



An
Bord
Pleanála

Inspector's Report 309699-21

Development	Construction of 6 semi-detached houses.
Location	Westlands, Cloonmonad, Westport, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	20/340
Applicant(s)	Martin Moran Builders (Newport)
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party vs. Refusal
Appellant(s)	Martin Moran Builders (Newport)
Observer(s)	Westlands Residents Association
Prescribed Bodies	None
Date of Site Inspection	23 rd August 2021
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Cloonmonad, between the town of Westport (c. 1km to the east) and Westport Quay (c. 750m to the west). It is located on the southern side of the Quay Road and adjoins the existing Westlands residential estate, which comprises approximately 55 detached dwellings. The appeal site is located to the immediate east of the existing estate and comprises a square plot of land with a stated area of 0.4 hectares.
- 1.2. A cul-de-sac estate road serving some of the existing dwellings runs along the eastern boundary of the estate to the northwest corner of the appeal site. Lands to the north and east of the site are currently undeveloped. To the west of the site are some of the Westlands dwellings and a large communal open space serving the wider estate. There are three detached dwellings to the immediate south of the site.
- 1.3. The site itself is heavily overgrown and is notably elevated above the existing Westlands estate. The site falls significantly from northeast to southwest towards the existing estate, from a level of c. 32.5m in the northeast site corner to c. 21m in the southwest corner. And while the northeast and southwest corners of the site slope gradually, the central section of the site falls steeply.

2.0 Proposed Development

- 2.1. The proposed development involves a small extension to the existing estate. The existing access road from the north will be extended into the site to facilitate the construction of 6 additional semi-detached dwellings. It is proposed to connect to the existing watermains, foul sewer and storm sewer within the Westlands estate.
- 2.2. The proposed houses comprise split-level arrangements over 2 ½ storeys and an overall height of 9 metres. Houses 2-6 are based on varying arrangements of the same 3-bedroom house type (153.7m²). House 1 is a larger 4-bedroom house with a gross floor area of 187.3m². The proposed houses are of a similar contemporary character, with external finishes including local stone, nap plaster, metal cladding and natural slate.
- 2.3. The proposed houses are laid out in a north-south alignment on the eastern side of the site. Significant site excavation and fill is proposed to accommodate the

proposed levels and an extensive retaining/gabion wall system is proposed in a series of levels along the western and southern margin of the site. The applicant's response to the Planning Authority's further information request included a revised option (i.e. Option 2) for site levels and waste/storm water disposal in an attempt to minimize excavation requirements.

3.0 Planning Authority Decision

3.1. Decision

By order dated 16th February 2021, Mayo County Council (MCC) issued notification of the decision to refuse permission for the following reason:

The proposed residential development, located on an elevated prominent site in an existing mature residential development, would represent hap-hazard, substandard and non-integrated development which, due to the extent of ground works and retaining walls proposed; would be visually obtrusive and would therefore seriously injure the amenities and depreciate the value of properties in the vicinity. The proposed development is therefore contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. The initial MCC Planner's Report stated that the site is zoned 'A1 Residential Phase 1' and is located within an existing housing scheme. It recommended that further information should be requested in relation to the following:

- Landscaping and boundary treatment for the proposed development.
- Due to the 'excessive excavation and construction works', details were requested in relation to construction traffic. Clarification was also sought in relation to access requirements for the construction of gabion walls and potential impacts on site boundaries.

3.2.2. Further Information was requested on 13th July 2020 and was responded to on 11th December 2020. The subsequent Planner's Report outlined concerns in relation to:

- The extent of groundworks, alterations to site levels, and retaining walls/gabions to the southern section of the scheme.
- The elevated levels of the proposed dwellings in relation to existing properties and the concerns from residents to the south about overlooking of rear gardens.
- The location of the development within a mature residential development and its proximity to existing properties.

3.2.3. The report concluded that the proposed development would represent haphazard and substandard development that would be visually obtrusive and incongruous in the context of surrounding properties, thereby impacting negatively on the amenity of adjoining properties and future residents. It recommended to refuse permission, and this forms the basis of the MCC decision.

3.3. Other Technical Reports

Area Engineer: No objections subject to conditions.

Architects Office: The house designs are acceptable in this less visible setting as long as screen planting is satisfactory. Further Information was requested in relation to construction access, boundary treatment, and landscaping proposals to address the extensive civil works.

National Roads Office: No issues arise.

3.4. Prescribed Bodies

None.

3.5. Third Party Observations

Several third-party observations were made on the original application and the further information submitted. The issues raised can be summarised as follows:

- Loss of privacy and amenity.
- Overbearing visual impact by reason of the scale, height and design.
- Disproportionate negative impacts on the natural and built environment which would seem at odds with the Town Plan.

