



An
Coimisiún
Pleanála

Inspector's Report

ABP-320658-24

Development	Conversion of existing cap factory building into a 13 bedroom hostel accommodation with staff and ancillary space and all associated site works and service connections.
Location	Bridge Street/James Street Car Park, Westport, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	23/60564
Applicant	Brendan Power
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	1. Matt Molloy 2. Joe and Marian O' Malley 3. Aidan Murphy
Observers	Cllr. Peter Flynn

Date of Site Inspection

20th February 2025

Inspector

Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.043 Ha. and is located to the rear of a number of buildings fronting Bridge Street in Westport, Co. Mayo. James Street Car Park is situated to the rear of the appeal site.
- 1.2 The appeal site accommodates a three storey, 'L' shaped, disused, stone building which was previously used as a factory. The building has a stated floor area of c. 419 sqm and dates from c.1830's/1840's. The roof of the building has been recently replaced. The ground floor of the northern element of the building is in third party ownership.
- 1.3 The red line boundary of the site includes the footprint of the building, a yard area to the rear/east and a pedestrian laneway connecting to Bridge Street. The laneway is located between Matt Molloy's (public house) and The Porter House (public house). Both the yard and laneway are indicated on the OS map as a right of way, and also referred to as such in the particulars submitted with the planning application/appeal.

2.0 Proposed Development

- 2.1. The development description contained in the public notices refers to the proposed development as comprising the conversion of the building into a 13 bedroom hostel. The proposal also includes repair of the external fabric of the building, roof lights, upgrade of rain goods and signage. Services (i.e. foul sewer, storm water sewer and water supply) are proposed within the laneway between Matt Molloy's and The Porter House, and also the yard area to the rear of the building.
- 2.2. The following reports have been submitted with the planning application/appeal;
 - Architect's Planning Report
 - Architectural Heritage Impact Assessment

3.0 Planning Authority Decision

3.1. Request for Further Information

Prior to the decision of the Planning Authority to grant permission for the proposed development, the Planning Authority requested Further Information.

3.1.1. Further Information was requested on the 21st February 2024 as follows:

Item 1 – submit land registry maps for the site and relevant consents where necessary.

Item 2 – submit Architectural Heritage Impact Assessment.

Item 3 - submit noise risk assessment.

Item 4 – submit compliance with relevant tourism standards.

Item 5 – confirm whether building will have to be altered to address compliance with disability access, fire safety requirements etc.

Item 6 – submit evidence that Mayo County Council will purchase/take over and develop the parking space where the proposed steps from the James Street Car Park are indicated.

Item 7 – submit details of mechanical plant.

Item 8 - submit details of signage.

Item 9 – confirm that the proposal provides access for fire services and refuse collection.

The Further Information request also included advisories that the design of the proposal was not deemed sympathetic to the existing building or to the ACA; that landownership issues had been raised in an observation, and that the proposal encroached on a car parking space within James Steet Car Park, which should be addressed; and that a number of observations raised concerns regarding the impact of the proposal on adjoining property.

3.1.2. Further information¹ submitted on 31st May 2024 and on the 7th June 2024:

The information submitted on the 31st of May 2024 comprises a letter from the applicant's solicitors stating that the applicant is the registered owner of Folios 76586F and 79250F County Mayo; that he enjoys a right of way along the laneway from Bridge Street and over the yard adjoining the properties, and the benefit of the use of the yard; that the right of way over the laneway and yard and the right to the use the yard are set out in a Deed of Conveyance dated the 23rd of June 1949, a Deed of Conveyance dated the 22nd of February 1962, and a Deed of Conveyance dated the 3rd of October 2017.

Item 1 – Folios submitted. Applicant confirms that he is registered owner of the site since March 2024, that a right of way exists allowing use of the laneway and common yard.

Item 2 – Architectural Heritage Impact Assessment submitted, providing details of the building, and extent of works to same.

Item 3 – internal layout reconfigured, relocating bedroom accommodation from interface with public houses.

