



An
Bord
Pleanála

Inspector's Report ABP-320003-24

Development	Construction of a townhouse along with all associated site works.
Location	Gill's Laneway, Upper Quay, Westport, Co. Mayo.
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	24105
Applicant(s)	TS Joyce
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	TS Joyce
Observer(s)	None.
Date of Site Inspection	24/10/24
Inspector	Ronan Murphy

1.0 Site Location and Description

- 1.1. The subject site is located at Gills Lane, Upper Quay, Westport, Co. Mayo which is a brownfield site located in proximity to the 'Quay' area c.1.3km to the west of Westport town centre. The area surrounding the site is generally residential in character. The site is bound by a pedestrian laneway known as Gill's Lane to the west and south which is a narrow lane which runs to the south of Quay Road Upper and provides pedestrian access to residential lands to the south and south-east of the subject land. On the opposite side of the Gill's Lane, to the south-east there is two-storey residential development and to the south there is a large greenfield site which is zoned Strategic Residential Reserve-Westport. The site is also bound by a Protected Structure known as Harbour House (RPS Ref. No. 0124), which is an end of terrace three storey building and the Granary (RPS Ref. No. 0123) which is a detached 3 bay three storey granary building. To the north, the site is bound by an almost complete dwelling which forms part of a development which was granted planning permission under Reg. Ref. 23/331.
- 1.2. The subject site is rectangular in shape and has a stated area of 0.110ha and is adjacent to but connected to the site to the north on which planning permission was granted for three detached dwellings.

2.0 Proposed Development

- 2.1. The proposed development comprises of the construction of a 2 storey plus dormer 2-bedroom townhouse along with all associated siteworks which has a stated floor area of 127m² and a roof ridge height of c. 10.2m. The proposed townhouse would have a similar design to the dwellings to the north permitted planning permission under Reg. **Ref. 23/331**, albeit one storey higher. The northern and western elevations would have a painted render finish, while the western elevation would have a stone finish. The southern elevation would have a projecting two and a half storey element. The southern elevation would include a Trocal clad dormer at roof level.
- 2.2. The floor plan would include a living room at ground floor level, a kitchen / dining room at first floor level and two bedrooms and a bathroom at second floor level.
- 2.3. The proposal includes a garden and shed to the south of the dwelling.

3.0 Planning Authority Decision

3.1. Decision

By order dated 30 May 2023, the planning authority decided to refuse planning permission for 3 reasons as set out below:

- 1. The proposed development would be in close proximity to and overlooking an adjoining residential property. The proposed development would infringe upon the residential amenity of this neighbouring property to the south and therefore it is considered that the proposed development would seriously injure the amenities and depreciate the value of the property in the vicinity.*
- 2. The proposed development taking into consideration the context of the existing scheme on the adjoining site representing a high density development of 58 u/pha would be contrary to Section 3.3.3 of the 'Residential Development and Compact Settlement Guidelines for Planning Authorities 2024' issued under Section 28 of the Planning and Development Act 2000 as amended have not been properly implemented and if granted the development would constitute the overdevelopment of the overall site area and would be contrary to the proper planning and sustainable development of the area.*
- 3. The proposed development would be seriously injurious to the visual amenity of the immediate area due to the design features and height of the proposed dwelling house. The proposed development is considered out of character with the surrounding area and would interfere with the character of the landscape which it is necessary to preserve and would be contrary to proper planning and sustainable development.*

3.2. Planning Authority Reports

3.2.1 Planning Reports

There is one planning report on file. The report dated 29/5/23 notes that the subject land is classified as an inner urban suburban location with a minimum residential density of 20 units/ha as per Section 4.4 of the *Mayo County Development Plan 2022-2028*. The proposal is on a site adjacent to but connected to an application for which

planning permission was granted for three dwellings and these should be considered together. The combined density of the proposed development and that previously granted planning permission would be 58 units/ha. This density would be higher than that set out in the '*Residential Development and Compact Settlement Guidelines for Planning Authorities 2024*' which is 50 units/ha.

In addition to this, the planning report highlights concerns in relation to the height of the proposed development at 10.2m is excessive having regard to the adjacent house of 6.8m. The planners report also notes that there is significant glazing at second floor level overlooking the property to the south-west. The significant glazing at second floor level would cause overlooking of the property to the south-west of the site.

