Westport, County Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	17864
Applicant(s)	Portwest Ltd
Type of Application	Permission
Planning Authority Decision	Permission with conditions
Type of Appeal	Third-Party
Appellant(s)	1) Shirley Piggins and others 2) Westport Civic Trust 3) Donnacha Curley and others
Observer(s)	1) Peter Sweetman 2) Irish Pet Food 3) Failte Ireland 4) Mary Keane
Date of Site Inspection	9 th and 10 th January 2019
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The development site of .61ha is located at the edge of Clew Bay on the northern side of a low drumlin known as Roman Island which is connected by a causeway to the mainland at Westport Quay in the Harbour.
- 1.2. The island has historically been partially developed and used for industrial type activities among other harbour and amenity related uses. The site comprises a rectangular parcel of land that has been cleared (2015) of former Pollexfen grain store buildings and is fenced off. It fronts an access road that links the Quay to the tip of the peninsula where there is public car parking. The site is adjoined to the south by a prominent and established industrial building complex (pet food factory at time of application and former fish processing plant) which rises to about 30m in height is surrounded by woodland on elevated lands. An ancillary office building is located to the east and on the western side of the site it is adjoined by a playing field. Further east, in the direction of the Quay a variety of uses include a Heritage Centre, a Coast Guard Building, Westport Sea and Angling and a Boxing Club.
- 1.3. The site is low lying and fairly level with the road in contrast to the elevated terrain to the south.
- 1.4. The site is about 2km from the Town centre and 4km from the IDA industrial estate where the Portwest Offices are currently located.

2.0 Proposed Development

- 2.1. It is proposed to build a mixed-use multi-storey building of 2705 sq.m. to provide a café (112 sq.m). and display area (164 sq.m.) at ground level and 2333 sq.m. of office accommodation (revised from 2593 sq.m). in the upper levels. In revised plans and design the café and exhibition space have frontage onto the Quay. The building ranges in height from four to five storeys and incorporates a lift and stair core and roof plant. The accommodation incorporates a range of ancillary uses including a canteen, gym showering and changing facilities storage, ESB substation. The development also includes 60 car park spaces, (reduced from 91 in Further Information) 4 disabled spaces and 30 bicycle space within the site. Other elements

include signage hard and soft landscaping and all associated infrastructure and site development works.

- 2.2. The offices are proposed to provide accommodation for the global head office of Portwest which by its relocation will facilitate the expansion of Allergen located in the IDA Business and Technology Park in Westport
- 2.3. Further information lodged on 9/5/18 clarified the nature of use such that the Café will be open to members of public. Offices are anticipated to cater for a growing workforce and expected to be about 150 employees operating flexible hours within a 7.30a.m. – 7.30 p.m. working day.
- 2.4. The application was accompanied by a number of specialist reports encompassing all planning and administrative, architectural, engineering and ecological aspects of the proposal, the main points of which are summarised below.

2.4.1. **Architectural Design Statement:** MOLA architects were appointed following a design competition. The design approach is informed by the historical and established built form and also by the natural landscape. The statement is comprehensively illustrated with images and the main reference points are:

- The Pollexfen Grain Store at 23m in height bookended the vista of Clew Bay from the Quay during 1904-2015. It was an innovative mass concrete columnar modernist building of its time.
- The adjacent industrial enterprises.
- Evolution of the site from pleasure gardens in 1840s and to industrial and port related uses rendering it an integral element of Westport. This function continues with the Pet Food Factory.
- Other landmarks e.g. the Tower houses in Clew Bay.
- Interface with public realm through design and public access
- State of the art office accommodation for an established and international driven company with a current Westport HQ workforce of 90 which is anticipate to double over the next 4-5 years.
- Sustainable design in terms of ongoing use of natural resources
- The external form is influenced by the fissured rock formations e.g. sea stack.
- Views from Westport House, The Quay, the Quay Road approach, in front of site, the Point, across water

- The rational Photomontages: In addition to providing the This provides a comprehensive range of

2.4.2. In Further information:

- the site entrance is relocated to merge at right angles with the Quay Road,
- a 3-5m footpath to the north of site along Quay Rd permits a 6m wide carriage way and allows a generous set back from the road.
- A response (November 2018) to the grounds of appeal is submitted by the architects and provides more detailed maps and images of the existing site, the former site buildings and views thereof (CGIs illustrate context and massing of proposal on the Quay) and current location of Portwest offices

2.4.3. Engineering Services Report (Oct 2017) describes the existing services for the site in terms of public water supply and foul drainage infrastructure. It is confirmed that there is capacity to connect to these services. Principles of SuDs can be accommodated on site. It is proposed to provide a soakaway system for a 1 in 10-year flood event.

2.4.4. FRA (oct 2017), revised version (April 2018) and clarified in an Addendums (May 2018 and Aug 2018) in addition to clarification by DBCL planning consultants confirms the development area is in Flood Zone B and no justification test is required for the nature use as it is not a vulnerable use.

2.4.5. Outline Construction and Construction Waste Management Plan (Oct 2017)

2.4.6. TIA (Oct 2017) and revised (May 2018) which concludes that

- The traffic flows generated by the proposed development during peak hours periods will be minor and will have negligible impact on the surrounding road network.
- The two number key junctions on the Quay will not be significantly affected as they will be able to operate within capacity. Nor shall the implementation of a partial one-way traffic flow system around the triangle at the Quay negatively impact on the operation of these two junctions.
- Car parking complies with local authority standards.
- All recommendations of the RSA stage 1(May 2018) (also attached) , are acknowledged and accepted and Drawing P026-010 reflects this with amended access and 3m footpath.

- Ultimately the proposed development can be supported by the existing road infrastructure, and the road layout is fit for purpose.

- 2.4.7. A Planning Report explains the rationale for locating the proposed offices for Portwest at this location. It is an international business with headquarters in the IDA Technology and Business Park. It has outgrown the current accommodation but is surrounded by Allergan which occupies a substantial holding and is seeking to expand. The subject site was selected given its location in the urban environs and accessibility to workforce which in turn is service by infrastructure and sustainable modes of transport. The site could accommodate 150 employees in addition to ancillary needs. The scenic quality of the location demands an exceptional design quality which is fitting for an international Head Quarters. In turn there is an opportunity to enhance the amenities of Roman Island and the Quay. The principle is reasonable having regard to the previous and existing industrial uses.
- 2.4.8. This is supported by a Report (submitted May 2018) by Tuohy and O'Toole on Potential Corporate Office sites: This report assessed the potential of 6 site within the town centre and in the vicinity of the town and concludes that no other suitably zoned development sites presently available would be suitable for a corporate office building.
- 2.4.9. Note: The response to the grounds of appeal summarises the above points and is appended with further technical reports/reviews and supporting statements and contained within these is a detailed chronology of the FRA.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to grant permission pursuant to the resolution of Westport Municipal District to permit a material contravention of Westport Town and Environs Development Plan 2010 -2016 as extended for the proposed development as it was considered that the proposed development would be in accordance with the proper planning and sustainable development of the area subject to the following conditions:
- Condition No. 1 – to be in accordance with plans submitted on 31/10/17, 9/5/2018, 10/7/2018 and 27/2018 as amended by conditions.

- **Condition No. 2 – requires ffl 4.6OD or at least 900mm above existing ground level.**
- **Condition No. 3 requires a site specific flood risk management plan.**
- Condition No. 4 and 5 refer to roads and traffic requirements.
- Condition Nos. 6, 7 and 8 refer to surface water.
- Condition No. 9 and 10 refer to utilities.
- Condition No. 11 refers to footpaths.
- Condition Nos. 12, 13 and 14, 15, 16, 17 and 18 require Environmental management/audit/monitoring/.
- Condition Nos. 19, 20, 21, 22, 23 and 24 refer to construction stage.
- Condition No. 25 refers to waste management.
- Condition No. 26 refers to invasive weed species.
- **Condition No. 27 requires a varied surface treatment and solid to void ratio details of stone cladding.**
- Condition No. 28 requires **redesign of café layout and relationship** with west of site.
- Condition No. 29 requires reduction in car parking to 60 spaces, creation of amenity space and further enhancement of public realm at eastern entrance to proposed building and provision of a looped walk through proposed garden to south.
- **Condition No. 30 requires an exhibition space which shall include a permanent exhibition accessible to the public and interpreting the history of the site and Westport Quay.**
- **Condition No.31 requires a lighting strategy.**
- **Condition No. 32 requires a legal agreement indemnifying the Council in the event of flooding and section 47 Agreement.**
- Condition No.33 re financial contribution.
- Condition No.34 requires special development contribution towards roads.
- Condition No. 35 requires to special development contribution towards the cost of advertising the material contravention.
- Condition No.36 requires to a Bond.
- Condition No. 37 requires a public art feature to the value of €10,000.

3.2. Planning Authority Reports

3.2.1. Further information was requested on 20/12/17 in respect of:

- Flood Risk Assessment and Justification test
- Café use
- Hours of business
- Boundary treatment and Landscaping of site
- Traffic Impact Assessment taking account of new one-way system at the Quay
- Road Safety Audit
- Access details
- Site survey details
- Clarification of access and modes of transport for workforce

An advice note refers to strategic locational issues in context of zoning, current tourism/boating uses, flood zone A and available lands.

3.2.2. Site Visit Report of Senior Planner J.McMyler (3/1/18) describes the site one hour after a predicted high tide and describes flooding of the access road and site. sea level was observed as being at the top of the sea wall. Along the entire quay area boat owners were observed trying to stop boats floating ashore. Later a large portion of the site was observed as being under water which was later confirmed to be sea water by the environment section. This confirmed the view that the site is in Flood Zone A. Photographs illustrate the flooding event.

3.2.3. Following further information submitted 9/5/18, the report of 28/6/18 of Senior Planner J. McMyler sets out a detailed appraisal of the proposed development. The site is considered to be in Flood Zone A and unsuitable for development by reference to zoning, the Flooding guidelines, the Water Services Division who hold the view that it is in Zone A and the flooding and ponding of saline water witnessed on site as reported above. A refusal of permission recommended on grounds of zoning, flood risk and visual impact.

3.2.4. In an addendum report 28/6/18 the senior planner J. McMyler refers to the contents of unsolicited information referring to floors level and absence of historic flooding by reference to former employees. The information to date has not addressed the location of the development site in Flood Zone A, nor is the indemnification proposal

considered appropriate in context of Guidelines for Flood Risk Management. The recommendation to refuse remains.

3.2.5. An expert panel was selected and then convened on 12/7/18 to peer review the project proposal and its report and recommendations can be summarised as follows

- Due to the predominance of mud flats and narrow winding channels it is a difficult marine environment. These factors severely restrict sustainable marine based commerce as a sole activity at this location. Alternative complimentary uses will help keep the area vibrant and attractive.
- The environs of Roman Island are characterised by four storey terraces forming a strong edge to the triangular park at the quayside and define the entrance to the island. The drumlin and woodland landscape define the northern context and urban backdrop north of the Carrowbeg River. The south of peninsula comprises an Inlet of Clew Bay and Westport Harbour.
- The immediate context of low and high buildings of up to 23m in height is noted in addition to the permitted coast guard station and former landmark structure which contributed to the townscape legibility.
- The urban design approach establishes the building as a landmark structure when viewed from the east and west. When viewed from the west it will be in the context of the industrial building to the south and the quayside urban development and the drumlin and wooded landscape to the north. It will be similarly viewed from the east in relation to the factory and natural landscape but separated by the inlets of Clew Bay.
- The urban design approach is appropriate to site context and articulates the historic form in a contemporary manner.
- The public entrance along the north side and eastern side of the site will enhance the public realm although further enhancement could be provided by reducing the excess parking. E.g. looped walk

3.2.6. Pursuant to the report the Chief executive of MCC directed initiation of a material contravention procedure on 1/8/18 and published such on 2/8/18.