- Excessive excavation/fill and negative impacts on the landscape.
- Support for the development of this unresolved site with a high-quality design of lower density, lower height and better integration.
- Responsibility for roads and common areas.
- Boundary treatment and interaction with existing properties.
- The layout and scale of the development results in overlooking and loss of privacy for No. 51 & 52 Westlands.
- Increased traffic volumes and safety concerns, along with the precedent for future developments proposing to use existing roadways.
- The revised plans (Option 2) have only increased concerns.

4.0 Planning History

P.A. Reg. Ref. 15/645: Application for permission for the construction of 7 houses on the appeal site was withdrawn (12th August 2016).

ABP Ref. No.'s 300932-18 & 300895-18: Under these cases the appeal site was considered as part of a larger landholding to the east for entry on the Vacant Sites Register. In both cases the Board decided that the site 'Is not a Vacant Site'.

ABP Ref. PL84.226544: On the adjoining site to the north, permission was granted (but not implemented) on 3rd June 2008 for the construction of 4 houses.

5.0 Policy and Context

5.1. National Policy/Guidance

- 5.1.1 The **National Planning Framework (NPF)** is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (c) aims to deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards;
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location;
- NPO 35 aims to increase residential density in settlements through a range of measures including infill development and site-based regeneration.

5.1.2 **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)**, hereafter referred to as ‘the Sustainable Residential Development Guidelines’ sets out the key planning principles which should guide the assessment of planning applications for development in urban areas. Section 1.9 recites general principles of sustainable development and residential design, including the need to prioritise walking, cycling and public transport over the use of cars, and to provide residents with quality of life in terms of amenity, safety and convenience. The guidelines promote lower densities in the general range of 15-20 units at the edge of small towns and villages, and also note the need to ensure the definition of a strong urban edge that defines a clear distinction between urban and the open countryside. A design manual accompanies the guidelines which lays out 12 principles for urban residential design relating to context, connections, inclusivity, variety, efficacy, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking and detailed design.

5.1.3 The guidance document ‘**Quality Housing for Sustainable Communities**’ (DoEHLG, 2007), identifies principles and criteria that are important in the design of housing and highlights specific design features, requirements and standards.

5.2. **Westport Town & Environs Development Plan 2010-2016**

5.2.1. The lifetime of the Westport Town & Environs Development Plan 2010 – 2016 was automatically extended in accordance with the provisions of section 11A of the

Planning and Development Act 2000 (as amended) and it remains the operative Development Plan for the area.

5.2.2. The Core Strategy of the Plan identifies three phases of lands zoned for residential development. Phase I comprises of lands (c.46 ha) required for the plan period (to 2016) and are serviced and adjacent to the built-up area. According to Map 1 of the Plan, the appeal site is located within lands zoned as 'A1 Residential Phase I High Density (10 units/acre or 25 units/ha)'. Section 5 of the Plan sets out the land use zoning objectives and states under '(A) Residential' that '*It is an objective of the Residential land use to protect, improve and develop residential areas and to provide for facilities and amenities incidental to those residential areas, where appropriate*'.

5.2.3. Section 4 sets out the policies and objectives of the Plan. Those relevant to the proposed development include:

PP-01 It is the policy of the Council to plan to provide sufficient land to accommodate the residential population needs of the town and environs and, in addition, to cater for the service needs of the people who live within the town's catchment area.

HP-03 It is the policy of the Council to have regard to the Department of Environment, Heritage and Local Government Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) 2009 and Urban Design Manual – A best practice guide 2009 and any subsequent guidelines.

HO-10 It is an objective of the Council to encourage and facilitate the development of vacant and undeveloped residential lands through the use of all available tools and mechanisms.

OO-01 It is an objective of the Council to ensure that local open space at suitable standards is provided by developers of new residential areas. In addition no development, other than that for amenity purposes associated with an existing residential development, will be permitted on open spaces that are part of an existing residential development.

TO-12 It is an objective of the Council to encourage a high standard of architectural design and layout in all developments.

OO-05 It is an objective of the Council to ensure that the amenities of neighbouring properties are safeguarded in the provision of open space and recreational facilities.

LP-01 It is the policy of the Council to protect sensitive landscapes, including elevated lands, from development.

LUO-02 It is an objective of the Council to ensure that all proposed development is absorbed into the surrounding landscape so that it does not impinge in any significant way upon the character, integrity or uniformity of the landscape, in order to protect the landscape, regardless of its zoning.

LUO-04 It is an objective of the Council to implement the Development Strategy and Core Strategy as outlined in Section 3 of this plan.

LUO-05 It is an objective of the Council that lands phased for development shall only be considered for development when 70% of the land in the previous phase has been fully developed and subject to the establishment of proven evidence based demand for the development in accordance with the Regional Planning Guidelines for the West Region.

5.2.4. Section 7 of the Plan incorporates development control standards relating to various types of development. The standards are intended to provide guidance towards achieving a high quality of development and it is stated that the Council will apply the standards with discretion and having regard to the particular circumstances of a particular site and development. Section 7.1 sets out guidance in relation to 'Roadside Development', addressing issues such as road safety and capacity.