3.2.1. Other Technical Reports

No reports on file.

3.3. Prescribed Bodies

No reports on file.

3.4. Third Party Observations

No observations on file.

4.0 Planning History

Reg. Ref. 23/302. Permission granted for three 2-bedroom, single storey - part two storey cottages along with all associated site works.

Related to this Application:

ABP-317737-23: Leave to appeal refused.

ABP-317719-23: Leave to appeal refused.

ABP-317707-23: Leave to appeal refused.

Reg. Ref.22/1150. Application withdrawn for a development comprising of three 2-bedroom, single storey, and part 2 storey cottages and one 1-bedroom single storey and part 2 storey cottage, along with all associated site works and services.

Site to the east

Reg. Ref. 22/661. Permission granted for the change of use of outbuildings to the rear to residential use, including garden room extension and internal alterations (Protected structures).

Site to the south

ABP-310022-21. Permission refused by An Bord Pleanála to Construct agricultural building and all ancillary site developments as agricultural developments are not permitted on lands which are zoned for residential purposes and the development would have a negative impact on the residential amenity of the area.

5.0 Policy Context

5.1. Development Plan

Mayo County Development Plan 2022-2028

5.1.1 Chapter 2 sets out the Core Strategy for County Mayo in which Westport is identified as a Tier 1(b) 'Strategic Growth Town'.

The following Settlement Strategy Objectives are pertinent:

CSO 4: To move towards more compact towns by promoting the development of infill and brownfield/consolidation/regeneration sites and the redevelopment of underutilised land within and close to the existing built-up footprint of existing settlements in preference to edge of centre locations.

CS05: To deliver at least 30% of all new homes in urban areas within the existing built-up footprint of settlements.

SSP2: Support the continued growth and sustainable development of Ballina, Castlebar and Westport, as designated Tier I towns (Key Towns and Strategic Growth Town) in the Settlement Strategy, capitalising on Ballina's designation as a Key Town in the context of the Sligo Regional Growth Centre and Castlebar/Westport as a linked growth driver in the region.

SS04: To apply higher densities to the higher order settlements of Ballina, Castlebar and Westport (see DM Standards), to align with their roles within the settlement hierarchy, subject to good design and development management standards being met.

5.1.2 Chapter 3 set out policies and objectives relating to Housing. The following are pertinent:

HSP3: To promote a mixture of house types, tenures and sizes to reasonably match the requirements of different categories of households and ensure that the special requirements of older persons, persons with disabilities and persons with learning difficulties, are developed in convenient, easily accessible and permeable locations.

TVHP 1: To support the development of quality residential schemes having regard to and being consistent with the standards and principles set out in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009) and any relevant specific planning policy requirements (SPPRs) in the 'Urban Development and Building Heights Guidelines for Planning Authorities' (2018) and the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2018) (and as updated).

5.1.3 Chapter 9 sets out policies and objectives relating to the Built Environment. The following are pertinent:

BEP24: To be flexible in terms of enabling brownfield / infill development within settlements, focusing on design-led and performance-based outcomes, rather than specifying absolute requirements in all cases, whilst seeking to achieve 30% target for housing on infill/brownfield lands in urban settlements, as specified under the National Planning Framework and Regional Spatial Economic Spatial Strategy for the Northern and Western Region.

BEP26: To promote the regeneration of settlements by making better use of underutilised land and buildings, particularly within the existing built-up areas to achieve compact growth.

5.14 Chapter 12 sets out settlement plans. The following are pertinent:

Table 12.1 highlights the role of Westport as being a Large urban centre with a high level of jobs and services, with the capacity to act as significant economic growth

driver, in combination with its intrinsic links with Castlebar, within the Mayo Catchment and wider region.

Section 1.2 states that regard should be given to national guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended). Specific Planning Policy Requirements set out in Section 28 Guidelines apply, notwithstanding the requirements of this Development Plan and associated Local Area Plans for the County. The Council will implement all national guidelines including future guidelines or amendments to existing guidelines, where appropriate in the assessment of planning applications, following their adoption

Development Management Standards for Residential (Urban / Settlements) are set out in Section 4 of Volume 2, the following are pertinent:

4.4 Density: A density of 20 units per hectare is set out for Inner Urban Suburbs / Outside of Town Centre.

4.5.3. Urban Fill: Infill development must have regard to the main adjoining existing uses, design features, building lines and heights, as well as the existence of any features such as trees, built heritage and open spaces on the site or on adjoining sites. Proposals for infill development must demonstrate how they will integrate satisfactorily with the adjoining developments, without any loss of amenity.