3.2.7. A decision by the members to make a material contravention was made on 14/9/18.

3.2.8. **Other Technical Reports**

- Road Design Office - SEE report 27/11/17: **FI** required re Road Safety Audit, access, site survey details and interface with the quay road. In a further EE (Kieran Irwin) Report 25/6/18 recommended **grant** subject to conditions
- Municipal District Office (exec. Architect) – 13/12/17: raises concerns regarding siting, zoning flooding size and massing in this inner shore location of Clew Bay. The visual dominance during daylight hours and impact of glazing on the night landscape where there is limited light pollution. Details on opaqueness should be sought to address the lighting issue. In a further report– 28/6/18 recommends **refusal** based on concerns previously stated.
- Environment Section: 29/6/18. The proposed development should not have any significant environmental impact. concurs with AA screening report but recommends a condition relating to invasive species. The site is serviced by the nearby sewer pumping station and there should be sufficient capacity in the wastewater treatment system, but details will all have to be agreed with Irish Water. It is pointed out that the nature of the adjacent business may give rise to odours and the proposed development will have to operate in that knowledge. **No objection** to permission subject to conditions.
- Water Services: Capital Project Office:13/12/17 Flood **Risk Assessment and Justification test required** due to site in Flood area classed as zone A based on the 3.61m OD for the 0.5%AEP in line with Flood Planning Guidelines.
- Pdraig Philbin SE Head of Tourism, Recreation and Amenity report of 19/9/18 refers to the multi-functional uses of the Quay, the urban renewal section 23 designation enabling regeneration and the planned tourism development as provided for in the county development plan, Westport Smarter Travel Area strategy and Mayo Tourism Strategy Destination Mayo 2016-202. On foot of this a number of schemes are planned in the vicinity and committed funds have amounted to about €4.4m to date. Such road works, cycleways and additional walkways and the new yacht stand at Roman Island. Part 8 Planning and foreshore licence has been obtained for a new pier and pontoon scheduled for commencement in 2019. Application for Funding for marina and associated facilities at Westport Quay is in progress.

- The mixed used proposal in conjunction with the approved coast guard station will add to and regenerate the area and not constrain tourism development.

3.3. Prescribed Bodies

- **Irish Water** – no response on file.
- **An Taisce:** queries need having regard to possible available suitably zoned land. Concern expressed at potential of compromising future uses of Roman Island in accordance with current zoning. The council should ensure protection of listed views – V7 and 15 being of relevance. 3/8/18 - further refers to potential vacancy of more suitable future marine uses and traffic and parking concerns and how the development would be out of character
- **Failte Ireland** expressed concern about impact tourism sector. (Note: A later report supported the proposal).

3.4. Third-Party Submissions on application and material contravention

- 3.4.1. A large volume of submissions was received during consideration of the application by the Planning Authority and the material contravention process. The following key issues were raised:
- 3.4.2. Westport Quay Boat Owners Association (A. Gill) seeks a decision that takes full cognisance of the primary function of the quay and considers the future options for the quayside and access to the channel e.g. a water based renewable energy source.
- 3.4.3. Clew Bay Cruises Roman Island (T King) while not objecting in principle raises issues regarding parking, which is presently inadequate and consequent traffic and safety issues, inappropriate visual context, conflict with Westport Harbour – need to ensure that the development will enhance access and protect and enhance the environmental and heritage assets of the area. It will negatively impact on established quayside businesses and users.
- 3.4.4. V. Keogh. The Helm Bar, the Quay supports the proposal and its potential contribution to the economy. has only witnessed the tide breaching the harbour wall

twice since 1984 during extremely high tides and strong wind but did cause any damage.

- 3.4.5. T. Bourke and A. O'Neill of Tower Bar and Restaurant and the Creel Café refer to the seasonal nature of business and support the development.
- 3.4.6. C. Smith a former employee near the Mill site up to 2010 supports the development and never witnessed flooding within the Mill site.
- 3.4.7. M. Brooker, plumbing engineer worked in the area and never witnessing a flooding problem and supports the development.
- 3.4.8. D Kelly, Cloona, concerned about rezoning and consequent over industrialisation of the area and ultimately shifting from port-based activities from which the area earns its name – Westport. An exceptional one-off approach is advocated.
- 3.4.9. M. Grady, against unrelated harbour development at this location.
- 3.4.10. M Mc Namara objects to development on ground of visual detracting from an amenity area by itself in conjunction with the existing factory.
- 3.4.11. T Cadden supports the proposal in terms of visual and economic benefits, the marina type development is more suited where there is better access to open sea and investment in such location for marina activities would be more prudent.
- 3.4.12. E. Wilson-Gill objects to commercial office development rather than tourism/marine based amenity type development. Visual blemish and traffic congestion unwarranted.
- 3.4.13. A. McGreal disagrees with the development of solely commercial/industrial hub in this place of beauty.
- 3.4.14. M. McLoughlin supports the commercial consolidation of the town and associated jobs and does not believe it will impinge on amenities.
- 3.4.15. M. Quille opposes use in the belief that the area should be reserved for recreational/tourist use. The height would take away from natural beauty.
- 3.4.16. A. Cleary supports the development as it will visually and economically enhance the area.
- 3.4.17. J. Holland opposes the industrial zoning.

- 3.4.18. K.Kelly opposes the development and supports retention of tourism related uses only. Opposes relief road through Westport House.
- 3.4.19. T. Wilson and D Conway while supporting the business the location is wrong and would detract from the amenities of the area, cause congestion and flooding is risk. A swimming area is needed.
- 3.4.20. M and C Byrne strongly object as it should remain as tourist use.
- 3.4.21. T and M Wilson while supporting the business the location is wrong and would detract from the amenities of the area, cause congestion and flooding is risk. A swimming pool is needed.
- 3.4.22. M Jenning objects and seeks to protect this beautiful area from industrialisation.
- 3.4.23. R. Crowley supports the re-development would enhance visual amenities and facilities in this attractive area.
- 3.4.24. M. Manning objectives to a rezoning of the lands to accommodate private business. There are more suitable locations.
- 3.4.25. C. Shanley object to the precedent of high rise development. Roman Island is about people , boats and recreation and the Quay is flourishing without this development.
- 3.4.26. H. Noud supports the development and job opportunities and the contribution to the local economy in off peak tourist season such as winter month.
- 3.4.27. G and N. Lloyd strongly object to intrusive nature of development in a tourist and recreational area for local and visitors. Would tower over the landscape and detract form built and natural heritag. Flood risk and undesirable precedent are concerns.
- 3.4.28. K. whyte while supporting the business the location is wrong location having regard to investment in the Quay as an amenity area and the road infrastructure more suited for the development to the east of the town. Flood risk and cost are also a consideration.
- 3.4.29. M. Kelly considers it beautiful design on a site that is an eyesore and is to be welcomed as it will also boost trade. The concerns about high rise are exaggerated.
- 3.4.30. S. Walshe supports the proposal in what is an underused area in Westport and will be good for the local economy.

- 3.4.31. C. King objects on grounds of visual impact and conflict with current zoning. The periphery of the town would be better.
- 3.4.32. S. Pigging objects on grounds of visually sensitive context, zoning traffic flood risk height and alternative locations.
- 3.4.33. R. Davoren supports the development in terms of its aesthetic value, job opportunities, tourist facility and overall redevelopment benefits for the town
- 3.4.34. S. Neuhaus supports the proposal and the applicants who have a track record acting in the interests of the town. It will enhance the Quay hugely and support local businesses.
- 3.4.35. M. Berkery believes the Quay should remain as a tourist and recreational amenity area and it is the right and duty of people to protect the area from overdevelopment and becoming like Killarney. The area does not have the capacity for traffic and it would detract from the scenic amenity of the area. Flood is an issue and the development would set an undesirable precedent.
- 3.4.36. I. Galloway while acknowledging the positive influence of the applicant and the business on the town, the development on Roman Island is objectionable on grounds of conflict with essential tourist and recreational amenity, traffic, visual impact, flooding and undesirable precedent at this location.
- 3.4.37. C. McNally strongly supports the proposal and considers the organised objections to be exaggerated. On first hand examination of the proposal and it is noted that it will not impinge on the development of greenway and swimming area beside the playing pitch. The building is magnificent with gardens on a derelict site deserves support.
- 3.4.38. J. Staunton objects on the basis of more suitable sites. The material contravention in this case is considered to undermine the planning process. Future generations will pay for this depreciation of amenity space and the council will be expose to litigation due to sea inundation.
- 3.4.39. M. Muphy supports the development and dismisses media fake news. It is pointed out that the demolition on the site was part of a Tidy Towns initiative and widened the road for improved access to the playing field and Point area. The offices are needed and will bring life to a brownfield site. Traffic is not necessarily an issue.

- 3.4.40. P. Clendon is with his family strongly for the proposal. The company gives employment and it is a beautiful building. It will benefit the area will have a positive impact in many ways.
- 3.4.41. M. Higgins is horrified at the proposal and its impact on the ambiance of the area. It is act of vandalism conflict with the original zoning and amenities therewith. There is no shortage of alternative locations such as on the Newport Road or the existing site.
- 3.4.42. G. Guthrie is in favour of the limited rezoning as it will bring further stability to a local enterprise and will not materially conflict with development of marine, tourism and recreational facilities.
- 3.4.43. H. Noud supports the opportunity for jobs and new lease of life to the Quay.
- 3.4.44. J. Basquile considers the proposal misconceived and the area should be maintained for marine, tourism and recreational uses. It is act of arrogance and the building would be an eyesore and insensitive and would jeopardise the beauty of the area.
- 3.4.45. J. Bourke requests refusal of permission.
- 3.4.46. P. Flynn strongly objects on grounds of conflict with zoning objectives and protects views and prospects alternative locations, precedence, unwarranted flood risk, insufficient parking and traffic congestion in the area, undermining investment in the northern relief road which would more logically serve a proposal of this nature.
- 3.4.47. F. and R. Bradwell strongly objects to the rezoning due amenity zoning, visual impact, traffic capacity, intrusive nature, flood risk and precedent.
- 3.4.48. K. Martin welcomes the improvements to the site and the developing the potential of the area within the current zoning.
- 3.4.49. M. Kiremidjian strongly objects to the rezoning due amenity zoning, visual impact, traffic capacity, intrusive nature, flood risk and precedent.
- 3.4.50. G, Kenny considers it out of place and objects to the rezoning due amenity zoning, visual impact, traffic capacity, intrusive nature, flood risk and precedent.
- 3.4.51. S. Feerick supports the opportunity for jobs and new lease of life to the Quay.
- 3.4.52. T. King objects to the change in direction of development now envisaged to facilitate commercial offices having regard to traffic, harbour activities and users of the Quay.