5.2.5. Section 7.10 sets out standards relating to residential development, including the following:

- In general densities of up to 25 dwellings per hectare may be permitted in serviced areas which are zoned A1 Residential Phase I High Density.
- The control of density will depend on design and layout and local conditions.
- At least 90% of residential units on lands zoned Residential Phase I shall consist of dwellinghouses.
- New developments should achieve high quality living environments.
- Public open space requirement is a minimum 10% of total site area.
- Private amenity space should not be less than 100m² for 3/4/5-bed houses.

5.3. Natural Heritage Designations

The nearest Natura 2000 site is the Clew Bay Complex SAC, which is located approximately 600 metres to the northwest of the appeal site.

5.4 Environmental Impact Assessment

5.4.1. An Environmental Impact Assessment (EIA) Screening Report was not submitted with the application. With regard to EIA thresholds, Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.4.2. It is proposed to construct a residential development containing just 6 dwelling units. Therefore, the number of dwellings proposed is well below the threshold of 500 dwelling units. The site has an overall area of c. 0.4 ha and is not located within a ‘business district’. The site area is therefore well below the applicable threshold of 10 ha.

5.4.3. The site is undeveloped at present and consists of grassland. It is largely surrounded by residential development, some of which is similar to the nature and density of the proposed development. The introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses.

5.4.4. The site does not include any Protected Structures and is not within an Architectural Conservation Area or a Zone of Archaeological Protection. The proposed development is not likely to have a significant effect on any European Site (as outlined in Section 8.0 of this Report). There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors).

5.4.5. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing/mixed-use development in the area. It would not give rise to a risk of major accidents or risks to human health. The

proposed development would use the public water and drainage services of Irish Water and Mayo County Council, upon which its effects would be minimal.

- 5.4.6. Having regard to the above, I consider that, by reason of the nature and scale of the proposed development and the location of the subject site, the proposed development would not be likely to have significant effects on the environment and that, on preliminary examination, an Environmental Impact Assessment Report (EIAR) or a determination in relation to the requirement for an EIAR was not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

The decision of MCC to refuse permission has been appealed by the applicant, Martin Moran Builders Ltd (Newport). The grounds of appeal can be summarised as follows:

- The proposed development complies with the zoning and density provisions of the Development Plan. It complements the density of the existing estate and is not haphazard as stated in the decision to refuse.
- During the planning process the planning authority did not raise concerns about poor layout and this would have been addressed if their concerns had been expressed.
- The houses are designed to suit the site profile and the use of gabion basket walls can hardly be considered 'extreme'.
- All overlooking criteria under the Development Plan and Planning Guidelines have been achieved by the proposed design.
- The applicant cannot understand how a zoned and serviced land development can be considered 'non-integrated'.
- The landscaping proposal provides a high quality design that complements the biodiversity principle and is sympathetic to the existing ground levels. The use of gabion baskets is conducive to attractive landscaping, avoids the harsh

façade of concrete or stone-faced retaining walls, and helps to screen the development.

- The adjacent zoned land to the east is elevated and is earmarked as essential development land for the town.
- The applicant's auctioneer contends that the proposed development would have a positive impact on the value of property in the vicinity.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

An observation has been submitted on behalf of Westlands Residents Association, which can be summarised as follows:

- Concerns about the increased traffic volumes exacerbating existing delays at the junction onto Quay Road.
- Traffic safety concerns for the 3 existing properties using the existing access road to the north of the appeal site.
- Concerns about the precedent for other developments using existing roadways within the Westlands Estate.
- Objection to references to the proposed development being part of Westlands. The proposed development is on a different site and is not part of Westlands.
- Full support is expressed for the findings of MCC that the proposed development 'would be visually obtrusive' and would 'seriously...depreciate the value of properties in the vicinity'.

7.0 Assessment

7.1 Introduction

7.1.1. Having regard to the documentation submitted in connection with the application and the appeal, and having inspected the site and had regard to relevant policies and guidance, I consider that the main issues for assessment are as follows:

- Zoning & Policy
- Visual Amenity
- Traffic
- Residential Amenity

7.2 Zoning & Policy

7.2.1 The site is zoned as 'A1 Residential Phase I High Density (10 units/acre or 25 units/ha)' and Section 5 of the Plan sets out that the land use zoning objective for the '(A) Residential' zone is '*to protect, improve and develop residential areas and to provide for facilities and amenities incidental to those residential areas, where appropriate*'. The development is also proposed at a location that would be consistent with the aims of the NPF with regard to promoting more compact and sustainable forms of development within the existing built-up footprint of settlements. Accordingly, I am satisfied that the proposed residential use is consistent with the CDP zoning objective for the site and the relevant national policy/guidance relating to appropriate locations for residential development.