4.5.4 Overshadowing: Where new dwellings are proposed very close to adjoining buildings and may impact upon the residential amenities of an adjacent property, daylight and shadow projections may be required.

4.5.5 Overlooking: All new residential developments should avoid unnecessary loss of privacy to adjoining developments.

5.2 Westport Local Area Plan 2024-2030

5.2.1 Since the initial assessment of this application, the *Westport Local Area Plan* was adopted on 27 May 2024 and became effective on 8th July 2024. However, on the 25th of October 2024, the Minister of State for Local Government and Planning issued a 'Direction' to the Planning Authority under Section 31 of the Planning and Development Act, 2000 (As Amended) ('the Act'). The Direction concerns Policy DSP10 which does not specifically relate to the subject land.

5.2.2 Chapter 6 sets out policies and objective relating to Housing and sustainable communities and the following are pertinent to the proposal:

HSCO 1: Support, promote and facilitate the appropriate consolidation, densification and/or redevelopment of brownfield and infill sites for residential uses within the footprint of the existing built-up area, where appropriate, including living above the shop opportunities.

5.2.3 Chapter 8 set out policies and objectives relating to the Built Environment and the following are pertinent to the proposal:

BEP 2: Encourage high quality and well-designed buildings, structures, public spaces and streets and support and promote healthy place-making and quality of life.

5.2.4 Chapter 12 sets out Land Use Zoning Objectives. The subject land is zoned **LUZ4** ‘Existing Residential’ which has the following objective: *‘To protect the amenity and character of existing residential areas.*

5.2.5 The Local Area Plan is unchanged from the draft plan in relation to these policies. Therefore, I do not consider that there has been a material change in the planning circumstances pertaining since the appeal and no new issues arise from the adoption of the plan.

5.3 EIA Screening

5.3.1 Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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 stage, and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 In the first instance, I make the Board aware that the appellant has provided updated plans with their appeal, which were not included with the initial application. The alterations relate to revisions to the first-floor windows on the southeastern elevation

at first floor level and the large window / glass doors at dormer level on the southern elevation. I do not believe these alterations to be substantial and they do not alter the development as outlined in the statutory notices and can be considered in terms of mitigation for some of the issues identified in the reasons for refusal.

6.1.1 A first party appeal has been submitted MV Cullinan Architects on behalf of TS Joyce against the decision of Mayo County Council to refuse planning permission. The main grounds of appeal are summarised below:

Overlooking

- There would be no overlooking. The appeal site does not abut property to the south, there is an intervening right of way between the properties and the proposed development faces west and south onto future development lands.
- The Sustainable and Compact Settlement Guidelines for Planning Authorities Jan 2024 (SPPR1) do not apply in this case, the windows on the south elevation do not face towards the property to the rear.
- The diagonal distance (corner to corner) between the proposed development and the dwelling to the south is 12.5m and the distance plane to plane is 11m. These are positional dimensions and not separation distances in the meaning of the SPPR 1 of the Sustainable and Compact Settlement Guidelines for Planning Authorities.
- There would be no overlooking for the ground floor windows due to being screened by the shed and 2m high boundary wall.
- The windows on the at first floor level will be modified and reduced in size. The kitchen window at first floor level on the southern elevation will be amended to be openable for ventilation purposes.
- The dormer level has a window on the southern elevation to provide light to the stairwell.
- There would no overlooking from the bedroom window in the eastern eave due to geometry of the design.
- The applicant is happy to reduce the overall glazed area of the dormer windows and to remove the high-level window in the eastern gable.

- There is no second-floor balcony. There is a fall arrest protection shown for maintenance access for health and safety but no access or use as a balcony was proposed or intended.