- 3.4.53. M. Scott objects to the change in character of area from a pleasant tourism and recreation area to a commercial hub.
- 3.4.54. C. and K. Harrington as business people highlight the challenges and reliance on passing trade and support the boost to the local economy by the proposed development while mindful of the need to continue with amenities and a proper standard of development.
- 3.4.55. P. Stack is against the proposal and commercialising this end of Westport. It should be a family recreational area.
- 3.4.56. B. Quigley objects strongly as it will destroy tourism potential there are better locations.
- 3.4.57. M. Jordan supports the beautiful building and development on this underdeveloped site and the support it will bring for business.
- 3.4.58. D. Curley objects and points elaborated in appeal and submissions.
- 3.4.59. J. Durcan is not in favour as it will ruin the atmosphere and should be recreational. There are better locations for commercial development.
- 3.4.60. L. Ryder objects as it would out of place and the traffic would detract from peaceful nature.
- 3.4.61. T. Quigley strongly objects to the commercial scale and nature in a recreational amenity area and in area that is a great attraction. There would be chaos due to traffic. It will be highly visible and is more European in nature with endless pollution possibilities and seriously impact on the scenic ambiance.
- 3.4.62. S. Wiliert strongly objects to the rezoning due amenity zoning, visual impact, traffic capacity, intrusive nature, flood risk and precedent.
- 3.4.63. S. Iremonger strongly objects to the rezoning due amenity zoning, visual impact, traffic capacity, intrusive nature, flood risk and precedent.
- 3.4.64. K. Murphy acknowledges the business contribution to the town but objects due to the SAC, precedent undermining of expenditure in recreational amenities, traffic and flood risk.
- 3.4.65. C. Quigley objects as it be folly after an eyesore.

- 3.4.66. M. Hughes, Civic Trust, strongly objects to the rezoning due amenity zoning, visual impact, traffic capacity, intrusive nature, flood risk and precedent.
- 3.4.67. G and M. Temple enthusiastically welcome the development which will sustain the economy of the town. It can be achieved while still enhancing existing heritage and landscape,
- 3.4.68. The Photo Hub supports the development – it is positive for this end of the town and will not conflict with tourism but parking needs to be planned.
- 3.4.69. K. Hughes opposes the commercialisation of this area.
- 3.4.70. P. Eade Eagle Boxing Club request access and parking to the club be maintained.
- 3.4.71. D. Quirke is concerns about an office block in a tourist amenity area.
- 3.4.72. M and S. Murphy are against the proposal having regard to the domination of the scale of the development and impact on the natural and scenic qualities of this amenity area. Concerns about traffic, flooding and precedent of development. There are other locations.
- 3.4.73. M. Scott strongly objects to the creation of a commercial hub in a scenic and recreational area.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. Pre-planning relating to the proposed development is stated to have been undertaken between representatives of the Planning Authority and the applicant in December 2017 to February 2018.
- 4.1.2. Planning authority register reference 1380017 refers to permission of demolition of 7 storey mill and buildings. (2014)
- 4.1.3. An Bord Pleanala Ref PL16.131090 refers to a refusal of permission on appeal in 2003 for a 218 bedroom hotel leisure centre, restaurant, bar and parking for the following reasons:
- Having regard to the location of the proposed development in proximity to an established industrial undertaking and alongside the quay, it is considered that

the proposed development, by reason of its nature, would be incompatible with the existing neighbouring uses, and with the use objective for the area, that is, industrial, as set out in the Westport 2000 document. The proposed development would, therefore, be prejudicial to the continued industrial use at this location and would be contrary to the proper planning and development of the area.

- Having regard to the design of the proposed development, which curtails the quayside and access to lands beyond, the proposed development, by reason of its scale and extent, would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and development of the area.

4.1.4. An Bord Pleanála Ref16.105474 (PA Reg. Ref 972000) (Jan 98) refers to overturning a decision to grant permission for demolition of existing structures/clearance of the site and construct 105 two-bedroom apartments in a 7-storey block. This was refused on appeal for the following reasons:

- Having regard to the proximity of the proposed residential development to an established industrial undertaking, it is considered that the amenity of the proposed apartment development would be seriously injured by environmental nuisance from the adjoining factory. The proposed development would, therefore, be contrary to the proper planning and development of the area.
- It is considered that the proposed development in this prominent location would be excessive in height, scale and density and would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and development of the area.

Following the council issued an opinion under section 13 of the Local Government Act 1990 that the land is capable of development such offices, hotels, theatres or entertainment structures.

4.1.5. An Bord Pleanála Ref16.101467 (PA Reg. Ref 961475) (1997) refers to overturning a decision to grant permission for demolition of existing structures/clearance of the site and construct 105 two-bedroom apartments in a 7-storey block.

4.2. Surrounding Sites

- 4.2.1. Planning authority reg reference: 19/395 refers to Permission for Coast Guard station to east of site. 13.74m OD parapet height (Plans appended to D Curley's counter-response to applicant's response to grounds of appeal.)
- 4.2.2. CD3027 refers to a refusal of consent for compulsory acquisition for a derelict site in 2013 in a separate location on the island.

5.0 Policy Context

5.1. National Planning Framework

5.2. This document provides the spatial framework for urban and regional development in a national context and advocates consolidation and revitalisation of key rural towns as a means of balancing regional development and supporting sustainable investment.

5.3. At the same time, it recognises that environmental considerations frame the direction of development. Coastal areas while fragile as a resource are recognised as key drivers of tourism. Climate change and its impact on sea levels is also acknowledged in terms of influencing patterns of accretion and erosion which are issues for land use planning and flood risk especially for cities and towns.

5.4. Regional Planning Guidelines for the West Region 2010-2022 Development Plan

5.4.1. Westport is identified as a key town in the region and is accordingly a target for maximisation of efficient land-use. SPG seeks to ensure that towns in the region are centres of economic growth and to support a wide range of services making it an attractive place to work live and visit.

5.5. Mayo County Development Plan 2014-2020

5.5.1. The county plan adheres to the regional framework and supports Westport as a key town where the strategic aim for such towns is to ensure sustainable development, so they can act as adequate service and employment centres for the surrounding hinterland.

- 5.5.2. Objective O-01 encourages renewal and regeneration. Policies P04 and P05 similarly support the economic development of the town. E-03 encourages such development in brownfield sites and vacant premises where appropriate and in preference to greenfield sites.
- 5.5.3. Map 4 plots the scenic routes, scenic views and highly scenic views. The coast road from Westport to Louisburgh is designated as a scenic route with highly scenic views across Clew Bay. The N59 is also a scenic route which cuts through the town in a North South direction.

5.6. Westport Town & Environs Development Plan 2010-2016 as extended.

- 5.6.1. This is the local statutory plan for this area. In this plan the site is zoned Marine Related Tourism with the objective to provide for such development whilst having regard to the natural and built environment. Land uses generally permitted in this zone include tourist accommodation, open space, small scale retail units for the sale of marine related goods, sailing club, restaurants, public houses, marina, pontoons, moorings, boat yards, bathing facilities, public utilities, parking, information boards and sporting and leisure facilities.
- 5.6.2. Section 3 refers to industrial zoning and the availability of lands.
- 5.6.3. Relevant policies and objectives include:
- **RP-01** refers to the continued regional role envisaged for Westport: It is the policy of the Council to support Westport as a 'Key Town' (natural extension of Linked Hub Castlebar-Ballina) and to encourage the development of the town's employment, commercial, shopping, tourism, entertainment and communications functions to the extent justified by the town's role within the West Regional Planning Guidelines and to work with all relevant agencies in order to achieve this.
 - **TFO-01** – 'it is an objective of the Council to promote the sustainable development and enhancement of Westport as a major tourism centre in the West of Ireland and to continue to promote the tourism sector in the town, whilst recognising that there is an interdependency between preserving the character of the landscape, heritage and tourism';

- **TFO-02** It is an objective of the Council to encourage the sustainable development of industrial and services activity which is compatible with the urban form of Westport.
- **TFO-03** It is an objective of the Council to ensure that, in order to maximise the utility of existing and future infrastructure and to promote sustainability, a 'sequential approach' shall be taken when considering development proposals.
- **EO-01** It is an objective of the Council that the existing serviced sites for industry be promoted.
- **EO-02** It is an objective of the Council to encourage any new industrial development to locate to existing serviced sites at the IDA site at Gortaroe and to the northwest of the town at the Newport Road Industrial Park or adjacent to such sites if additional lands are required.
- **TO-12** It is an objective of the Council to encourage a high standard of architectural design and layout in all developments.
- **WHO-01** It is an objective of the Council to protect the natural and built environment and cultural heritage of Westport House and Demesne, permitting appropriate development in accordance with Section 6A of this plan to ensure the preservation, conservation and future of the estate. Emphasis shall be placed on preserving and re-enforcing the historic core of the estate, planned management of the Demesne woodlands, enhancement of links between the House and the town, and retaining the vistas to and from the House. Any plan/project in the areas will require screening to determine the need to undertake Appropriate Assessment under Article 6 of the Habitats Directive.
- **OO-06** It is an objective of the Council to encourage, and provide for marine related community, sport, tourism and leisure facilities and to provide public access to the water's edge at Roman Island.
- **OO-07** It is an objective of the Council to create a bathing area at Roman Island with associated facilities.
- **OO-08** It is an objective of the Council, subject to conformance with the Habitats Directive, to support the implementation of 'The Development of Marine Leisure Facilities at Westport Report Jan 2005', including the creation of a lagoon south of Roman Island for marine recreational purposes.

- **ODP-01** It is the policy of the Council to identify and secure the development and renewal of obsolete areas, derelict sites and derelict buildings and to develop and improve them in a manner appropriate to the area.

5.6.4. Appendix 2 Lists Natural Assets for protection.

- TPO 1991/1 refers to trees in Westport Demesne east of the site.
- T6 refers to Woodlands in Roman Island Wood south of the site.
- There are 15 views - the nearest being V7 from Westport Quay at a point south of the Island and in the direction of the Roman Island. Further East V9 is a view from Westport House in the vicinity of the river and in the direction of the Bay.
- All protected views are mapped on Map 2

5.7. Landscape Appraisal Document

5.7.1. This is a supporting document for the Development Plan. The site is located in Area 7 Clew bay Glacial Drumlins and policy Area 2 – Lowland Coastal Zone.

5.7.2. Section 2.11.4 defines Critical Landscape Factors as:

Distinct Coastal Vistas

Being a complex arrangement of shorelines and drumlin islands there is a disproportionate length of coastline visible over this comparatively small area.

Uninterrupted vistas across the water of bays and channels to opposing shorelines are abundant from areas of the public realm.

The N59 and R335 combine to circumnavigate Clew Bay and provide elevated vistas over its shores and sunken drumlins, which provide a distinct coastal character.

Given the complex and undulating nature of this coastal environment, appropriately positioned development is likely to be assimilated more easily than for open coastal settings, characteristic of the Counties other coastal character units.

Prominent Ridge Lines

These occur as either primary ridgelines (visible only against the sky from any prospect) or secondary ridgelines (visible at least from some prospects below a distant primary ridge line). In this environment, there are major primary ridgelines to the north and south when viewed from the public domain.

Ridge lines perform the important roles of providing an area with its identity, acting as dominant landscape focal points and defining the extent of visual catchments. As with other natural linear features such as shorelines it is important that development does not interrupt the integrity of primary ridgelines. Due to the dominating influence of ridgelines, in instances where penetration does occur, development can appear insubordinate to the landscape in which it sits.

Undulating topography

Undulating topography as represented in this character unit by glacial drumlins has the ability to both shelter and absorb the visual impact of development. Firstly, the physical shielding of a built form within the lee of hill where it does not break the skyline renders it visually unobtrusive and reflective of landscape scale. Secondly, the dynamic and complex nature of undulating country provides fore, middle, and distant ground to a vista that helps to provide a realistic scale and visual containment not available in open country.

Shelter Vegetation

In a similar manner to undulating topography, shelter vegetation has a shielding and absorbing quality in landscape terms. It can provide a natural visual barrier and also adds to the complexity of a vista, breaking it up to provide scale and containment for built forms.

- 5.7.3. The coastal zone is described as: This area, despite the mildly variant terrain and land cover, has as a principle landscape factor a visual association with the coastline. The lowland coast is considered a separate core policy area, in relation to the other steeper coastal area, as it has significantly different landscape attributes, sensitivities and robustness.