Item 4 – applicant confirms that it is not intended to affiliate with Failte Ireland. Common spaces, kitchen, and storage provision has now been provided however.

Item 5 – revised floor plans indicate compliance with relevant Building Regulations.

Item 6 – proposal has been revised and it is now no longer necessary to acquire the car parking space in the James Street Car Park.

Item 7 – no mechanical plant is proposed.

Item 8 – elevations of signage submitted.

Item 9 – applicant confirms that the refuse room will be fire safe, and that emergency access will be via the Bridge Street laneway. Bins will use the laneway to be collected on Bridge Street.

¹ The further information submitted was deemed significant and revised public notices were submitted in accordance with Art. 35 of the Planning and Development Regulations, 2001, as amended.

3.2. Decision

The Planning Authority issued a Notification of Decision to GRANT permission on the 29th of July 2024 subject to 8 no. standard conditions.

3.3. Planning Authority Reports

3.3.1. Planning Report

The initial report of the Planning Officer generally reflects the issues raised in the request for Further Information.

The second report of the Planning Officer notes the acceptability of the applicant's response to the Further Information request.

The report recommends that permission is GRANTED consistent with the Notification of Decision which issued.

3.3.2. Other Technical Reports

Conservation Architect – report recommends that an Architectural Heritage Impact Assessment is requested.

Municipal Districts Architect - report notes that the proposed elevational treatment and signage is deemed unacceptable, and recommends further information in respect of bin storage; compliance with tourism standards; disability access; revised façade design; details of signage and openings; details of any proposed mechanical plant and details of agreement to purchase the car parking space where steps are proposed.

Area Engineer – report notes historic nature of building.

3.4. Prescribed Bodies

None received.

3.5. Third Party Observations

The report of the Planning Officer refers to 4 no. observations having been received in relation to the planning application (1 no. observation was received in respect of the

Significant Further Information). The report of the Planning Officer summarises the issues raised in the observations as follows;

- Impact from construction traffic.
- Ownership of laneway/concerns re. use of same as the laneway is only opened for operational hours of adjacent pubs.
- Potential noise complaints from hostel.
- Query re. legal interest of applicant to make planning application.
- Concerns re. accommodation standards provided within hostel.
- Absence of Architectural Heritage Impact Assessment/potential impact on ACA.
- Impact of proposal on amenity of adjacent property.

4.0. Planning History

Appeal Site:

PA. Ref. 21/62 / ABP 311720-21 – Permission REFUSED to convert dilapidated cap factory building into an apartment development comprising of 4 apartments with connection to public services together with all ancillary site works.

Refusal reasons refer to non-compliance with Apartment Guidelines (2020) due to lack of amenity space and that the applicant has failed to provide sufficient evidence of consent and sufficient legal interest for the inclusion of lands forming part of the development essential to enable the development.

PA. Ref. 04/35 – Permission GRANTED for demolition of hat factory and construction of 8 no. apartments and 3 no. commercial units.

5.0. Policy Context

5.1. Development Plan

5.1.1. The Mayo County Development Plan 2022-2028 is the relevant development plan. The appeal site is not zoned in the 'Mayo County Development Plan 2022-2028. The

land use zoning for Westport is contained in the Westport Local Area Plan 2024 - 2030. The appeal site is zoned 'Town Centre Inner' in the LAP, under which Hostel Accommodation is 'permitted in principle'.

5.1.2. There are a number of Protected Structures in the vicinity of the appeal site, including Matt Molloy's to the east (RPS Ref. 39 refers).

5.1.3. The appeal site is located within Westport Town Architectural Conservation Area (ACA).

5.1.4. Relevant provisions of the Mayo County Development Plan 2022-2028 include;

- Section 13.5 (Architectural Assessment)

5.1.5. Relevant provisions of the Westport Local Area Plan 2024 – 2030 include;

- Objective BEP1 - Maintain, conserve and protect the architectural quality, character and scale of Westport.
- Objective BEO1 - To ensure the preservation of the special character of the ACA.