Density

- The subject site is an infill site, the *Mayo County Development Plan 2022-2028* in its guidelines makes specific reference to the issue of development of infill sites and that such sites require flexibility.
- Westport Quay is not a suburb or edge condition of Westport; it is part of Westport. Section 2.8.2 of The Draft Local Area Plan classifies this area as a 'Sub settlement' and Section 2.8.5 notes that a site-specific approach will be adopted subject to relevant Ministerial Guidelines.
- Density, while an important tool in development control had specific qualities when applied to very small infill sites where 'distortion' can occur because of small data size. This is acknowledged in the 2024 Guidelines.
- DMURS explains how density is calculated, if Gill's Lane is included the density drops to 48 units per hectare not 78 units per hectare as outlined in the planner's report and the individual net density of the site becomes 44.5 units per hectare.

Height

- Houses at the corner of Upper Quay have 8.2m high gables. This feature is picked up by the bookend to the terrace that No.4 provides. In due course the residential reserve lands will be developed. The land is unlikely to be developed with two storey housing and it is reasonable to suggest that the future context will include some variety in residential design with house types or apartments and building heights that will not be troubled by No.4 being a three-storey high house.
- No.4 in the medium term will present an appropriate urban signal of the pedestrian connection to Westport Quay. Such urban markers forms part of any coherent urban plan and will signal connection to the residential reserve lands to Upper Quay Street and the Quay.

- House No.4 is a flexible house designed for ease of adaption over time. The addition of new and better more flexible house types of a goal of the Draft LAP.
- The design meets all the criteria set out in Section 4.0 Quality Urban Design and Placemaking of the Sustainable and Compact Settlement Guidelines for Planning Authorities 2024.
- The completion of the terrace by the addition of House No.4 will achieve exactly the type of successful placemaking that is at the heart of all the planning control documentation which Westport has in place.
- Dwelling No 4 would offer a house type with variety and interest and would provide a successful example of residential infill and effective placemaking.
- The project provides new and 'good streetscape,' one that extends the public realm of the Village and Quay up to existing estates to the south and in time the full future strategic residential expansion beyond the appeal site. The proposed dwelling would add to the range and type of housing available in Westport and with its public realm improvement would do so in a context that is respectful of what is there.

6.2. Planning Authority Response

- No response on file.

6.3. Observations

- No observations were received.

6.4. Further Responses

- No further responses were received.

7.0 Assessment

7.1. Having inspected the site and reviewed the documents on file, I consider that the appeal can be addressed under the following headings:

- Zoning provisions

- Principle of development
- Planning History
- Residential Amenity-overlooking
- Density
- Height
- Overdevelopment
- AA Screening

7.2. Zoning Provisions

7.2.1 The *Mayo County Development Plan 2022-2028* is the currently operating plan. The *Westport Local Area Plan 2024-2030* was adopted by the Elected Members of Mayo County Council and became effective on 8th July 2024. The subject land is identified as being within the 'Existing Residential' zoning. I confirm to the Bord that residential development is a permitted use therein, and there are no new designations pertaining to the site (e.g., protected structures, architectural conservation area, tree preservation orders, protected views).

7.3 Principle of development

7.3.1 The proposed development comprises of the construction of a new dwelling, and all associated site works on land which is zoned for residential purposes and in my opinion, the proposed development is acceptable, in principle.

7.4 Planning History

7.4.1 I make the Board aware that the planning history of the site and adjoining sites is worthy of consideration. The table below provides a synopsis of applications involving the appeal site.

	Development	Location	Decision	Site Area
22/1150	Application for Three x 1 and part 2 storey cottages and one 1 x 1 and	The appeal site was included within the site area	Application withdrawn	0.57ha

	part 2 storey cottages.			
23/302	Application three x 1 and part 2 storey cottages.	This application related to the site to the north and excluded the subject site. appeal site (Site 1 above)	Permission granted, subject to conditions	0.45ha

Table 1: Development synopsis

7.4.1 In 2022 the appeal site was included as part of an application for 4 dwellings on a site with an area of c. 570m² on Gills Lane. The proposed development had a density of 70 units per hectare. This application was withdrawn by the applicant.

7.4.2 In 2023 the appeal site was not included in an application for three dwellings on a site to the immediate north of the appeal site. The application form submitted with the application and the planning officers report in this case stated that the site area was of the site in this case was 570m². However, the site plan submitted with this application showed that the site area excluded the southern portion of the site, therefore the site area was c. 0.45ha and the density of the proposed development was 52 units per hectare.