Policy 3 Encourage development that will not have a disproportionate effect on the existing character of the coastal environment in terms of location, design, and visual prominence.

Policy 4 Consider development that does not significantly interfere or detract from scenic coastal vistas, as identified in the Development Plan, when viewed from areas of the public realm.

Policy 5 Encourage development that will not interrupt or penetrate distinct linear sections of primary ridge lines and coastlines when viewed from areas of the public realm.

Policy 6 Preserve any areas that have not been subject to recent or prior development and have retained a dominantly undisturbed coastal character.

Policy 7 Consider development on steep slopes, ensuring that it will not have a disproportionate or dominating visual impact on the surrounding environment as seen from areas of the public realm

Policy 9 Continue to facilitate appropriate development in a progressive and clustered manner that respects the scale character and sensitivities of the landscape.

Policy 10 Recognise that in this low-lying open environment, tall and bulky development can have a disproportionate impact against the landscape when viewed from the predominantly low-lying areas of the public realm.

Policy 11 Encourage development that will not have a disproportionate effect on the existing character of the landscape in terms of location, design, and visual prominence.

6.0 The Appeal

6.1. Grounds of Appeal by Westport Civic Trust

6.1.1. The matters at issue relate to:

- As a major tourist attraction, it is in Westport's best interest that the site remains as Marine-related Tourism and Recreation' zoning.
- The proposal would be entirely out of keeping with the 17th and 18th century stone warehouse along the Quay – the development and renovation of which has been carefully managed.
- The Quay area has developed a considerable tourism infrastructure and amenity base for locals and visitors. It was clearly designated as a town amenity but with a focus for marine based uses as opposed to commercial zone,
- The largely undeveloped Roman Island enhances the setting of the Quay in a manner that is appropriate to both the heritage and character of the old sea port

and the context of its wider setting which includes Clew Bay, the islands and Croagh Patrick.

- Threat of encroachment on small park at Quayside due to traffic and visitors. This has already been reduced due to parking demand.
- Interruption of the natural coastal landscape. It will be conspicuous over a wide area as the landscape has extremely low potential to absorb development
- The predominance of glass and its reflective blaze will make the building stand out and will out of keeping with historic context.
- light pollution emitting from within will distort night vision for sea vessels and night kayakers and disrupt night sky.
- Flooding is a serious problem in the Quay area placing the building vehicles at risk.
- The previous building was a mistake and while it provided employment, the siting is a mistake that should not be repeated.
- €75,000 is too low for a building at this location in view of the services needed
- €10,000 is too low a cap for public art. Road and sea wall improvements.

6.2. Grounds of Appeal by Shirley Piggins and Others

6.2.1. The matters at issue relate to:

- Contravention of zoning objectives of an adopted development plan.
- There is provision for the development proposed in the east of the town where it is more accessible.
- Unnecessary precedent
- Traffic congestion at the Quay and through the town
- Parking problems
- Flood risk – reference to recent flooding of the road serving the development site.
- Increased height due to flood prevention

6.3. Grounds of Appeal by Donnacha Curley and others

6.3.1. The matters at issue relate to:

Procedural

- Failte Ireland was not notified about application. Despite a letter from this body it is submitted that its contents were ignored as was the Marine Tourism Zoning and the letter was removed from the file.
- Despite the scale of the project and proximity to a SAC a NIS was not submitted. Mitigation measures will be required as identified in screening report. A NIS should be submitted.
- The decision to grant is based on a senior planner's report that recommends refusing permission, an 'independent' report that does not specifically recommend a grant and an engineer's favourable report as Head of Tourism, Recreation and Amenity, MCC, incredibly over the unfavourable submission of Failte Ireland, while no reference is made to the Architect's report or An Taisce report who both recommend a refusal.
- Material Contravention process is questionable in a number of respects and particularly in relation to the Peer Review Report and case for strategic importance of development for the town.
 - One panellist of the Review group is also one of the directors of a consultancy used by the applicant.
 - The status of the panel is unclear.
 - The relocation of an office from an industrial zoned site to a Marine related Tourism is not strategically appropriate in context of the current development plan.
 - A considered decision was compromised on a number of counts; IT is understood that the planner's report or Independent Review Report were unavailable to a number of councillors prior to the decision to materially contravene; No debate was had regarding the 93 submission; The only public comment related to job creation.

Conflict with Development Plan

- A number of specific objectives relevant to Roman Island have been ignored in the review which support Tourism and recreational uses, sustainable development of Westport Harbour, marine related community, sport, tourism and leisure facilities, public access to water's edge, creation of bathing area, Marine Leisure Facilities, and creation of a lagoon south of Roman Island.

- Protected Views have not been substantially dismissed. The Chief executive report only refers to V7 (the view from Westport Quay to Clew Bay) and V15 (all views from Roman Island). The Pet Food Factory is lower than the proposed development. An elevated 5 storey building will interfere with these views.
- The preplanning meeting advised that the development was not permitted under the development plan
- The development will set an undesirable precedent on Roman Island. Reference is made in this regard to the low intensity of use of the Pet Food site with around 5 employees.

Design:

- The proposal in terms of its size, massing, fenestration pattern and potential presence is completely alien and incongruous to this soft green rolling and drowned glaciated landscape.
- The five storeys together with roof plant and plinth amount to a 20m height increase equivalent to 6.5 floors of residential development and will make for an immense solitary, domineering, artificially illuminated, glazed, stand-alone structure in the form of an urban, commercial office block on the inner shores of Clew Bay.
- The extensive glazing will visually dominate the surrounding landscape and across the Inner Clew Bay area particularly after sunset.
- The proposed urban office development should be on the eastern side of Westport as provided for in the development plan and where local and international business are already located and serviced by infrastructure. The development will generate multiple trips through the historic town and along a constrained causeway road.

Tourism use is more suitable

- The existing tourism related zoning is the appropriate basis for future development as reinforced by Failte Ireland's submission.

Flood Risk

- Zoning Flood Risk: The site is in Zone A and by reference to the Flood Risk Management Guidelines the proposed development cannot pass the Justification Test. This is based on zoning and appropriate nature of uses for the site.
- Condition of permission highlight flood risk. The requirement for an employee evacuation report and indemnity conflict with belief that there flooding will not occur again and in fact supports the reference to Flood risk in the planner report.
- Condition 32 is considered a form of abdication of duties by the Council. It is further stated to be uncertain. S.47 deals with regulation of land rather than the planning authority 'insulating' itself from a decision which is stated be bad.
- Evidence of flooding events is attached in Appendices.

Parking and Access

- The increase of staff to 150 and the provision of only 60 car parks as reduced by the planning authority raises traffic and parking issues on constrained site. It is surmised from some submissions of employees that most drive and most of this traffic will be through the town where there are traffic problems.
- The appellant are all locals of different backgrounds but united in their desire to protect Roan Island and ensure its sustainable development. They support Portwest in its success and expansion and also appreciate the intrinsic design qualities of the building but only in a different part of the town such as the east where it would be alongside other development where access is to be improved by the new N5 and northern relief road.

6.3.2. Appendices are attached.

6.4. Planning Authority's Response

6.4.1. The response to the grounds of appeal was received on 15/11/2018 and in detailed report the following comments area made:

- The material contravention process was followed strictly in accordance with the provision of section 34 of the Planning and Development Acts 2000-2018. The process does not rezone land
- The proposed development which includes amenities is not mutually exclusive with the overall zoning for marine-related tourism and this is reinforced by the

council's application for funding and investment in tourism related development in the Quay area.

- The proposed development will not adversely impact on traffic or car parking. The Roads Design section reviewed the Road Traffic Impact assessment and Road Safety Audit and is satisfied that the proposed development would not create a traffic hazard or obstruction of road users. It is noted that traffic flows generated at peak hours would be minor and would have a negligible impact on the local road network. The reduction of parking as per development plan permits more amenity space and enhancement of the public realm.
- It is acknowledged that the site-specific FRA submitted and appended as part of FI initially did not adequately address the concerns relating Flood Risk A. However, an addendum lodged by the applicant on 3/8/18 further to the Expert Panels report of 1/8/18 includes a survey of actual site levels demonstrating that the greater portion of the site which includes the office building is in Flood Zone B. A small part of the site and part of the access road is in Flood Zone A. It is pointed out the Council is investigating raising access road which serves other sites.
- The height reflects the SSFRA but is comparable to the adjacent factory premises and the previous 7 storey grain mill previously on the development site.
- Condition 31 which requires a detailed lighting strategy addresses light pollution.
- The grounds of appeal do not refer to the historical port use and associated development in the Quay and that the site is a brownfield site. It is pointed out the tourism is a relatively new phenomena consequent on the impetus of the Holiday Resort Tax Incentive Programme which saw much redevelopment during 1996-2006.
- In interpreting the natural landscape, it is pointed out that the Roman Island is essentially industrial and dominated by the pet food factory and that urban development encloses the southern context of Roman Island and the drumlin landscapes encloses the site to the north. As nothing has substantially changed from the grain mill there is no interruption of the natural landscape.

- The purpose of the material contravention is to allow for development in exceptional circumstances and does not automatically set a precedent as the marine related tourism remains in place.
- The Pet food factory was not a mistake – it was compatible with the industrial nature of the island
- The special financial contributions are provided for in the Act and are based on estimated costs. They are repayable when no relevant works are carried out.
- The Board Failte submission dealing with the material contravention was given full consideration
- AA – Best construction practice are not mitigation measures (2.1.1 of screening report) in so far, they are intended to avoid or educe harmful effects where there is likely to be significant effect on a European site and section 7 of the report sets out reason why the development will not have a significant effect.
- There are other objectives in the Development Plan as set out in section 2 of the Chief executive report of 5/9/18 which are also relevant to Roman Island and relate to regional context, town function, employment and industry and obsolescence/Derelict sites.
- Protected Views – All protected views on Map 2 of the Westport Town and environs Development Plan were re-inspected and confirmed the view of the Chief Executive’s report that view V7 and V 15 are most relevant. It is pointed out there is also a long-distance view of the pet food factory from V13 but this factory obscures views of the site.
- All reports and submissions were considered by the Chief Executive empowered to make the decision. He is entitled to seek expert advice deemed necessary, as done so, in fulfilling this role.
- Overall, the proposed development is of strategic importance for the development to Westport in general and Westport Quay area in particular. It is will enhance the economic development of the town. Accordingly, it is the council’s view that the development is essential for the town to develop into a higher order town to fulfil its role in sustaining rural hinterlands as set out in the NPF.
- It will not impede development but will contribute positively year-round to a mixed-use, vibrant living town. It will add to the charm variety and vibrancy

- The former 7 storey mill (demolished 2015) was an integral part of the functioning seaport, the heritage of which is reflected in the older stone building.
- The development of this brownfield site accords with sustainable land-use and best practice.
- The 30-year-old industrial premises of the current pet food factory firmly established the industrial nature in part of Roman Island which is not accordingly reserved wholly for marine related tourism use.
- The site can physically and technically accommodate development as it is serviced. The Site-Specific Flood Risk Assessment as amended and clarified confirms that the building is not in a Flood Risk Zone A. Flooding of the road will be ameliorated in the Council's road strengthening programme.
- The development complies with all planning standards and is good example of proper planning and sustainable development and should be granted permission.

6.5. Applicant's Response

- 6.5.1. A detailed response by the Declan Brassil and associates responds to the matters raised in the appeal. The following key points are made.
- 6.5.2. The recent permission P16/50 for an Irish Coast Guard Station to the immediate east and includes a 3-storey accommodation block, single storey boat house. Figure 8 illustrates how the impact of the proposed development is diminished on approaching the site from the east as the accommodation block commands the foreground.
- 6.5.3. Emphasises the positive attributes:
- Tourism and leisure uses at ground level
 - Interaction ground floor and landscaping contributes to vibrancy
 - Building 'touches ground lightly' minimising footprint with a compressed pavilion form while maximising landscaping.
 - While acknowledging the restriction on offices under the zoning the proposal is compatible with objective of attracting animated uses and is broadly consistent with a range of development plan policies and objectives.
- 6.5.4. It protects environmental amenities: The mudflats restrict much marine development.
- 6.5.5. No services constraints.