5.2. Natural Heritage Designations

The appeal site is not located within or close to any European Site, NHA, or pNHA.

5.3. EIA Screening

The proposed development is not a class for the purpose of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations, 2001, as amended (or Part V of the 1994 Road Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination for EIA. Refer to Form 1/Appendix 1 of report.

6.0. The Appeal

6.1. Grounds of Appeal

3 no. third-party appeals have been submitted in respect of the decision to grant permission. The grounds contained in each appeal can be summarised as follows;

Matt Molloy (Matt Molloy's Public House)

- The applicant does not have the necessary consent of all landowners (in respect of red line boundary). The appellant owns the laneway and has not consented to its inclusion as part of the planning application. The planning application is therefore invalid. Issues regarding rights of way should not be conflated with ownership. This issue formed part of a request for Further Information. Contrary to the assertion of the Planning Authority that the issues had been adequately addressed they were not.
- The right-of-way which previously existed over the laneway has been extinguished/abandoned. The right-of-way existed in respect of access only, and did not provide for the carrying out of works, use, or utilities or services. Elements of the proposal in/on this laneway include signage; foul, storm and main water pipes; telecoms (assumed); change of use of the laneway, from its existing dormant nature to facilitate intensive hospitality, and change of use during the construction phase of the proposal.
- The proposal encroaches into private land.
- The proposal is unimplementable, specifically its construction noting the disputed right-of-way over the yard (by a different land-owner). There is ambiguity in relation to construction methodology.
- The Board have previously adjudicated on, and refused permission (under PA. Ref. 21/62 / ABP-311720-21), in relation to the issues arising in this appeal, i.e. the reliance of the proposal on the yard area and the laneway, in which the applicant has not demonstrated a sufficient legal interest in. As there is no change in circumstances the Board are obliged to be consistent and refuse permission for the current proposal.
- The change of use of the laneway, in terms of its use, is a material planning consideration, with negative implications for the appellant and other landowners. Access from James Street Car Park is preferable. Presenting an active elevation towards the car park is also preferable.
- The provision of signage onto Bridge Street will alter the character of the area.

- The application of external insulation will result in works outside the footprint of the building, resulting in encroachment into adjoining third party lands.

Joe and Marian O'Malley (The Porter House)

- The applicant does not have a sufficient legal interest in the property.
- An easement/wayleave would be required in order to facilitate the provision of services in the laneway. No such wayleave exists. Correspondence included from appellants' solicitor stating that no wayleave exists on the laneway which would facilitate service connections onto Bridge Street.
- The applicant does not have permission to remove the gateway on the laneway.
- The proposal does not meet the requirements of Failte Ireland in terms of the provision of tourist accommodation, specifically internal standards for common areas, bedrooms etc.
- Concerns regarding compliance with fire safety requirements.
- The proposal may be used for purposes other than described in the public notices.

Aidan Murphy (Murphy's Total Health Pharmacy²)

- Condition No. 2 of the decision of the Planning Authority to grant permission for the proposed development requires external details of elevations to be as submitted to the Planning Authority, unless otherwise agreed with the Planning Authority, and thereby affects the appellant's property, and enjoyment of same³.
- The entrance door to the appellant's premises is located on the southern elevation of the proposed development, however a southern elevation was not submitted with the planning application. *Drawing No. P-700-2 Section B* submitted with the planning application indicates the appellant's property and this drawing a window is indicated whereas in fact this opening is a door which

² The ground floor of Murphy's Pharmacy support the two upper floors of the appeal property.

³ The appellant was granted leave to appeal the decision of the Planning Authority (PA. Ref. 23/60564) under ABP-320647-24.

is used to access a right-of-way over lands owned by Joe and Marian O' Malley and Matt Molloy.