7.5 Overlooking

7.5.1 The first reason for refusal in this case related to the proximity of the proposed development to adjoining residential development and the potential for overlooking which would seriously injure the amenities and depreciate the value of property in the vicinity.

7.5.2 The grounds of appeal state that the subject site is an infill site and that the *Mayo Development Plan 2023-2029* allows for flexibility for such infill sites. The appellant states that the windows in the rear (southern) elevation do not directly oppose any windows of the house to the south-east and that SPPR1 of the *Sustainable and Compact Settlement Guidelines for Planning Authorities January 2024* (SPPR1) do not apply in this case.

- 7.5.3 It is further stated that the proposed development would not cause any overlooking of the property to the south-east. The appellant states that the main window within the projecting element at first floor would not cause any overlooking as it is blocked by a staircase. The dormer level window provides light to the stairwell and that the section above the stairs has no floor and therefore no overlooking could occur. The appellants state that the no overlooking could occur from the bedroom window at second floor level on the eastern gable given its location and height from the floor level. Finally, the appellants state that there is no second-floor balcony proposed as part of this application and the fall arrest protection shown on the drawings are for maintenance purposes for health and safety but that no access or use as a balcony was proposed or intended. The appellants response includes Appendix E which shows the kitchen window at first floor level of the southern elevation reduced in size by omitting the fixed part of the window and retaining the openable part of the window. The drawings set out in Appendix E also shows that the windows at attic level would be reduced in height.
- 7.5.4 I note that response of the appellant with respect to reason No.1 for refusal in this case. I would agree with the appellant that the rear elevation of the proposed development would not directly oppose the rear elevation of No.1 Cherry Tree Avenue to the south-east of the land. However, while this may be the case, there is still a need for the design of new developments to ensure that the residential amenity provided by garden space to the rear of dwelling is protected to an acceptable degree. In this case, I would have concerns that the proposed development would overlook the back garden of No.1 Cherry Tree Avenue.
- 7.5.5 At ground floor level, I would agree with the applicant that the ground floor windows are sufficiently screened by the two-metre-high boundary wall to ensure that these windows would not cause any overlooking of No.1 Cherry Tree Avenue.
- 7.5.6 At first floor level there is a window on the south-eastern side of the proposed development. In the application material, this window is shown as a large floor to ceiling, clear painted window which serves the kitchen of the proposed dwelling. Given the location and size of the window, I would have concerns that undue overlooking of the rear of No.1 Cherry Tree Avenue may occur.

- 7.5.7 However, it is noted that the appellant has submitted a drawing in their appeal, which were not included with the initial application as shown in Appendix E of the appeal documentation. Appendix E shows a substantially reduced kitchen window on the south-eastern elevation of the dwelling at first floor level. I am satisfied that the reduction in the size of the kitchen window as shown in Appendix E would significantly reduce the potential for overlooking and should the Board believe planning permission be granted then it is my opinion that a condition be included which reduces the size of the kitchen window in a manner shown in Appendix E.
- 7.5.8 Having considered all the application material and having been on site, my overriding concern in relation to overlooking would relate to the windows on the southern elevation at dormer level. There are four windows at dormer level and two glass sliding doors on the southern elevation at dormer level. I note the design of the proposed development, whereby the middle four windows would provide light to the stairwell, and these would not cause overlooking, however, the glass sliding doors at the south-eastern and south-western ends serve both bedrooms and as such there is a potential for overlooking. In my opinion the glass door on the south-eastern side of the dormer level, serving bedroom No.1 would cause undue overlooking of No.1 Cherry Tree Avenue, given its size and location.
- 7.5.9 While the Board may take the view that the matter could be dealt with by way of condition either omitting or altering the glass door to a standard window, I believe that due to the design and layout of Bedroom No.1 such a condition has the potential to lead to a room with poor residential amenity for future occupants of the dwelling. The window on the southern elevation is the main window serving Bedroom No.1 and would provide most of the daylight and all the outlook from the room. While it is noted that there is a high-level clear storey window on the eastern elevation, this would not create sufficient daylight for the bedroom alone and would not give the future residents a reasonable outlook.
- 7.5.10 In addition to this, I note that the glass doors would open out onto a flat roof. The applicant states that the flat roof would not be used as balcony and that some drawings show a line indicating fall arrest edge protection, there would be no access or use as a balcony. I do not doubt the bone fides of the appellants in this regard; however, I do note that drawings submitted with the application (Drawing No. PP-13 Ariel View of Townhouse) and with the appeal (Appendix C, Figure 10 and Figure 11 and Appendix