- 6.5.6. Landscape and visual Impact. Concerns are addressed in reports by Ait Landscaping and MOLA Architects in Appendix G. These reports responded in detail and illustrate visual impacts by CGIs in appraising the impact on a range of protected Views. It is submitted to be an impressive design that is fitting for a global HQ challenged with attracting quality staff to the region.
- 6.5.7. Impact on Tourism: The Tourism and Economic Development Report concludes that the proposed development will support and enhance and contribute to the tourism asset base and offer in Westport and will make a major contribution to the regional economy. This is endorsed by the Westport Chamber of Commerce and Enterprise Ireland. (Details Appended)
- 6.5.8. Flood Risk: The concerns of access and locating in a flood risk Zone A are addressed . The applicant engaged a new engineering JBA Consulting to review all the data and report. Their report confirms the building footprint will in effect be in flood risk zone B. The FFL of 4.6m will be 900mm above the 0.5% AEP risk. An emergency plan will be prepared to address restricted access during tidal events which are predictable. In reply to the submission that Condition 32 which requires indemnification supports the case against the development, the applicant considers this to be superfluous in light of condition 3.
- 6.5.9. Traffic and Parking:
- Car parking has been reduced from 91 to 60 spaces in line with development plan standards. A Mobility Management Plan will be provided to maximise sustainable modal split and a breakdown of employee catchment is provided. It is ultimately a matter for the council in its regulation of parking around the Quay.
 - In terms of traffic a TIA was prepared following scoping with the planning authority and this provides an analysis of projected traffic generation at various points through the town and in the vicinity of the site. It is concluded that the traffic increase will not be significant in the vicinity of the site with a 5% maximum increase. Furthermore, traffic will be staggered due to the flexible working hours of 7.30am to 7.30pm and due to international trading operations.
 - Construction traffic will be managed as part of an agreed plan.

6.5.10. AA: It is acknowledged that in light of the judgement in the case of C230/17 an abundantly cautious approach requires the lodgement of a NIS to allow for stage 2 screening. This is appended and described as unsolicited information. A legal opinion on the rationale for its legitimate attachment is in Appendices. In the interest of transparency and following concerns of bias, a different ecologist was used to prepared and write the NIS.

6.6. Observations

6.6.1. **Peter Sweetman** supports the proposed development and comments on the grounds of appeal:

- The planning authority was not required to notify Failte Ireland
- Concurs with Appropriate Assessment screening that the proposed development will not significantly affect any European site as complete impact source pathway receptor chains for direct or indirect impacts were not identified. It is and notes that there is a road between the development site and the SAC.
- In respect of flooding the conditions of permission are considered reasonable having regard to the fact that the site is not subject to tidal Flooding and that the spring tides covering the access road for a short time at high tide can be addressed.
- The proposed use which incorporates a café and exhibition space are tourist-based activities and permission for the overall proposals is reasonable in light of previous refusal for a hotel and its incompatibility with industrial uses on the site
- With respect to visual impact the existing pet food factory is on higher ground and it is submitted that objections in this regard misunderstood the exact site location.
- The location and design are acceptable. There will no effect on any European site and the design is noted to be by a distinguished architect and to be cutting edge and welcomed particularly considering the previous development
- A multinational HQ and generation of 100 people into the area is to be welcomed particularly in context of rural decline
- The submission and proposal of link road by Peter Flynn is disingenuous and based on incomplete information.

- The protected structures are listed relate to Westport Demesne.

6.6.2. **Irish Pet Foods** welcome the office development and support the decision to grant permission as it is considered compatible with its operation and will bring much needed life to the Quay. The incorporated café and exhibition space in addition to the walkway will provide a great amenity for locals, tourists and workers in the Quay. Their site has not experienced any flooding since 2014 although the quay road has been subject to occasional flooding, but the premises has never been cut-off and is accessible on foot at all times. Potential flood events are entirely predictable and appropriate measures are taken to ensure no disruption to business

6.6.3. **Shirley Piggins** further to her appeal makes further observations

- The NIS did not refer to matters that have been recorded and reported on by RTE.
- It is understood that Portwest were advised by MCC to locate in appropriately zoned land at pre-application stage.
- One of the advisers to MCC is also a director of a consultancy firm to the applicant.
- Unavailability of reports to councillors prior to its decision to re-zone.
- Widespread concern about flooding

6.6.4. **Mary Keane** supports the proposed development by reference to the industrial port heritage and relationship with the town and other villages, the brownfield nature of the site, the architectural quality and economic gain by locating major employer that it is not tourist related in the Port area west of the town and offers balanced development.

6.6.5. **Failte Ireland** further to its objection to the proposed material contravention, now supports the proposal in light of proposals by MCC for significant enhancement of the tourism amenity at Roman Island and the wider Westport Quay area such as walking, cycling and improved water access. This information was not previously available at time of objection. It is not considered that the development would impact negatively on these wider tourism proposals.

6.7. Further Submissions

6.7.1. Following consideration of the appended NIS and its status the Board requested that the applicant publish notices as is statutorily required for a NIS. The appeal parties were also invited to make submission or observations.

6.7.2. **Mayo County Council** (14th June 2019) holds the same views as that expressed in its submission of 14th November 2018 and further emphasises the strategic importance of the development.

6.7.3. **Donnacha Curley** and others counter-responded to the applicant's response to grounds of appeal by way of the following submissions.

- The site on an 'island' is surrounded by Zone A lands and is not suitable for development. There is precedence for a similar context in which lands were a mix of zone and A and B n Belmullet and permission was refused. No independent Panel was appointed for this.
- It would necessitate uneconomical provision of flood defence works which were deemed by JBA consulting to not be economically viable. Furthermore, such works would compromise the integrity of the protected structure elements of the Quay Road.
- The Draft Climate Adaptation Strategy May 2019 suggests the need to set back development in a coastal and marine context. A precautionary approach should be used to determine these buffer zones taking account of future sea levels, erosion and landward migration of coastal landforms. Planning policies should accordingly reduce the vulnerability of MCC to the impact of climate change. In this context it is submitted that MCC is going directly against a policy it is promoting. In addition, it is going against the recommendations of qualified staff.
- The coast guard station as used in the CGIs by the applicant has been reduced in scale by a subsequent permission for a scheme with a total height of 13.5mOD
- There is absence of written support by businesses and this is understandable in view of the carparking shortage in the Quay area for accommodation and businesses and concern on further pressure for car parking by a 150 employee business with 60spaces. The support by Enterprise Ireland is business specific rather than site specific.
- The Independent Panel is compromised by the involvement of one of the consultants (firm) to the applicant.

- The exercise of avoiding the Justification test is one of splitting hairs. It is pointed out that there are alternative sites in the ownership of the applicant.

6.7.4.

7.0 Environmental Impact Assessment - Preliminary Examination

- 7.1.** The current proposal is on a brownfield site of .61 ha and adjacent to industrial development, within the town boundaries and in, what I consider, a built-up area and accordingly, is a type of urban development project. It is a quasi-business area and is therefore within the class of development described at 10(b) of Part 2 of Schedule 5 but significantly below the threshold of 2 hectares for business district and 10 for other built up areas, whereby such a scale would make an EIAR mandatory. The proposed development would be located on a brownfield site beside existing development. The site is not designated for protection in the Development Plan. The proposed development is not likely to have a significant effect on any Natura 2000 site. This has been demonstrated by the submission of a NIS which concludes that there will be no impacts upon the conservation objectives of the Natura sites identified.
- 7.2.** The development will involve works on zoned lands. The majority of the development would be in office use, which as a land use is not injurious to neighbouring premises in the vicinity. The proposed development would use the municipal water and foul drainage services, upon which its effects would be marginal. The proposed development footprint will be located within a flood risk zone B, but the proposed uses are not of a vulnerable class. The site is part of zoned land for development within the development plan which was subjected to a SEA, as were the variations to the plan. In the proposed Variation no.4 SEA report, a Map of Lands Designated under section 28 of the Urban Regeneration and Housing Act 2015 to give effect to sustainable urban form, identifies the site as being in regeneration lands together with all built development in the town and environs. In summary this report envisaged that the designation of these lands including the subject site as a regeneration area would not be likely to result in significant environmental effects by reference to risks to human health, magnitude and spatial extent of the effects and value and vulnerability of the area likely to be affected. In this regard it was held that the variation would not result in intensive land-use as it applies to zoned land. Nor

was is determined to have any effect on areas or landscapes which have a protected status or to exceed environmental quality standards or limit values

7.3. While the proposed development is not an amenity scheme as provided for in the zoning, the use in terms of impacts on the marine environment is what I would describe as more passive and confined to operating within the premises and site, other than the generation of pedestrian and vehicular traffic along the road which could be associated with many recreational uses provided for under the zoning or indeed the current uses on the island. While the use has been determined to be a material contravention, for the purposes of environmental impact I do not consider the proposed development to be materially different.

7.4. On the basis of the information on the file and having regard to the existing developed nature of the site in a serviced urban development area, the nature of the proposed development which incorporates offices, café and exhibition space with ancillary parking, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Assessment

8.1 Introduction

8.1.1. This appeal relates to a decision by the planning authority to grant permission by way of a material contravention process as provided for in the Planning and Development Act 2000 as amended. The grounds of appeals have been lodged by 3 separate parties and having examined these together with the reports and submissions on file and having inspected the site and environs, I consider the substantive issues centre on:

- Principle of development having regard to zoning objectives on site and development plan objective in the context of wider national policy.
- Flood Risk
- Visual Impact on natural and built heritage
- Traffic

- Appropriate Assessment

8.2. Principle

- 8.2.1. The site is identified in the Westport Development Plan as a site for regeneration and accordingly as a brownfield serviced site, its redevelopment is strongly supported in principle. The matter of dispute centres primarily on the nature of the use in a planned marine-based tourist area and the scale of development in the scenic setting of Clew Bay.
- 8.2.2. The case is made that the proposal is not plan led and in fact constitutes an unwarranted conflict with the development plan most obviously by the contravention of the zoning objective to develop the area with marine based recreational/tourist facilities. Offices are excluded from this zone. The failure to build on the impetus of tourism related development in accordance with land use objectives is also seen as a concern. It is viewed by a number of parties as having an adverse impact on tourism. Failte Ireland however, in its latest submission, supports the proposal and sees it as a positive influence in the area.
- 8.2.3. There is divided opinion among the reporting professional staff of Mayo County Council as well as among the third parties on the siting of an office block on Roman Island . One senior planner expresses reservations on the basis of alternative and more suitable sites on the other side of the town where lands and the road infrastructure are more strategically networked, whereas the independent review panel and another senior planner acknowledge the strategic importance of such a development at this Harbour location.
- 8.2.4. The objections to the principle of offices are countered by the argument that the development which incorporates publicly accessible amenity uses will contribute positively to the vibrancy and vitality of the Quay area which is within the town environs and development area -a view consistently expressed in the letters of support. At a very detailed level, the scheme incorporates a public café and exhibition space at ground level and the landscape setting which is knitted into the wider site context is proposed to enhance the public realm around the site. These measures together with wider benefits for the area associated with year-round business activity will, I accept, contribute to the local economy and vibrancy of the area -an area notably subject of urban renewal tax incentives. There is merit in the

argument that the proposal to develop commercial offices on the island is ultimately in keeping with the high-level objectives seeking to consolidate and enhance the vitality of towns- a policy at the core of the NPF. This is the basis for favourable consideration by the review group advising the Council on the material contravention. In further support of the principle, the case is made that the mud flats and water channel and environmental sensitivities constrain many water-based recreational activities in the harbour whereas this proposal does not seek direct water access but instead, derives passive enjoyment of the seascape.