7.2.2 The proposal for 6 residential units on a site area of 0.4 hectares equates to a density of 15 units per hectare. This would be consistent with the Development Plan provisions for the 'A1' zone, which allow up to 25 units per hectare. The Sustainable Residential Development Guidelines define 'larger towns' as towns with 5,000 or more people, which would include Westport. The Guidelines set out density recommendations for various area types and I consider that the subject site can be best described under the 'Inner suburban/infill' category. In such areas the Guidelines advise that infill development needs to strike a balance between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

- 7.2.3 While the Guidelines do not prescribe any particular numerical density range for such sites, I would acknowledge that 15 units per hectare would generally be considered a low density for an 'Inner suburban/infill' site. However, having regard to the similarly low density of the existing estate, together with the limited site size and the elevated and sloping nature of the site, I consider that the proposed density is acceptable in principle in this case.
- 7.2.4 With regard to the housing type/mix, it is proposed to provide 5 no. 3-bed and 1 no. 4-bed semi-detached houses. In light of the limited number of units involved and the character and density of existing surrounding development, I do not consider it feasible to provide a wide range of house types/sizes in this case and I have no objection in this regard.
- 7.2.5 Having regard to the above, I consider that residential development of the range and density proposed would be consistent with the zoning for the site and the applicable local and national policies aimed at consolidating towns and promoting sustainable development. The suitability of the character, design and layout of the proposed development will be assessed further in the following sections.

7.3 Visual Amenity

- 7.3.1. It is proposed to construct 6 no. semi-detached houses on an elevated and steeply sloping site adjoining an established residential estate. The proposed houses generally face west onto an existing communal open space. Under 'Option 1', the proposed ground floor plans have a finished floor level of 28.7m, while under 'Option 2', those levels would be lowered to range from 26.6m (Houses 5 & 6) to 27.5m (Houses 1 & 2). The existing houses to the west and south are significantly lower, with those to the south (No. 52) at a finished floor level of 21.25m, and those to the west (No. 16) estimated at c. 22m. However, it should be noted that the existing dwellings to the north (No.'s 19-21) are already significantly elevated in relation to the other existing dwellings and have a finished floor level of 27.1m.
- 7.3.2 To the north and east, the site is bounded by more elevated, undeveloped land, and the appeal site is not, therefore, particularly prominent when viewed from these directions. These adjoining lands are also zoned for residential development and it is considered that the proposed development would suitably integrate with the future

development of these elevated lands and would not cause an adverse visual impact in this context.

- 7.3.3 To the south of the site, I consider that the proposed development would largely be screened by the existing Westlands dwellings and would not seriously detract from visual amenities. However, the appeal site is clearly exposed and prominent when viewed from the west and this is the key visual impact consideration in this case, albeit one which is quite localised in magnitude.
- 7.3.4 In terms of overall height/levels, the roof ridge levels for the proposed houses under Option 1 would be 37.70m. Under Option 2, the proposed ridge levels would be lowered to range from 36.05m to 36.5m. While I acknowledge that both options would be significantly higher than the ridge levels of the existing dwellings to the south and west (c. 28.27m), I consider that the proposed development must also be considered in the context of the elevated dwelling to the north (i.e. No.'s 19-21) which have ridge levels of 34.12m.
- 7.3.5 The reduced levels proposed under Option 2 would clearly integrate better with the existing development than those of Option 1. The Option 2 ridge heights would still be up to 2.4m higher than the existing dwellings to the north but I consider that this height increase would be mitigated somewhat by the fact that the proposed dwellings are setback further when viewed from the west. Therefore, notwithstanding the significant height difference compared to the existing dwellings to the south and west, I consider that the overall height and levels of the proposed dwellings (as per Option 2) would be acceptable in the context of the overall estate, and particularly the existing elevated dwellings to the north. Furthermore, I consider that the levels of the proposed dwellings are likely to be lower than those of future residential development on the adjoining lands to the north and east and, accordingly, I have no objection in terms of the proposed height/levels of the dwellings.
- 7.3.6 It is acknowledged that the proposed house designs are of a contemporary character that is different to that of the existing estate. However, I consider that the proposed development would introduce a welcome variation to the typical suburban character of the existing estate. The proposed designs are based on quite complicated forms and incorporate a variety of levels, building lines and external finishes. This helps to break down the overall scale and massing of the development and avoids a

monolithic appearance. Accordingly, I consider that the proposed house designs are acceptable in this case.

7.3.7 In addition to the proposed dwellings, I acknowledge that the extent of site level alterations and retaining structures has the potential for significant visual impacts. In this respect, I consider that the significant site filling involved in Option 1 requires excessive retaining structures, including gabion walls which extend to 5m high to the south of the site and 4m high to the west. The revised levels involved in Option 2 have reduced those gabion wall heights to a maximum of 2.742m to the south and 2m to the west. I would accept that Option 2 still involves a significant extent of site works and retaining structures, but I consider that such works would be required for any development of this challenging site. Given that the site is zoned for residential use in the Development Plan I consider that reasonable flexibility should be applied in relation to the proposed site levels. Therefore, despite the extent of retaining structures proposed, I am satisfied that the Option 2 proposal can be accommodated subject to a suitable screening and landscaping proposals, which would be consistent with the view of the MCC Architect's Office report.