E, Figure 10.2) all show the flat roof enclosed by a railing. Having considered the appellants statement and the submitted drawings, I would have concerns that the flat roof would have the appearance of and could be used for the purposes of a balcony for amenity purposes by residents. There is a potential for this to happen, even with a condition restricting the use of the flat roof. The use of the flat roof for amenity purposes would have an undue impact on surrounding properties by way of overlooking and noise nuisance.

7.5.11 The Board may take the view that these concerns could be mitigated by way of condition for example reducing the height of the proposed development by one floor and altering the fenestration on the southern elevation including the balcony at dormer level. However, it is my opinion that the design changes required to facilitate this would be so great that the development would be not consistent with the development which was initially applied for. Therefore, I would recommend that permission be refused on this basis.

7.6 Density

7.6.1 The second reason refusal relates to the density of the proposed development at 58uph which would be contrary to Section 3.3.3 of the '*Residential Development and Compact Settlement Guidelines for Planning Authorities 2024*' and as a result would constitute the overdevelopment of the overall site area.

7.6.2 The grounds of appeal states that as the subject site is an infill site Local Authorities are afforded a level of flexibility in the '*Residential Development and Compact Settlement Guidelines for Planning Authorities 2024*' and that such flexibilities should be applied in this case. The appellants state that Westport Quay is not a suburb of Westport and should be considered as part of the town centre. Finally, the appellants state that if the DMURS method of calculation is used the density of the proposal would fall to 48 units per hectare.

7.6.3 In first instance, I would agree with the planning officers report that the development on the appeal site should be considered inclusive of the development of three cottages on the site directly to the north of appeal site as granted planning permission under Reg. Ref. **23/302** i.e., within one planning unit. In this regard, it is noted that the appeal site was included within an initial planning application for 4 units on the entire planning

unit (subject land plus the land directly to the north) which was withdrawn under Reg. Ref. **22/1150**.

- 7.6.4 The entire planning unit (appeal site + the land directly to the north) has an area of c.0.57ha. I note that reason No.2 for refusal states that the development has an overall density of 58 units per hectare, however from my calculations the density of the overall development would be 70 units per hectare. Section 4.4 of Volume 2 of the *Mayo County Development Plan 2022-2028* relates to density. It notes that the appropriate residential density shall be determined with regard inter alia *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)* and the accompanying *Urban Design Manual (2009)*. Since the adoption of the *Mayo County Development Plan 2022-2028*, the government published the *Sustainable and Compact Settlement Guidelines for Planning Authorities January 2024*. Section 3.3.3 relates to Key Towns and Large Towns (5,000+ population). Table 3.5 sets out a density range of 40 -100dph for Town Centres while a density range of 30 to 50dph is outlined for suburban / urban extension.
- 7.6.5 I note that the appellants state that the subject land should be classified as being with the town centre of Westport and point to the unique historic development of Westport whereby the Quays and town centre were developed at the same time. In addition to this the appellants note that Section 2.8.2 of the *Westport Local Area Plan 2024-2030* states that the Quays Area has developed into a recognisable sub-settlement of Westport.
- 7.6.6 I note that the Section 2.8.2 of the *Westport Local Area Plan 2024-2030* also states that Westport Quay is located 1.5km to the west of Westport Town Centre and is significantly removed from the town centre in terms of sequential development. What defines a town centre can be difficult to determine. In my opinion it is reasonable to have regard to the zoning map for Westport, specifically the Town Centre Zoning as a guide to what the Local Authority consider to be the town centre of Westport.
- 7.6.7 The *Westport Local Area Plan 2024-2030* Map shows an area of Westport which is zoned 'Town Centre'. The western edge of the area zoned Town Centre (closest to the subject site) is c.1.15km to the east of the subject land (for the information of the Board in making this calculation I have measured this distance using the internal GIS system). Given that the *Westport Local Area Plan 2024-2030* map identifies an area

which the Local Authority deem to be the town centre which does not include the appeal site and having been on site, including driving around the area I would agree with the planning officer in this case that the subject site is not within Westport town centre. I consider that the site has a separate character to the town centre and is in an area which while closely associated with Westport is ultimately detached from the town centre.