8.2.5. While I note the concerns of potential for bias I am of the opinion that the independent panel clearly sets out what I consider a reasonable rationale for permitting, in principle, a development of the nature proposed. I refer in particular to its critique on the limitations of the zoning in its concluding comments in section 5(a) of its report whereby the panel believes that the existing marine-related tourism land-use was introduced for reasons that were intended to respect the historical use and character of the area and the zoning will not serve either purpose due to the restrictive nature of its definition and this was basis for directing a material contravention.

8.2.6. While acknowledging the conflict with the zoning and addressing the concerns by seeking further information and an independent review, the planning authority decided to grant what it considered constituted a material contravention of its own plan, in line with statutory provisions. Accordingly, the Board in making its decision is not bound any the provisions of section 37 (s) (b) which only apply where a planning authority has decided to refuse permission. The Board therefore may grant a permission even if the proposed development materially contravenes the development plan. Notwithstanding I am satisfied that the planning authority in its report responding to the grounds of appeal has demonstrated that the development is of strategic importance, that it is supported by development plan policies and objectives and that having regard also to both the National Planning Framework and regional strategy for the area, there is a basis to grant permission in principle. I consider the principle of the proposed development, notwithstanding the zoning objective, is supported by the established industrial use both on the island and formerly on the site. A mixed-use scheme in principle, is a balanced approach to addressing the anomalies of established high-rise industrial uses on Roman Island

and the environmental sensitivities of its setting without compromising the tourism sector. The incorporation of publicly accessible amenities accords with the zoning, while the overall development makes efficient use of services, consolidates the Harbour area and balances development within the development area of Westport thereby contributing to the regional role envisaged for this key town.

- 8.2.7. Permission is however predicated upon meeting with development control criteria which in this case relates to flood risk, visual amenity and traffic and overall proper planning and sustainable development of the area.

8.3. Flood Risk

- 8.3.1. The site is located in an area that is subject of occasional tidal flooding and the degree and level of risk has been subject of dispute. The difference centres on recorded site levels and whether or not the site is in Flood Zone B or Zone A. During the course of assessing the site for flood risk, the ground experience on site differed from the more generalised and publicly available official data and so warranted a site-specific risk assessment – an approach recommended in Flood Management Guidelines.
- 8.3.2. The application was initially accompanied by a Flood Risk Assessment (FRA), referred to as a Flood Risk Statement, by CS Consulting which disputed the 1 in 200-year occurrence based on actual ground levels and recorded flood levels. This, in the opinion of the consultants, places the site in a Flood Zone B category by reference to the Planning System and Flood Risk Management Guidelines 2009 and nature of proposal. MCC however raised concern over both the site location and road access being in Zone A which indicated a need for a Justification Test and so requested an updated FRA. Added to this MCC also noted the ponding on site following a storm surge. In a revised FRA, CS Consulting clarified that detailed site survey data confirms ground levels as exist to be above the 0.5% AEP tidal level and that the building footprint is in Flood Zone B. Accordingly a Justification Test does not apply. However, in relation to the access road it is proposed to put in place a management plan to introduce warning and evacuation if the Quay Road floods. Specifically, in an addendum to the further information CS Consulting confirm an FFL of 4m which is stated to be higher than the adjacent factory which is not prone to flooding.

- 8.3.3. The Senior Planner however rejected the Zone B classification and recommended a refusal of permission on the basis of flood risk and absence of a justification test among other reasons. Despite further clarification of details, the senior planner in his addendum, remained of the view that permission should be refused.
- 8.3.4. In its further addendum, CS Consulting confirms the 0.5% AEP flood level from CFRAM data to be 3.61mOD and that the FFL can be raised to 4.6mOD. It is again acknowledged that flood risk to the Quay Road can be managed by warning and evacuation and possible installation of flood defence measures to the road to reduce frequency of flooding.
- 8.3.5. Notably, the independent panel convened by the Council, appointed Hydro Environmental Ltd to review the FRA in light of submissions and conflicting opinions. This report (Addendum to Panel's report) confirms the CFRAM 3.61mOD flood level for 0.5% and that based on the site survey levels the location of the building footprint is in Zone B as it is above 3.61mOD but below 3.88mOD, while the car park is in Zone A but is a flood compatible use. Accordingly, no justification test is considered to be required. This addendum acknowledges that inshore flood levels could be higher than predicted but CFRAM is the best available data source. It is suggested that the Jan 2018 flood levels were 3.5mOD and it is also confirmed that wave action is not significant in this sheltered inner bay location. It is however acknowledged that the Quay Road at a level of 3.33mOD will be inundated on a reasonably frequent basis (being a 1 in 10-year event). A FFL of 4.6mOD is recommended for the based on a 500mm freeboard over a 0.5% climate change AEP. Accordingly, it was on this basis that the review Panel recommended that permission be granted and the decision to grant was conditional on 5 of the conditions improving flood risk and the management of surface water and stormwater.
- 8.3.6. Notwithstanding the independent review, the grounds of appeal refer to historic flooding and the climatic change factor in future flood risk of site. The issue of access, including emergency access, is also raised.
- 8.3.7. The applicant's response to the grounds of appeal includes a further review by a different firm of consulting engineers, JBA Consulting who completed the Western CFRAM and are fully aware of the modelling approach. For example, tidal level node is 9km away on which modelling is simulated for shoreline impact. It is

acknowledged that the LiDAR level places the site in Zone A but the detail of the site topographic survey provides final clarification that the ground levels are different to that presented by the CFRAM/LiDAR data. Notably JBA Consulting confirms that the LiDAR recorded levels were taken prior to demolition and this would seem a reasonable explanation for subsequent raised level.

- 8.3.8. I note that neither the Independent Panel nor JBA Consulting verified the site levels on site and if the Board wished to test the veracity of the data this could be independently sought by the Board. JBA Consulting however explains how the baseline data is fit for purpose and I am satisfied that this is reasonably explained and rigorously assessed and that the risk associated with the development of an exhibition space and café with overhead offices can be reasonably mitigated by a generous freeboard afforded by a 4.6m FFL.
- 8.3.9. With respect to emergency access, it is proposed to prepare and implement a Flood Risk Management Plan and Emergency Responses procedures although it is reliant on a co-ordinated effort. It is explained that a fire engine can drive through flood waters at depths in the order of 300mm which is in the range of 0.5%AEP flood water over the Quay Road which is a current ground level of 4.33mOD. I also note that the Senior Planner's report, in the response to the appeal, refers to the investigations into raising the Quay Road, regardless of outcome of this proposal as there are other premises reliant on this road for access. And while I note the counter response and reference to the Flood Risk Management Plan 2018 and the Draft Climate Adaptation Strategy 2019 which take a precautionary approach such as setting back development in vulnerable areas, I note that the subject site is not vulnerable to erosion in this relatively sheltered inner bay location. I also note the contents of the submission by Irish Pet Foods – an established industry in the neighbouring industry. Aside from an event in 2014, it is their experience that there has been no flooding of their premises in recent decades and that the site has always remained accessible.
- 8.3.10. With respect to flood mitigation I note Condition 2 requires the raising of the finish floor level to 4.6mOD or 900mm above the 1 in 1000 risk and this is achievable given that a level of 4mOD was initially proposed. condition 3 also requires a further site-specific flood risk management plan. This I accept is a commonly adopted approach in development subjected to limited flood depths. The nature of the uses at ground

level also lend themselves to flood resilient construction such as tiling and open plan layout. The requirement for further assessment is in accordance with the Guidelines.

- 8.3.11. Condition 32 which requires indemnification is stated to support the case against the development is considered by the applicant to be superfluous in light of condition 3. I do not consider it an entirely appropriate condition of planning permission in this case. This condition is essentially putting it back to the applicant to incur costs of the burden of risk which on the face of it is not wholly unreasonable. By adding this condition is simply accepting that there is a degree of risk which in this case is within acceptable limits. While the purpose is to ensure mitigation, I concur that this matter has been addressed in other conditions. Having regard to provisions of the Planning Act for conditions of permission this should, I believe, be omitted.
- 8.3.12. There is concern about emergency access. The applicant states that as the nature of the flooding is tidal and predictable and the users of the site are not residents or vulnerable users this can be managed by the preparation of an emergency response plan. This is I consider a reasonable approach so as to provide flood warnings, evacuation plans and ensuring public awareness of flood risks to people working at or visiting the site.

8.4. Visual Impact

- 8.4.1. There are concerns relating to the height and form of the proposed building, the extent of its glazing and its incongruity with the surrounding built form and landscape character. Ultimately the objections are against the visual impact on the coastal landscape and interruption of views across Clew Bay from the Harbour, Westport House and high ground.
- 8.4.2. The case is made that the height of the building at up to 5 storeys over a raised base due to flood prevention, will visually dominate the open coastal landscape and seascape where such development cannot be absorbed. Such development form will, it is submitted, impinge on protected views. The visual dominance is stated to be further accentuated by the glazed façade and its reflective and transparent nature that will both reflect and emit light and ultimately contribute to light pollution after sunset. The case is further made that the contemporary style glazed façade is incongruous with the built heritage of the Quay where stone warehouses have been refurbished and respected in newer development. Opinion is divided between the

professional reporting staff and third party submissions. Some of these concerns for example are supported by the executive architect for the planning authority.

- 8.4.3. Historically, the Board has refused permission for an apartment block in two decisions and then, a 218-bed hotel in another decision, for reasons based on visual impact, as well as access and incompatibility with adjacent industrial use. The development plan context was however different at that time. The site was previously outside Westport UDC and fell within the catchment of an area designated as being of high scenic amenity in the wider county. However, since then, the site was incorporated into the Westport UDC and the Development Plan for Westport. The supporting landscape appraisal document to the development plan also allows for provision for a finer grained classification of landscape character in Mayo to facilitate assessment of capacity and impacts and I have considered this together with the pattern of renewal and development in the vicinity.
- 8.4.4. The natural terrain of the site environs is complex – the site itself is at the base of a low Drumlin island in an inner coastal inlet in Clew Bay and is surrounded by a Drumlin terrain. And while Roman Island is a prominent feature in the seascape, it is an intrinsic part of Westport Harbour and is essentially in an urban frontier for the inner harbour/quay area which is increasingly part of the urban fabric of Westport Town and environs. In the context of landscape impact and capacity for development, by reference to the development plan/landscape appraisal and Development Impact – Landscape Sensitivity matrix, Westport, in its continuous urban fabric format, falls under the category of robust. In terms of the immediate environs, the site itself is essentially a brownfield site having been recently cleared of tall buildings (the Pollexfen Mill was 26.5mOD) and is adjoined by industrial development (Irish Pet Foods building is 29mOD)– it is an area which has and continues to host tall buildings. While the seascape setting of the site is undoubtedly dramatic, the backdrop from the tip of the island is quite urban.
- 8.4.5. Significantly, the natural drumlin terrain of Roman Island together with its protected woodland to the south obscures expansive sea views and also serves to screen the developed side from an extensive range of viewpoints. As there are already structures on this island, a new building with a stepped height peaking at around 23.4mOD cannot in principle be reasonably rejected on the basis of being unduly incongruous or interrupting sea views. I further note the CGIs of the proposed

development as viewed from protected and key viewing points marked as V6, V7, V8, V9 and V15 and the reasonable conclusion, as I consider based on my site inspection of the site and environs and the comments in the Senior Planners response, that there is no significant interference of views from these points along Castlebar Road, Westport Quay and Westport House grounds. The views from the perimeter of the island cannot be reasonably intruded upon as the building will be set back from the road. The issue therefore comes down to a matter of scale, massing and design.