7.3.8 The application includes a Landscape Plan which has been designed by a Landscape Horticulturalist. The upper level of the site, containing the proposed houses, access road and parking, will be planted with a number of trees to the south of the site and in the northwest corner. A native hedgerow will also be planted above the top level of the gabion wall spanning along the southern and western margin of the site. Between the upper and lower gabion walls, a biodiversity area is proposed in the southwest site corner to allow for naturalisation and the addition of mixed native, pollinator-friendly ornamental plants. Having considered the landscaping proposals and the site levels as shown in section drawing 'B-B' for Option 2, I consider that an acceptable transition of site levels is proposed. The levels would rise in a series of tiers, with the maximum height of exposed west-facing gabion walls being c. 2 metres. While I acknowledge that the cumulative height of the gabions is c. 5 metres, I consider that it would be appropriately separated into the individual tiers and that the proposed landscaping would provide a suitable visual buffer to soften the visual impact.

7.3.9 In conclusion I consider that, notwithstanding the inherent level challenges that the site presents, the proposed dwellings and the ancillary site works and retaining

structures can be acceptably accommodated on the site, and that the localised visual impact of the development would not be seriously injurious to the amenities of the area.

7.4 Traffic

7.4.1. It is proposed to access the development via the existing road to the north, which serves just three houses. This section of carriageway is approximately 5 metres wide and has a 2m wide footpath along its western side. Thereafter, it joins with the remaining Westlands estate road network, which is wider and has footpaths on both sides. The estate traffic has an exit/access via a 'T-Junction' with the Quay Road to the north of the site.

7.4.2 Having inspected the site and considered the existing road network, I do not consider that the addition of 6 houses would have a significant traffic impact. In terms of capacity and congestion, the proposed 6 houses would equate to just an 11% increase on the existing 55 houses in the estate and it is reasonable to suggest that traffic increases would be similarly low. And with regard to safety, I do not consider that the additional traffic would adversely impact on existing vehicular and pedestrian movements within this traffic-calmed environment, both within the site and at the junction with the Quay Road.

7.4.3 The proposed development accommodates 2 on-site parking spaces per dwelling and a total of 6 visitor spaces. This exceeds the parking requirements as per Section 7.4.1 of the Development Plan. Any additional parking/accommodation works associated with the construction stage could be satisfactorily addressed through a construction management plan.

7.4.4 Having regard to the above, I consider that the proposed development incorporates acceptable access and parking arrangements and I do not consider that the additional traffic associated with the development would adversely impact on the safety and free flow of pedestrian or vehicular traffic. The proposed development would not set a precedent for further such access via the existing estate as any future proposal would be considered separately on its merits.

7.5 Residential Amenity

Proposed Houses

- 7.5.1 I have reviewed the target/minimum areas for dwellings as set out in 'Quality Housing for Sustainable Communities' (Table 5.1) and I note that gross floor areas for each of the proposed houses significantly exceed the requirements for 3-bed 3-storey houses (110m²) and 4-bed 3-storey houses (120m²). And while the proposed houses are not of a conventional room layout, I am satisfied that the proposals and the overall generous floorspace provision satisfactorily address the individual and cumulative requirements for living rooms/areas, storage, and bedrooms as set out in Table 5.1. The proposed houses (ranging from 153m² to 187m²) would provide spacious accommodation and a high-quality internal environment for the prospective residents.
- 7.5.2 Regarding private external space, rear gardens of varying size and shape are proposed for all houses. Section 7.10 of the Development Plan states that the minimum area of a rear garden (behind the front building line) shall be 100m² unless the overall design provides for adequate private open space. When the entire private garden space is considered, including side gardens, I am satisfied that the areas for houses 2, 3 and 6 easily exceed the 100m² standard. And while the areas provided for houses 1, 4 and 5 may be marginally around 100m², I am satisfied in any case that generous private open space is provided in the overall design in accordance with Development Plan requirements.

Communal Open Space

- 7.5.3 Section 7.10 of the Development Plan states that a minimum of 10% of the total site area in new housing developments shall be provided by the developer as open space. The original application included a 'site layout plan' containing 'public open space' calculations of 1,134.2m² or 28.5% of the site area. However, it should be noted that these calculations included all marginal and incidental spaces, and this would not be in accordance with Development Plan guidance or established practice.
- 7.5.4 The revised layout for Option 1 and 2 (submitted as further information) does not clarify the open space provision and it is difficult to calculate given its disjointed and irregular layout. However, it is clear to me that the usable open space area would not meet the 10% requirement (i.e. 400m²). Nonetheless, at the upper level of the site, I consider that open space provision could be significantly improved through revised

access and parking arrangements. The proposed road width of 6 metres with 2-metre-wide footpaths on both sides is excessive for a small cul-de-sac development of this nature. There is no requirement for the 6 visitor parking spaces and the turning area could be relocated to the southern end of the road. This area should be redesigned in accordance with DMURS 'home zone' principles, which would facilitate an improved open space area at the upper level of the site to the west of the access road. At the lower level (between the gabion walls) the proposed biodiversity area and seating would provide another small but usable open space.