7.6.8 The subject land, in my opinion, therefore, would reasonably fall within the suburban /urban extension category set out in the *Sustainable and Compact Settlement Guidelines for Planning Authorities January 2024* under which a density range of 30-50dph is outlined. The density of the proposed development when calculated with the three cottages to the south lead to an overall site density of 70uph. This figure is considerably above the density range set out in *Sustainable and Compact Settlement Guidelines for Planning Authorities January 2024*.

7.6.9 While I would agree with the appellant that there is some flexibility for densities of up to 80uph 'accessible' suburban / urban extension locations, having considered table 3.8 of the *Sustainable and Compact Settlement Guidelines for Planning Authorities January 2024*, I am satisfied that the subject site would not qualify for the following reason:

- The proposed development is not within 500m of an existing or planned high frequency (i.e., 10-minute peak hour frequency) urban bus service.

7.6.10 I note that the appellant has outlines that DMURS explains how density is calculated and that using DMURS, if Gill's Lane is included the density drops to 48 units per hectare not 78 units per hectare as outlined in the planner's report and the individual net density of the site becomes 44.5 units per hectare. I am satisfied that the subject site does not include Gills Lane (as shown on the drawings accompanying the initial application.) In any case, in calculating the densities in site, I have relied on the worked examples shown in Appendix B of the *Sustainable and Compact Settlement Guidelines for Planning Authorities January 2024*.

7.6.11 Having considered all of the foregoing, the application results in a density of c. 70 units per hectare, which is very high in the surrounding context and would be in excess of the general density range set out in Table 3.5 for sites within the Suburban / Urban extension classification in the *Sustainable and Compact Settlement Guidelines for*

Planning Authorities January 2024 which are guidelines issued under Section 28 of the Planning and Development Act 2000 (as amended). The density is therefore considered to be excessive and contrary to the provisions of the *Sustainable and Compact Settlement Guidelines for Planning Authorities January 2024* which are guidelines issued under Section 28 of the Planning and Development Act 2000 (as amended).

7.6.12 In my opinion, this matter could not be dealt with by way of condition and therefore refusal is recommended.

7.7 Height

7.7.1 The third reason for refusal relates to the height of the proposed development which would be out of character with the area and seriously injurious to the visual amenity of the surrounding area.

7.7.2 The grounds of appeal states that the height of the proposed development would act as an appropriate bookend to the terrace of dwellings and would present as an appropriate urban signal of the pedestrian connectivity to Westport Quay and picks up on the height of the gable of houses on Upper Quay which have heights of 8.2m. In addition to this, the height of the proposed development would provide a reasonable not to the future development of the lands zoned Strategic Residential Reserve-Westport to the south of the site.

7.7.3 While I acknowledge that there is a three-storey building known as 'Harbour House' which address Quay Road and 'The Granary' which are located to the east of the site, these buildings are set back over 30m from the proposed dwelling and as such, in my opinion, the character of the area is set by generally two storey buildings, which is the predominant building type in the area.

7.7.4 The proposed development would have a maximum ridge height of c.10.8m. The cottages to the north of the proposed dwelling which form part of the overall development have maximum ridge heights of c.6.9m. The dwellings within the housing estate to the south-east of the site have heights of c.8m. Having considered the drawings submitted with the application and having undertaken a site visit of the area I have concerns in relation to the height of the proposed development and how this would interact with the surrounding context, especially the dwellings to the north of the proposed development.