- 8.4.6. In this regard the building has been scaled and modelled to reflect the historic landmark forms but presented in a wholly contemporary style. This is most evident in the use of a tower like element incorporating stone and reinterpreting the classic Norman tower house idiom. At a finer level, the ordering and scaling of the glazed panels and windows interprets the fractured stratified rock formations of the coastal sea stacks and cliff faces.
- 8.4.7. Having regard to both the scale and nature of the existing built form and the natural drumlin terrain, the proposed development would not I consider have a disproportionate effect on the existing character of the coastal environment.
- 8.4.8. While there will be views of the building albeit, limited and the glazed reflective design will be eye catching from limited viewpoints, I consider the existing environment to be sufficiently robust to absorb the development. Moreover, I consider the design to be high quality and appropriate to its context. While there is a degree of subjectivity on the use of materials and details, it is an innovative and well considered design by a competent firm of architects as comprehensively documented and illustrated in the submissions by MOLA Architects and Ait Landscape Design and further contextualized in DBCL planning reports.
- 8.4.9. There is also an issue of illumination and light pollution due to the level of transparency. The applicant states that with regard to night time lighting and visual impact, that whilst it is acknowledged it will be visible at night, the concept of the development is to create a dense light at the base and gradually reduce the intensity of light in an overall subtle manner moving toward the upper levels of the building. Car parking is part of the lower layer of light being lower than the public lighting columns along the Quay road. The approach will minimise spill from the parking

areas. Ultimately lighting will be set within the lighting emitting in the backdrop of the built urban fabric.

8.4.10. In view of the design, scale and assimilation I do not consider that the proposed development would interfere to any significant degree with views such that it would detract from the scenic coastal vistas. The issue of lighting was addressed by condition by the planning authority and I consider this to be a reasonable approach to controlling this aspect of the development.

8.4.11. On balance, I consider the proposed development that clusters in both its immediate context and in the wider context of the urban environs of the Quayside in Westport Town to constitute a visually progressive form of development for Westport.

8.5. Traffic Safety & Parking

8.5.1. Concern is raised about generation of traffic through the town to the Harbour area and along the Quay Road to the site. There is also concern about insufficient parking within the site and impact on surrounding roads with the potential for encroachment on amenity areas.

8.5.2. With respect to traffic impact and safety, the applicants have submitted a Traffic Impact Assessment report and Road Safety Audit, the recommendations of which have been incorporated into the design. It is demonstrated that the impact of the proposed development will be negligible on carrying capacity of the road infrastructure and junctions in the vicinity of the site. With respect to the access road I note it is 6m wide and can safely accommodate two-way traffic. At time of inspection there was very little vehicular traffic. There were some walkers along the Quay Road and in and around Westport Demesne, but this was early morning and in wet conditions – It is evident that it is and will be a popular place to walk and safety is paramount – I am satisfied that this has been adequately addressed.

8.5.3. With respect to strategically managing traffic and car parking demand, the applicant proposes to implement a mobility management plan. It is not clear if this in operation in the present offices. The opportunities for sustainable travel are questioned in light of the siting of the Headquarters away from an industrial/business park context with good connectivity to a national road network. There is also criticism on the practicality and feasibility of the projected modal split given likely commuting patterns and workforce catchment and limited public transport. Accordingly, there is concern

that consequent traffic through the town could be quite high. This argument could be levelled at any office development anywhere in the town. In this case however there are some conditions that support the feasibility of a mobility management plan that is mandated in the NTA's Smarter Travel programme. While public transport is limited, there is a train service and the working hours are flexible. The site is in the Harbour end of the town where the Council has invested in pedestrian and cycling routes. It is a serviced area with increasing residential development and many rental properties and it is quite possible that an employer of some 150 persons is likely to attract people to live in the town on a short or longer time basis who could readily walk. Those driving to work can avail of services within walking distance of the offices thereby facilitating shared trips. There are also opportunities for cycling and car-pooling from outlying areas. While a mobility management plan will require some ongoing review, it is not an unreasonable mechanism to implement sustainable transport policy particularly when initiated by the applicant, as is the case.

- 8.5.4. With respect to car parking numbers, the applicant was prepared to provide greater levels of car parking but was required to reduce spaces from 91 to 60 in line with Development Plan standards. I accept that there are concerns with a staff potential of 150 sharing 60 spaces in the context of the constraints and alignment of the Quay Road. With a mobility management plan and parking control by the council this amount of parking is I consider acceptable.
- 8.5.5. I do not consider the objections in relation to traffic and parking can be reasonably sustained.

8.6. Appropriate Assessment

Background

- 8.6.1. Under Part XAB of the Planning and Development Act, as amended, the Board is required to carry out screening to assess on the basis of best scientific knowledge if a land use plan or proposed development is likely to have a significant effect on a European site.
- 8.6.2. The site is not located within a European site, but it is adjacent to the Clew Bay Complex SAC 001482. The site of the proposed development is separated

from the sea by an existing road and is located some 3- 6m from the SAC. There are 7 other sites in the 15km catchment.

8.6.3. An Appropriate Assessment Screening report was submitted as part of the of the planning application and initially screened out the need for a NIS on the basis of the following conclusions:

- There will be no negative direct or indirect impacts or reductions in Annex 1 habitats area within European Site.
- There will be no reduction in any key habitats supporting populations of QI species and no reduction in the populations of any annex II species.
- There will be no reduction in key habitats supporting populations of Annex II species and no reduction in the populations of any Annex II species.
- The works themselves will involve little disturbance or disruption to the ecological process in the areas during either construction or operation given the existing commercial and recreational operation in the surroundings.

8.6.4. Accordingly, it was concluded that the proposed development by itself or in combination with other plans and projects in light of the best scientific knowledge in the field will not in view of the site's conservation objectives have significant effect on any European Site.

8.6.5. However, in the response to the grounds of appeal it is acknowledged that that report had regard to mitigation measures and was prepared and submitted prior to the determination of the POW and Sweetman v Coillte case (C-323/17) wherein the CJEU delivered judgement on 12th April 2018 and determined that Article 6(3) must be interpreted as meaning that in order to determine whether it is necessary to carry out subsequently an appropriate assessment of the implications for a site concerned of a plan or project, it is not appropriate at screening state to take account of the measures intended to avoid or reduce harmful effect of the plan or project on that site. Having considered this, the applicant now out of an abundance of caution holds the view that the development ought to be screened in for an appropriate assessment and a NIS was submitted in the appendix to the response to the grounds of appeal.

Stage 1 - Screening

8.6.6. While the nature of the proposed development relates to the redevelopment of an existing serviced brownfield site, having regard to the proximity of the Clew Bay SAC and in light of more recent higher authority judgements regarding screening with mitigation a precautionary approach supports the need for a NIS. Accordingly, in view of nature of the construction works, the generation of surface water and run-off and the proximity to Clew Bay Complex SAC, the potential for deterioration in water quality within the SAC as a result of construction, operational and decommissioning phases, in addition to noise disturbance, there is a potential pathway for indirect effects. Accordingly, in the absence of mitigation measures, I consider there is some uncertainty relating to the proposed development and in concluding whether or not the project is likely to have a significant effect either individually or in combination with other plans and projects on the European site in view of its conservation objective. Accordingly I concur that a NIS is required.

Stage 2 -Appropriate Assessment

8.6.7. A Natura Impact Statement prepared by Eire Ecology has been submitted with the grounds of appeal and advertised accordingly. It objectively concludes that there is no possibility of any significant effects on any European sites arising from the proposed development, either alone or in combination with other plans or projects.

8.6.8. The NIS which provides a description of the proposed development lists the European sites within 15km of site as identified in Table 3.1 of the NIS. I am satisfied that this list identifies all of the sites within a 15km range of the development site that may have a pathway. The applicant has screened out all of the 7 sites save for one which is described with its qualifying interests. Having regard to the absence of a source pathway receptor connection between the site and the 7 other sites in this catchment I am satisfied that there is no likelihood of a significant effect on these sites in view of their conservation objectives. However, on the basis that the proposed works are located at a distance as close as 3m for the Clew Bay Complex and based on preliminary assessment it can be considered to be within the Likely Zone of Impact.

Will the development adversely affect the integrity of the European site in view of the site's conservation objectives?

8.6.9. This qualifying interests for this site are:

- Mudflats and sandflat not covered by seawater at low tide
- Coastal lagoons
- Large Shallow Inlets and bays
- Annual Vegetation of drift lines
- Perennial vegetation of stony banks
- Atlantic salt meadows
- Embryonic shifting dunes
- Shifting dunes along the shoreline with *Ammophila arenaria* (white dunes)
- Machairs
- Old Sessile oak woods with *Ilex* and *Blechnum* in the British Isles
- Vertigo geyeri* (greyer's whorl snail)
- Lutra lutra* (otter)
- Phoca vitulina* (harbour seal)

8.6.10. The Conservation Objectives for the Site is to maintain or restore the favourable conservation status of their features of interest.

8.6.11. Detailed objectives and supporting documents are available at npws.ie and indicate the importance of water quality. The site is also potentially proximate to otters and seals and noise and disturbance may be an issue. The Conservation Objective Document provides a range of maps of the communities. The nearest communities are depicted as follows. Map 2 shows part of the coastal boundary of the SAC in the vicinity of the site but not adjacent to be Mudflats and sandflats not covered by sea water at low tide. Map 3 shows the surrounding waters of the site to be classed as Large shallow inlets and bays. Map 4 plots the marine community types and shows nearest community type to be Sandy Mud with *Tubificoides benedii* and *Pygospio elegans* community complex (Pink) and sandy mud with polychaetes and bivalves community complex. Map 8 of the Clew Bay Conservation objectives for Otter shows to the waters surrounding Roman Island to be Marine Aquatic (80m) with an additional buffer of 250m for commuting Otter. Map 9 plots the Harbour seal

breeding moulting and resting sites at least 3km from the site although waters of the entire SAC are part of the habitat.

Potential Effects

The Natura Impact Statement addresses the nature of the works and the potential effects of the development on these European Sites, namely the indirect effects arising from the pre-construction, construction, operation and decommissioning stages. It is identified that as the site is adjacent to the proposed development there is potential for deterioration in water quality by way of surface water pollution during these phases. I note there are no watercourses on site within the development footprint that could provide direct connectivity to the SAC. However, in respect of indirect impacts, best practice methods are set out in section 2.2 and these measures refer to site set-up, earthworks, refuelling, fuel and materials storage, dust control, drainage control and flood risk mitigation. I am satisfied these measures eliminate the potential for impact on the Site by eliminating at source and blocking pathways. I further note that the applicant submitted a Construction Environmental Management Plan which identified the key environmental obligations that would apply to all contractors at the construction phase of the proposed development. As such there can be no adverse impacts in this regard.

In respect of noise impact on species, I note that field surveys were undertaken at the site during November 2018 by competent ecologists whereupon no evidence of ecologically sensitive faunal species were recorded. I am satisfied that the nature of the proposed works is such that significant disturbance to any species is not likely. I also note the measures in relation to noise control, hours of operation, containment of parking and activities and on-going environmental management and accept that this further minimises the potential for impact on any species of qualifying interest namely the seal and otter by way of disturbance. The works in any event will be short term and minor in terms of disturbance. In the context of the nature of the use of the site, I refer to existing and former established industrial development in addition to the other marine activities near the site and the established nature of such. It is reasonable to conclude that given the close proximity of these existing

operations it is likely that the species of qualifying interest are likely to be habituated to anthropogenic activity in the area.