7.5.5 Notwithstanding these suggested alterations, it is likely that the proposed development would still not meet the 10% open space standard. However, it should be noted that Section 7 of the Development Plan is prefaced by the statement that the standards will be applied with discretion and having regard to the particular circumstances of a particular site and development. Section 7.10 elaborates on this by confirming that where there is a difficulty in meeting the open space requirement, or where the provision of open space would not be appropriate, the Planning Authority may (my emphasis) require a financial contribution towards open space elsewhere or the provision of alternative community facilities in lieu. Having regard to the above, I consider that Section 7 allows for discretion in relation to the 10% open space standard, and furthermore, that Section 7.10 allows discretion in whether to require alternative compensatory arrangements in respect of any shortfall. Having regard to the restricted size of the site and its challenging levels, I consider it reasonable that an open space area of less than 10% can be accepted in this case and that suitable proposals can be agreed based on the alterations suggested in the previous paragraph. Furthermore, it should be noted that the proposed development would benefit from generous private amenity areas and an elevated aspect adjoining an existing open space to the west, which add to the amenity value of the development. Given the limited scale of the development, I do not consider that any compensatory measures for an open space shortfall are warranted in the form of a development contribution or otherwise.

Impacts on adjoining properties

7.5.6 I note that the Planning Authority's decision raised concerns about impacts on residential amenity and that this was supported by the appeal observation received. On the question of **overlooking and privacy**, the Sustainable Residential Development

Guidelines acknowledge a normal requirement for a 22-metre separation distance between opposing above-ground floor windows but advises that such requirements should be applied flexibly depending on the site context. In this case the proposed houses are angled and significantly distanced in relation to surrounding houses and they are also proposed at a significantly different level to the adjoining properties to the south and west. Accordingly, I am satisfied that no directly opposing windows will occur and that there will be no significant overlooking of existing dwellings from the proposed houses.

7.5.7 It is acknowledged that the upper levels of the site, including the communal open space and roads etc., will also be elevated in relation to the lower properties to the south and west. However, it is unlikely that these areas would be subject to intensive usage and, together with existing and proposed landscaping/boundary treatment, I am satisfied that the proposed development will not result in significant privacy or overlooking impacts on the existing properties.

7.5.8 On the issue of **overshadowing and light**, Section 7.10 of the Development Plan outlines advice in relation to maximising light in the design of new developments but does not specifically outline policy on the question of impacts on existing properties. The Sustainable Residential Development Guidelines outline that overshadowing will generally only cause problems where buildings of significant height are involved or where new buildings are located very close to adjoining buildings. It states that the recommendations of BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' guidance *'should be followed in this regard'*.

7.5.9 I would highlight that the BRE guidelines allow for flexibility in their application, stating in paragraph 1.6 that *'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'*. The BRE Guide notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones. I also note that the BS (2008) document has been replaced by the updated British Standard (BS EN 17037:2018 'Daylight in buildings').

- 7.5.10 In this case I note that the location and orientation of existing dwellings to the north and west of the appeal site are such that the main windows do not directly face the proposed development. Accordingly, I am satisfied that daylight to any windows in these properties is not likely to be affected. There are no existing properties to the east of the site.
- 7.5.11 To the south of the site, the rear elevations of three houses (No.'s 51-53) directly face the appeal site. In the first instance, I am conscious that a retaining structure is proposed to the rear of all these properties. However, regarding the proposed dwellings, I consider that only house no. 6 would oppose the rear elevation of House No. 51 (at the eastern end) in any significant way. The rear elevations of the other houses (i.e. 52 & 53) would not be directly opposed by the proposed dwellings and would have a relatively open aspect to the north (above the proposed retaining structure).
- 7.5.12 With regard to '*light from the sky*', Section 2.2.4 of the BRE guide outlines that loss of light to existing windows need not be analysed if the distance of each part of the new development is three or more times the height above the centre of the existing window. Looking firstly at the proposed retaining structure, I note that the minimum separation distance between the rear façade of these houses and the proposed wall is 10 metres. Using the finished floor level for No. 52 (i.e. 21.25m), I estimate that the level of the centre of the ground floor windows would be 22.75 (i.e. 1.5m above the ground level). Given that section drawing 'A-A' gives a level of c. 26m for the top of the retaining wall, I consider that its proposed height above the existing window can be taken as 3.25m. Therefore, given that the minimum separation distance (10m) is more than three times that height (3.25m), I am satisfied that further assessment in this regard is not required and that daylight to existing windows to the south will not be significantly affected by the proposed retaining wall structures.
- 7.5.13 Regarding the relationship between proposed house no. 6 and the existing dwelling (No. 51), I note that southern side elevation of no. 6 is angled in relation to the existing house and that the height of this side façade also varies. Therefore, the distance and height differences between the existing and proposed dwelling is not constant. However, using an approximate midpoint for the southern side elevation of house no.6, I estimate that the separation distance from the rear of No. 51 is approximately 24 metres. Regarding the height/level of the side elevation for house no. 6, I consider

that the varying height of the pitched roof section of the gable wall should be disregarded, and I would adopt the eaves height level of c. 33m. Therefore, again using a centre window level of 22.75m for No. 51, I estimate that the height difference to house no. 6 is 10.25m. Accordingly, the separation distance (24m) would be only 2.34 times the height difference (10.25m).