- 7.7.5 I have concerns with regard to the relationship between the proposed development and the dwelling immediately to the north (Cottage No.3). The proposed rear elevation of the proposed development would be set back c. 1m from the rear elevation of the dwelling to the north (identified as cottage No.3 of the overall development). I consider the increase in height from c.6.9m to 10.8m in such close proximity to be an abrupt transition in scale which would not sit comfortably in the context of the surrounding built environment, and which also would have an undue impact on the residential amenity of cottage No.3. These amenity impacts include an undue overbearing impact of cottage No.3 where the outlook from the windows to the rear of the cottage and the private open space would be dominated by three storey high block wall.
- 7.7.6 In addition to this, given the orientation of the site, I have concerns that the proposed development would have an undue impact on the residential amenity of cottage No.3 by way of overshadowing of the private open space in the morning into the later afternoons. The private open space to the rear of Cottage No.3 is a relatively small space and is the only functional private open space for the dwelling.
- 7.7.7 I make the Board aware that my concerns in relation to overshadowing and overbearing development are new matters which were not previously considered.
- 7.7.8 As previously stated, the Board may take the view that reducing the height of the proposed development by one floor may mitigate these concerns, it is my opinion that the design changes required to facilitate this would be so great that the development would be not consistent with the development to which the application relates and therefore refusal is recommended.

7.8 Appropriate Assessment

- 7.8.1 I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended. The proposed development is located within the development boundary of Westport. The proposal comprises of the construction of a new dwelling and all associated site works.
- 7.8.2 The subject land is not directly adjacent to a European site. The closest such site to the appeal site is the Clew Bay Complex SAC which is located c. 459m to the west of the site. it is noted that there is no hydrological connection between the site the Clew Bay Complex SAC. In this regard, any effluent or greywater would be required to be discharged to the Uisce Eireann networks.

7.8.3 Having considered the nature, scale, and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:

- The relatively small scale of the proposal.
- The proposed development would be connected to the public sewerage /water networks and as a result there is no hydrological connection between the site and any European site.

7.8.4 I consider that the proposed development would not have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

8 Recommendation

8.1 Having regard to the design of the proposed development, especially the fenestration at first and dormer level of the rear elevation and the potential for undue overlooking, the excessive density of the development and the height of the proposed development, I recommend that planning permission be refused. I reiterate to the Board that the overbearing and overlooking issues identified are new issues in the context of this appeal and the Board may wish to consider issuing a s.137 notice in this regard.

9 Reasons and Considerations

1. The position, size and design of the windows at first floor level of the south-eastern rear elevation and the glass door on the south-eastern rear elevation of the proposal at dormer level, coupled with the proximity to the south-eastern boundary of the land, would result in undue overlooking and loss of privacy of the garden to the rear of No. 1 Cherry Tree Avenue. Such overlooking and loss of privacy would adversely impact the residential amenity of the occupants of this dwelling. The proposed development would, therefore, adversely impact the privacy and residential amenity of the dwelling to the south-east and would be contrary Section 4.5.5 of Volume 2 of *the Mayo County Development Plan 2022-2028* which requires that all new residential developments should avoid

unnecessary loss of privacy to adjoining developments and the zoning objective of the site which seeks '*To protect the amenity and character of existing residential areas* and would be contrary to the proper planning and sustainable development of the area.

2. Notwithstanding the residential zoning designation of the site and the general support for the increase of densities at appropriate locations set out in both the *Mayo County Development Plan 2022-2028* and the *Westport Local Area Plan 2024-2030*, the proposed development, taken in conjunction with existing development to the north of the site would lead to excessive density of development at this location. This density would be in excess of the general density range set out in Table 3.5 for sites within the Suburban / Urban extension classification in the *Sustainable and Compact Settlement Guidelines for Planning Authorities January 2024* which are guidelines issued under Section 28 of the Planning and Development Act 2000 (as amended). The proposed development would, therefore, be contrary to the provisions of the *Sustainable and Compact Settlement Guidelines for Planning Authorities January 2024* which are guidelines issued under Section 28 of the Planning and Development Act 2000 (as amended).
3. The proposed development, by virtue of its height, massing, and its proximity to the northern boundary of the site, would adversely impact the visual and residential amenity of neighbouring dwelling cottage No. 3 by way of overbearing and overshadowing impacts. The proposed development would, therefore, be contrary to the zoning objective of the site which seeks "*To protect the amenity and character of existing residential areas* and would be contrary to the proper planning and sustainable development of the area.

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

Ronan Murphy

Ronan Murphy

Planning Inspector

9 December 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	320003-24		
Proposed Development Summary	Construction of a 2 storey plus dormer townhouse along with all associated site works.		
Development Address	Gill's Laneway, Upper Quay, Westport, Co. Mayo		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (That is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (If relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____