It is therefore reasonable to conclude that in view of best scientific knowledge and on the basis of objective information that the proposed development, either individually or in combination with other plans or projects is not likely to have adverse effects on any European sites via noise and vibration emissions.

8.6.12. In considering the potential effects of the proposed development, I note that:

- The proposed development is not necessary for the management of the above referenced European Sites.
- The site of the proposed development is not on or in any European Site.
- There has been a long-established industrial commercial development on and adjacent to this site.
- The site is fully serviced. The development would be connected to the public sewer. The development would have a public water supply. The surface water drainage system would be developed to filter and control outlet drainage rates.
- The likely potential effects arising from the proposed development beyond the site relate to the demolition and construction impacts arising from potential contaminated surface water discharges off this site at this phase of the development.

8.6.13. In making the above observations, my considerations on the likely effects are as follows:

- The construction phase of the proposed development would be considered short-term.
- The applicant proposes to adhere to best practice guidance with regard to control of surface water from the site at the pre-construction, construction and operational phases, notably including control of cement products, fuel and plant management, pollution risk and the prevention of silt generation. A comprehensive range of construction mitigation measure are proposed and an

ECOW is proposed to assess site works to ensure these mitigation measures are implemented. A Construction Management Plan is also proposed.

- 8.6.14. It is reasonable to conclude, having regard to the established nature of the premises at this location, that the operational phase of the development should not have any significant effect on the adjacent designated European Site.

Conclusion

- 8.6.15. Based on all of the information before me and having regard to the nature and scale of the proposed development including the Best Practice Measures which mitigate any risk of impact, the nature of the receiving environment and absence of a source pathway receptor connection it is not considered that the proposed development individually or in combination with other plans or projects would adversely affect the integrity of Clew Bay Complex in view of its conservation objectives. or be likely to have a significant effect on a European site.

8.7. Other matters

- 8.7.1. Condition 37 requires the provision of an artistic feature not exceeding the value of €10,000 and with the effect of stimulating an interest in art. It is not clear if this intended for the external open space or the exhibition space that is to be publicly accessible. Either way, having regard to the Fifth Schedule of the Act and the nature of conditions that can be reasonably applied to a permission, and notwithstanding the Civic Trust's support for an even higher value of art, I do not consider this to be reasonable and should be omitted. I am also of the opinion that the prominence of the site merits more transparency in the selection of such a feature in the public realm. It also appears something of an afterthought that could have been more appropriately addressed at further information stage. The proposed building is a well-conceived architectural design and statement in itself which will be further set off by a landscaping scheme. Any additional 'stimulating' structure would require careful thought. This is, I consider, a matter for the applicants to initiate.
- 8.7.2. I have edited the conditions as some of the topics covered are superfluous and overlap. There remains a degree of overlapping but for the sake of completeness and the nature of the issues raised I am satisfied that all matters are reasonably addressed.

9.0 Recommendation

- 9.1.1. I recommend that planning permission should be granted for the proposed development, based on the following reasons and considerations subject to conditions, as set out below.

10.0 Reasons and Considerations

Having regard to the pattern of development on Roman Island, the brownfield nature of the site, the topography of the surrounding natural and built landscape, the proposed site layout, nature of uses and architectural quality of the design together with measures proposed to address flood risk and traffic safety, it is considered that the proposed development would be compatible with the overall objectives of Westport Town & Environs Development Plan 2010-2016 as extended and the County Development Plan 2016-2022, which recognise the importance of Westport as a regional Key Town. In this context, it is considered that, subject to compliance with the conditions set out below, the proposed development will contribute to the vitality of the Harbour area and the balanced development of Westport. Accordingly, it is considered that the proposed development would not detract from the character or visual amenities of the Area or the views and setting of Westport Demesne, would not be prejudicial to public safety by reason of flood risk, would be acceptable in terms of traffic safety and convenience and would be in accordance with the provisions of the National Planning Framework in its policies to consolidate towns and cities. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further information received by the Planning Authority on the 31st October 2017, 9th May 2018, 10th July 2018 and 27th August 2018, and by An Bord Pleanála in the applicant's response to the grounds of appeal on the 7th November 2018, except as may otherwise be required in order to comply

with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The finished floor level shall be 4.6mOD or at least 900mm over existing ground level.

Reason: To mitigate the risk of flooding in the interest of clarity.

3. The applicant shall submit a revised site layout plan to Planning authority for written agreement prior to the commencement of development. Revised plans shall incorporate the following:

(a) Car Parking provision not exceeding 60 spaces with reduction concentrated at the east of the site.

(b) The creation of amenity space and further enhancement of the public realm.

(c) The provision of a looped walk through the proposed garden to the south of the proposed building in a permeable manner that integrates the adjacent playing field and the Quay.

(d) The redesign of the café shall maximise its interaction, functionally and visually, with the surrounding open space as revised.

Reason: In the interest of visual and recreational amenity of Westport Quay.

4. The applicant shall submit a Site-Specific Flood Risk Management Plan for written agreement with the planning authority prior to commencement of development. The plan shall include evacuation plans, flood warning

notification measures for employees and an examination of the need for flood defences on the Quay Road.

Reason: To mitigate the risk of flooding and in the interest public safety.

5. Details of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. The proposed exhibition space shall be available to the public within 3 months of the occupancy of the proposed offices and shall include among its exhibits a permanent local history exhibition. Details of hours of operation shall be agreed in writing with planning authority.

Reason: In the interest of amenity and cultural heritage and to comply with the tourism objectives for the area.

7. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no additional development including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or associated equipment, shall take place above roof level other than as indicated on the submitted drawings unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

8. (a) All drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

(b) The applicant or developer shall enter into water and/or waste water

connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health and to ensure a proper standard of development.

9. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:
 - (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.
 - (b) Pedestrian access and facilities shall be clearly provided;
 - (c) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works, and
 - (d) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes and controls for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.
 - (e) A condition survey of the roads and bridges along the haul routes shall be carried out at the developer's expense by a competent engineer both before and after construction works. The extent and scope of the survey together with detailed arrangements for the rectification of any construction damage shall be agreed with the planning authority prior to commencement of development.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect amenities.

10. The site shall be landscaped in accordance with the submitted scheme of landscaping save as required by condition 3 of this permission, of which details of planting and hard landscaping shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

Mitigation and monitoring measures outlined in the Natura Impact

11. Statement shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: To protect the integrity of European Sites in the vicinity of the site.

12. At least one month prior to commencement of works the applicant shall submit a detailed survey and if required a management plan to deal with Invasive Weed Species identified as being present on site. The Invasive Weed Species Management Plan shall be prepared by a relevant competent environmental consultant and shall be submitted to the planning authority for prior written agreement.

Reason To prevent the spread of invasive species in the interest of biodiversity.

13. The development shall be operated and managed in accordance with an Environmental Management System (EMS), which shall be informed by the Harbour Authority, the NPWS and the IFI and submitted by the

developer and agreed in writing with the planning authority prior to commencement of development. This shall include the following:

- (a) A schedule of Environmental Objectives and Targets.
- (b) The management and report structure and review procedures.
- (c) The order and duration of works including details of how seasonally sensitive and time sensitive works are to be accommodated in the programme.
- (d) Pre-construction surveys.
- (e) Construction method statements.
- (f) Vehicular and plant management.
- (g) Details for the minimisation of suspended solids to surface water systems.
- (h) Details of temporary surface water drainage measures to serve construction works and details of capacity to cater for severe rain events.
- (i) Measures to monitor and control noise and vibration at construction stages.
- (j) Monitoring programme for stormwater and groundwater management.
- (k) Proposals for the suppression of on-site noise.
- (l) Details of tank and drum storage and bundings.
- (m) Oil abatement kits and other Corrections action, procedures and emergency response procedures.
- (n) Proposals for the suppression of dust on site and on the access road.
- (o) Proposals for the bunding of fuel and lubrication storage areas and details of emergency action in the event of accidental spillage.
- (p) Details of environmental awareness training programme. for the land above the quarry, to include warning signs and stock proof fencing.
- (q) Management of all landscaping with particular reference to enhancing the ecological value of the environs
- (r) Monitoring of ground and surface water quality, levels and

discharges.

- (s) Details of site manager, contact numbers (including out of hours), community liaison programme, complaints procedures/register and public information.

14. **Reason:** In order to safeguard local amenities.

The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

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

The applicant shall submit a detailed Construction Environmental Monitoring Plan in relation to stormwater, groundwater dust, noise and vibration to the Planning Authority for written agreement prior to commencement of development . Monitoring of such shall be carried out by the development throughout the earthworks and construction stage. The plan shall include:

- (a) A list of all monitoring locations.
- (b) Qualification and identity of monitoring personnel.
- (c) Parameters to be used.
- (d) Monitoring intervals.
- (e) Submission of an Annual Environmental Report

16. **Reason:** To protect the environmental quality of the area

The developer shall appoint a suitably qualified and competent Environmental Officer for the period of the earthworks and construction

phase. This Officer shall:

- (a) Liaise at agreed intervals with the Environmental Division of Mayo county council in relation to the implementation of the Construction Environmental Management Plan and Environmental Monitoring.
- (b) Maintain a written record of malfunctions and any occurrence with the potential of environmental pollution. Such record shall be available to Mayo county Council for inspection at the site office during normal business hours.

Reason: To protect the environmental quality of the area

17.

Site development and building works shall be carried out only between the hours of [08.00] to [19.00] Mondays to Fridays inclusive, between [08.00] to [14.00] on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

18.

Reason: In order to safeguard the amenities of the area.

All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

19.

No advertisement or advertisement structure shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the site, unless authorised by a further grant of planning permission.

20. **Reason:** In the interest of visual amenity.

The applicant shall submit a detailed lighting strategy for the written agreement of the planning authority prior to commencement of development. The strategy shall ensure that the light emissions are appropriate to the environment.

Reason In the interest of visual amenity.

21. The applicant shall submit a Mobility Management Plan in accordance with the guidance of the National Transport Authority for the proposed office development for written agreement of the Planning Authority within 6 months of occupancy of premises. It shall set out modal split targets based on services and demand and shall include an MMP co-ordinator, employer-led measures such as, but not exclusively, car sharing, parking management, cycle facilities and provisions for Review.

Reason: To ensure adequate parking the area and reduce traffic in the interest of amenities of the area.

22. A Plan containing details for the management of waste/recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste/recyclable materials including waste oil and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste/recyclable materials in the interest of protecting the environment.

23. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be

submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

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

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

25. The developer shall pay the sum of € 76,000 (seventy six thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and

Development Act 2000 in respect of specific exceptional costs of road and traffic improvement works to the Quay Road not covered by Mayo County Council's Development Contribution Scheme. This contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

26. The developer shall pay the sum of € 1,679 (one thousand six hundred and seventy nine euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000 in respect of statutory advertising for the proposed development. This contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

27. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the protection and reinstatement in the case of

damage during construction of the proposed development of public roads, sewers, watermains, drains, car parks, open spaces and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of any part thereof of such public infrastructure. The security to be lodged shall be as follows -

- (a) an approved insurance company bond in the sum of €100,000 (one hundred thousand euro), or
- (b) a cash sum of €100,000 (one hundred thousand euro), to be applied by the planning authority at its absolute discretion if such works are not completed to its satisfaction, or
- (c) such other security as may be accepted in writing by the planning authority.

Reason: To protect the material assets Mayo county Council and in the interest of public health and safety.

Suzanne Kehely

Senior Planning Inspector

4th September 2019