7.5.14 In such cases, the BRE guidance advises that a modified test can be adopted whereby the angle subtended by the new development is measured to the centre of the window. If this angle is less than 25° then it is unlikely to have a substantial effect on the diffuse skylight enjoyed by the existing building and a more detailed check is not required. Using the figures outlined in the previous paragraph, I calculate that the subtending angle would be 23.17° . Accordingly, I am satisfied that the relationship between the nearest dwellings (i.e. proposed no. 6 and existing no. 51) is unlikely to have a substantial effect on daylight and, by extension, that the proposed development as a whole would not have any such impacts on any of the dwellings to the south. Furthermore, I would highlight that the extent and scale of opposition/obstruction between the existing and proposed development is quite limited in this case and that the tests outlined above would be more relevant to larger scale development.

7.5.15 On the question of '*sunlight*' obstruction to existing dwellings, Section 3.2.7 of the BRE Guide confirms that a full calculation of sunlight potential for existing rooms/windows is not necessary if the obstructions are within 90° of due north of the existing window, or if the development complies with either of the tests outlined in paragraphs 7.5.12 and 7.5.14 above. On this basis I am satisfied that the dwellings to the south of the proposed development need not be assessed as the proposed development is within 90° of due north of their windows. In relation to the properties to the north and west of the site, I have considered their relationship with the nearest proposed dwelling (i.e. house no.1). I estimate that the ridge height of house no. 1 (36.5m) would be 13 metres higher than the centre level of any windows in the nearest dwelling to the west (i.e No. 16 at a level of c. 23.5m). With a separation distance of 35.5 metres, the angle of obstruction would be only 20° in that case. Regarding the nearest house to the north (i.e. No. 19), I estimate that the ridge height of house no. 1 would be 7.9 metres higher than the centre level (28.6m) of any windows, and that with a separation distance of 31 metres, the angle of obstruction

would be only 14° in that case. Therefore, given that the angle of obstruction between the height of the proposed development and any windows in dwellings to the north and west is less than 25°, I am satisfied that the proposed development is not likely to have a substantial effect on sunlight to the windows of existing dwellings and further assessment is not required.

- 7.5.16 Regarding sunlight for gardens and open spaces, the BRE guide recommends that at least half of a garden or amenity area should receive at least 2 hours of sunlight on 21st March. It also states that, if as a result of the development, the area which can receive 2 hours of sunlight on 21st March is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable. The application does not include a detailed calculation in this regard. However, I again consider that the existing dwellings to the south would not be affected in this regard and any impacts will be limited to the existing dwellings to the northwest of the appeal site. Having regard to the path of the sun and the limited angle of sunlight obstruction previously predicted in relation to these dwellings, I am satisfied that sunlight impacts on the garden spaces of these properties would be limited and would not reduce sunlight levels for any gardens to less than 2 hours on the 21st March or to less than 0.8 times its former value for any such measurement.

Conclusion on Residential Amenity

- 7.5.17 I consider that the internal design and floorspace for the proposed houses would provide spacious accommodation that significantly exceeds the recommended standards, and that generous private open space has been provided in the form of rear gardens for the overall scheme. While there are deficiencies in the extent and quality of communal open space, I consider that there is scope for significant improvements to be agreed by condition and I am satisfied that adequate space can be provided having regard to the site size and level constraints. I have considered the impacts of the development on existing properties and I do not consider that the proposal would seriously detract from the residential amenities of surrounding properties by reason of overlooking or overshadowing/loss of light impacts, or that the proposed development would be excessively overbearing or otherwise seriously injure the residential amenities of existing properties.

7.6 Assessment Conclusion

- 7.6.1 I conclude that the appeal site is suitable for the provision of housing having regard to its 'A1' residential zoning and its location within the built-up and serviced footprint of Westport. This view would appear to be supported by the Planning Authority's attempts to enter the site and adjoining lands on the Vacant Sites Register. The currently overgrown state of this prominent site would benefit from development and would provide an improved level of amenity and enclosure for the existing Westlands estate.
- 7.6.2 The elevated and steeply sloping nature of the site presents a design challenge for the integration of the proposed development with the existing estate. However, given that some of the existing houses to the north of the site are at a similar level and future development on adjoining zoned land is likely to be at a higher level, I consider that the proposed development can be accommodated on the site in accordance with the revised levels (i.e. Option 2) and landscaping proposals submitted to the planning authority as further information. Subject to the agreement of communal open space proposals, I am satisfied that the proposal provides an acceptable level of residential amenity for the prospective occupants and that there would be no unacceptable impacts on the residential amenity of existing properties. Furthermore, I am satisfied that the proposed development can be appropriately serviced by the existing road network and water/wastewater infrastructure and I have no objections in this regard.