- Regarding the proposal to apply cladding to the exterior of the appeal property, the applicant's response to the Further Information request did not include a southern elevation or a section drawing and it is unclear how the upper floors of the southern elevation (i.e. above the appellant's ground floor) is to be treated. Additionally, should the applicant decide to change the proposal in this regard the appellant will not be notified as details will be agreed with the Planning Authority. The appellant requests that the Board specify the external treatment to this elevation to ensure that the appellant's property is weather proofed.
- The proposal does not meet the requirements of Failte Ireland in terms of the provision of tourist accommodation.
- The applicant has not provided details in relation to how the construction of the proposal will be carried out, in the context of protecting the pharmacy below. Reference is made by the appellant in this regard to the vulnerability of products stored in the pharmacy and to security.
- The use of the laneway would create security issues for the pharmacy. If the proposal is granted access should be via James Street Car Park.

6.2. Applicant Response

The applicant has submitted a response to the third-party appeal submissions. The applicant's submission notes;

- The use of the yard by The Porter House is unauthorised and is the subject of enforcement.
- It is not a requirement to either own the property or have permission from the owner in order to lodge a planning application. The legal requirement is to have a sufficient legal interest (case law referenced in this regard). The applicant is the owner of the building and has an entitlement to use yard and the laneway access to the yard. No development is proposed in the yard or laneway. If required other options are available to route piped utilities and there is evidence

of overhanging electricity cables to the building over the laneway from Bridge Street, and water supply to the building.

- The predominance of openings indicates the orientation of the building towards the yard and laneway.
- Access from James Street Car Park is not an option as the applicant does not have a sufficient interest in that land.
- Details of the applicant's property rights in the yard and laneway were submitted to the Planning Authority in response to the Further Information request, including Deeds. This was accepted by the Planning Authority. The previous reason for refusal cited under PA. Ref. 21/61 / ABP – 311720-21) no longer apply. Up-to-date details of the applicant's ownership of the property and rights attached to same have now been submitted (see letter dated 30th May 2024 from Scott Solicitors).
- The proposal would cause a degree of nuisance to adjacent property but given the location of the site within the town centre would not warrant a refusal of permission.
- Access during construction can be accommodated from the car park.
- The gates which have been erected on the laneway are unauthorised.
- External cladding is no longer proposed and the concerns raised by Aidan Murphy in this regard are no longer relevant.
- The proposal is not comparable to the previous apartment development in the context of the requirement to meet minimum standards.
- The redesign of the proposal, in particular the relocation of internal bedroom accommodation at Further Information stage, has addressed the potential impact which the adjacent public houses would pose to the occupants of the hostel. The proposal will not be subject to Failte Ireland standards.
- Adequate access in terms of fire has been addressed, with access via the laneway to Bridge Street.
- The proposal is not intended to provide emergency accommodation.

- The proposal complies with the Westport LAP, and with Objectives TCP1, TCP2, TCP3, EDP7, BEP1 and BEP4.

The applicant has submitted a subsequent response to the third-party appeal submission from Aidan Murphy. The applicant's submission notes;

- The revised/permited proposal no longer entails cream cladding, but rather - the removal of existing cement render and reporting of existing stone; existing stone on exterior facades to be repointed; and existing stone on exterior facades to be lime pointed. The proposal in this regard will have a beneficial impact on the pharmacy building from the perspective of weather proofing and aesthetics.

6.3. Planning Authority Response

None received.

6.4. Observations

An observation was received from Cllr. Peter Flynn. Issues raised in the observation are summarised as follows;

- The proposal would create substandard tourist accommodation.
- The proposal does not comply with a number of objectives contained in the Westport LAP 2024 - 2030 in relation to the use of the upper floors of commercial buildings; infill development and regeneration, as the proposal does not provide any residential development.
- The description of the proposal as the conversion of a cap factory is not accurate as this use was abandoned 50 years ago. The application should not have been accepted as valid for this reason.
- Development levies should apply if permission is granted.
- The applicant's response to the Further Information request in relation to fire safety and the right-of-way was not adequate.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeals, the observation, the applicant's submission in respect of the third party appeals, and having inspected the site, I consider that the main issues for consideration are;

- Ability to carry out proposed works
- Issues arising
- Screening for Appropriate Assessment

7.2. Ability to carry out proposed development

7.2.1. Ability to carry out proposed development - the crux of the appeal(s) is that the existence of a right-of-way is not sufficient to facilitate the proposed development, specifically the provision of piped services along the laneway. The applicant contends that there is no requirement for a letter of consent in respect of the proposed development. I note that the applicant refers to an alternative to the proposed routing of piped services within the laneway however no details of this have been submitted. Regarding the contention by one of the appellants that the right-of-way has been abandoned, I note that consideration of this issue is outside the scope of the appeal, being an issue for the courts to determine. The documentation submitted by the applicant refers to a right 'to pass or repass along the laneway' and also 'the use of the said yard⁴'. The applicant contends that the right-of-way over the yard would permit him to undertake works to the building. Based on the documentation submitted I note that the existence of the right-of-way entitles parties (including the applicant) to use a particular area (i.e. the yard), and confers a right allowing passage along the laneway, but it does not in itself infer rights to carry out works (for example the laying of piped services in the ground). Based on the information submitted by the applicant I am not satisfied that the applicant has demonstrated an ability to carry out the proposed development, specifically the provision of piped services within the laneway and yard. Consequently, consent from the landowner(s) to carry out works would be required, and evidence of same has not been provided. I consider the provision of

⁴ See Deed of Conveyance dated 13th June 1949 submitted with the planning application/appeal.

these services to be a fundamental part of the proposed development, with the wider proposal being contingent of water supply, and connection to the storm and foul sewer network. In the absence of this information, or any viable alternative, I consider that the proposed development should be refused as the applicant has failed to provide evidence of consent, or demonstrated sufficient legal interest for the inclusion of the lands forming part of the proposed development.

7.3. Issues Arising

7.3.1. Legal Interest - the appellants have raised the issue of the applicant's standing in the context of the making of the planning application, specifically that the planning application should not have been validated noting the requirement to submit a letter of consent with the planning application in relation to the inclusion of lands within the red line boundary of the site which are not in the legal ownership of the applicant. The applicant does not own the land comprising the laneway or the yard to the east of the appeal property. I note that this is not disputed by the applicant. The yard to the east of the appeal property/cap factory and the laneway between Matt Molloy's (public house) and The Porter House (public house) are indicated as a right-of-way in the particulars submitted with the planning application and on the submitted OS map. I note that the planning application was deemed to be in accordance with the applicable provisions of the Planning and Development Regulations, 2001, as amended and that the Planning Authority accepted the planning application as valid. I note that the Commission has no role in the validation of the planning application.

7.3.2. Development Contribution – the observation to the appeal contends that development contributions apply in the event of a grant of permission. I note that the grant of permission issued by the Planning Authority did not include a planning condition requiring the payment of a development contribution on the basis of the existing and proposed use being commercial in nature, with reference to Section 10.3 of the Mayo County Council Development Contribution Scheme 2023. The Planning Authority also considered that there was no requirement for car parking in the context of the existing and proposed use. Having reviewed the Mayo County Council Development Contribution Scheme 2023 I concur with the approach of the Planning Authority on this matter. In the event that the Commission grant permission for the proposed development I do not recommend that a condition requiring the payment of a development contribution should be attached.