8.0 Appropriate Assessment

- 8.1 The nearest Natura 2000 site is the Clew Bay Complex SAC, which is located approximately 600 metres to the northwest of the appeal site. There is a significant extent of residential and commercial development between the appeal site and the SAC site.
- 8.2 There are no surface water features on the site or in the immediate surrounding area that would provide a direct pathway between the development and the surrounding Natura 2000 network. The nearest hydrological pathway is the Ardmore river/stream, which runs approximately 250 metres to the south of the site and connects to Clew Bay. However, given the minor scale of the development and the separation distance involved, I do not consider that there would be a likely indirect pathway to

the Natura 2000 network via the Ardmore watercourse. I am satisfied that any potential for impact is limited to the effects of surface water and foul water emissions to the surrounding drainage network.

- 8.3 With regard to surface water, it is proposed to connect to the existing services within the estate and I do not consider that the limited scale of the proposed development is likely to significantly impact discharge flows in terms of quantity and quality. There is also limited potential for surface water contamination during construction works but I am satisfied that best-practice construction management will satisfactorily address this matter. I consider that there would be significant dilution capacity in the existing drainage network, and I am satisfied that there is no possibility of significant impacts on European sites from surface water associated with the development.
- 8.4 The wastewater emissions from the development will result in an increased loading on the Westport WWTP, which discharges to Clew Bay and has a design PE (population equivalent) of 15,000. According to the Irish Water Annual Environmental Report for 2020, the capacity of the plant is not likely to be exceeded in the next 3 years. Having regard to the limited scale of the development and the associated discharges, I am satisfied that there is no possibility that the additional foul water loading resulting from the development will result in significant effects on the Clew Bay European site.
- 8.5 Having regard to the above preliminary examination, it is concluded that no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site. No mitigation measures have been relied upon in reaching this conclusion.

9.0 Recommendation

Having regard to the above and the reasons and considerations set out hereunder, it is recommended that permission should be granted, subject to conditions.

10.0 Reasons and Considerations

Having regard to the location of the application site in an area zoned for high-density residential development under the Westport Town & Environs Development Plan 2010-2016 (as extended), the pattern of development in the area and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential amenities of surrounding properties or the visual amenity and character of the area, would be acceptable in terms of design and layout, and would be acceptable in terms of pedestrian and traffic safety. 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 the further plans and particulars submitted on the 11th day of December 2020, and more particularly the proposals therein for 'Option 2' (Option 1 is hereby not permitted), 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 proposed development shall be amended as follows:

- (a) The visitor parking spaces shall be omitted.
- (b) The turning area shall be relocated to the extreme southern end of the access road.
- (c) The access road shall be redesigned in accordance with the 'homezone' concept to comply with the Design Manual for Urban Roads and Streets (Department of Transport, Tourism and Sport & Department of Environment, Community and Local Government).
- (d) An enlarged and consolidated communal open space shall be provided to the west of the access road.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity and traffic and pedestrian safety.

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

Reason: In the interest of visual amenity.

4. 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 details of intended construction practice for the development, including hours of working, noise and dust management measures, environmental protection measures and traffic management arrangements.

Reason: In the interest of public safety, environmental protection, and residential amenity.

5. Hours of work shall be confined to 0700 to 1900 Mondays to Fridays inclusive, excluding bank holidays, and 0800 to 1400 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

Reason: In the interest of residential amenities of surrounding properties and in the interest of clarity.

6. 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

8. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health

9. Public lighting shall be provided in accordance with a scheme, (which shall include lighting along pedestrian routes through open spaces) details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of amenity and public safety.

10. Proposals for an estate name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and house numbers shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements / marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

11. All of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interest of sustainable transportation.

12. The management and maintenance of the proposed access road and adjoining areas of open space following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the road being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory completion and maintenance of this development in the interest of residential amenity.

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

14. The 'Landscape Plan' submitted to the planning authority on the 11th day of December, 2020 shall be carried out within the first planting season following substantial completion of external construction works.

In addition to the proposals in the submitted scheme, proposals for the following shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:

- (a) Revised proposals for landscaping resulting from the amendments required under Condition no. 2 (above).
- (b) Additional proposals for dense screen planting along the exposed sections of the proposed gabion walls.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

15. The proposed precast concrete wall 'Type 01' is hereby not permitted. Revised proposals for this boundary type shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

16. Prior to the commencement of any house unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority, pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

17. Prior to the lodgement of a Commencement Notice within the meaning of Part II of the Building Control Regulations 1997, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as

amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

19. 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.

Stephen Ward

Senior Planning Inspector

19th October 2021