- 7.3.3. Impact on adjacent property – concerns are raised by the appellants in relation to the potential impact of the proposed development on adjacent property, in particular that the use of the laneway to serve as access for the proposed hostel would impact adjacent property, and that the access to the area to the rear of the properties would create security issues for the pharmacy. Having regard to the town centre location of the appeal site, the nature and extent of the proposal, and the nature of the uses in the vicinity, which includes public houses, I am satisfied that the proposed development would not result in significant adverse impacts on adjoining property. I similarly do not consider that the proposal would result in security issues for the pharmacy such as to warrant a refusal of permission.
- 7.3.4. Application of external cladding – concerns are raised in relation to the proposal to use cladding for the exterior of the appeal property, specifically in the context of weather proofing. Following a request for Further Information I note that the proposal no longer includes the use of cladding.
- 7.3.5. Tourist accommodation requirements – concerns are raised in respect of the proposed development not complying with specific requirements for tourist accommodation. The applicant note that compliance with such standards is not a requirement given the model of accommodation proposed. I note that the proposed development does not provide residential accommodation and as such I do not consider compliance with tourist standards to be a matter which is within the remit of the planning system. The issues raised in this regard are outside the remit of the appeal in my opinion.
- 7.3.6. Construction Methodology – concerns are raised regarding how the proposed development is to be constructed. Given the nature of the appeal property/site and implications for other users of the yard I consider such matters to be pertinent. In the event of a grant of permission I recommend that a construction methodology be submitted to the Planning Authority for its written agreement.
- 7.3.7. Compliance with other codes – concerns are raised in respect of compliance with fire safety requirements. I note that this issue would come under Building Regulations. The issue was raised in the request for Further Information and the applicant's response was deemed acceptable to the Planning Authority. Additionally, I note that paragraph 7.8 of the Development Management, Guidelines for Planning Authorities, June 2007 states that it is inappropriate in development management to deal with

matters which are the subject of other controls unless there are particular circumstances e.g. the matters are relevant to proper planning and sustainable development and there is good reason to believe that they cannot be dealt with effectively by other means. On this basis I do not consider that this issue requires further consideration by the Commission.

7.3.8. Compliance with Westport LAP objectives – the observer to the appeal raises concerns in relation to compliance with a number of specific objectives set out in the Westport LAP 2024 - 2030. The objectives referred to relate to the use of the upper floors of commercial buildings; infill development and regeneration. The observer raises concerns that as the proposal does not provide any residential development. I note that hostel accommodation is permissible under the applicable land use zoning contained in the Westport LAP for the appeal site and I am satisfied that the proposed development accords with the LAP in respect of the use proposed.

7.4. Screening for Appropriate Assessment

7.4.1. I have considered the proposed development at Bridge Street/James Street Car Park, Westport, Co. Mayo in light of the requirements S177U of the Planning and Development Act, 2000, as amended. The closest European Site is Clew Bay Complex SAC (Site Code: 001482), c. 1.5 km west of the appeal site. The proposed development comprises the conversion of a factory building into a 13 bedroom hostel accommodation and all associated site works and service connections.

7.4.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is based on the following;

- The distance from nearest European Site(s) and absence of connectivity between the development site and European Sites.
- The nature and scale of the proposed development, and location of the proposed development within an existing developed/urban site.

7.4.3. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in

combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act, 2000) is not required.

8.0. Recommendation

- 8.1. I recommend that planning permission for the proposed development should be refused for the reason set out below.

9.0 Reasons and Considerations

1. Having regard to the information submitted with the planning application and the appeal, and to the submissions made in respect of the planning application and the appeal, it is considered that the applicant has failed to provide evidence of consent, or demonstrated sufficient legal interest for the inclusion of the lands forming part of the proposed development, which are integral to enable the development to be implemented. It would therefore, be inappropriate for the Commission to consider a grant of permission for the proposed development in such circumstances.

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.

Ian Campbell
Senior Planning Inspector

15th October 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála	ACP-320658-24		
Case Reference			
Proposed Development Summary	Conversion of existing cap factory building into a 13 bedroom hostel accommodation with staff and ancillary space and all associated site works and service connections.		
Development Address	Bridge Street/James Street Car Park, 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	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	X		No further action required. No Screening Required.
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No		Proposed development is not of a Class.	No Screening Required.
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
No		Proposed development is not of a Class.	No Screening Required.

5. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: Ian Campbell

Date: 15th October 2025