



An
Bord
Pleanála

S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report ABP-306443-20

Strategic Housing Development	Demolition of existing outbuildings, construction of 121 no. residential units (58 no. houses, 63 no. apartments), creche and associated site works.
Location	Trusky East, Trusky West, Freeport and Ahaglugger, Bearna, Co. Galway.
Planning Authority	Galway County Council
Prospective Applicant	Burkeway Homes Limited.
Date of Consultation Meeting	6 th March 2020.
Date of Site Inspection	4 th March 2020.
Inspector	Karen Kenny

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1.0 Introduction

Having regard to the consultation that has taken place in relation to the proposed development and also having regard to the submissions from the planning authority, the purpose of this report is to form a recommended opinion as to whether the documentation submitted with the consultation request under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016 - (i) constitutes a reasonable basis for an application under section 4, or (ii) requires further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

2.0 Site Location and Description

- 2.1. The site is in the townland of Trusky East, Bearna, Co. Galway. Bearna Village is approximately 6km to the west of Galway City. The site, with a stated area of 6.19 hectares, is located c. 250 m north of Bearna Main Street. It has no direct frontage onto a public road but adjoins a roadway in the existing Cnoc Fraoigh (Heather Hill) housing estate to the west, which has access onto the L1321. The L1321 runs in a north-south axis connecting with Bearna's Main Street to the south.
- 2.2. The site is currently under grass and is undulating, sloping by c.10 metres from north to south. The Trusky Stream flows through the eastern section of the site, running from north to south. The site contains a substantial amount of rock outcropping and heather / gorse bushes. There is also evidence of significant earthworks directly adjacent to the end of the access road serving Cnoc Fraoigh. A treatment plant which serves the existing Cnoc Fraoigh estate to the west is located in the southern portion of the site. The land to the north of Cnoc Fraoigh is substantially higher than the rear gardens of the existing properties. On the adjoining site to the southeast there is a residential development at a higher level than the subject site. There are one off houses to the west of the site with frontage onto the L1321.
- 2.3. Bearna is located within the Gaeltacht.

3.0 Proposed Strategic Housing Development

3.1. Permission is sought for 121 no. residential units (58 no. houses and 63 no. apartments) and a creche.

3.2. The unit mix is as follows:

Beds	House	Apt	Total	%
1	0	10	10	8
2	0	39	39	32
3	16	14	30	25
4	42	0	42	35
Total	58	63	121	100%

3.3. Pedestrian and vehicular access is proposed from the L1321 via Cnoc Fraoigh.

3.4. It is proposed to connection to the public watermain and foul sewer on the L1321 via Cnoc Fraoigh. Surface water would discharge to the Trusky Stream.

3.5. A proportion of the residential units are to be reserved for Irish speaking members of the community.

4.0 Planning History

4.1.1. Board Decision ABP-302216-18

Permission sought for the demolition of existing outbuildings and the construction of 197 no. new dwellings, a multi- purpose community room, 3 no. vehicular and 4 no. pedestrian link bridges, parking, bicycle and bin storage areas, landscaping, decommissioning of an existing wastewater treatment plant, ancillary surface water and foul drainage services and connections, pedestrian and vehicular access from the L-1321 via the Cnoc Fraoigh development as well as all associated site development works and services.

The Board granted permission. The decision was the subject of Judicial Review proceedings. The High Court granted an order of certiorari setting aside the decision

of the Board to grant permission on 21st June 2019. The judgement is the subject to an appeal.

4.1.2. **Board Decision ABP-300009-17**

Permission sought for the demolition of outbuildings and the construction of 113 no. houses at the development site comprising 8 no. 2 bed houses, 33 no. 3 bed houses and 72 no. 4 bed houses; 2 no. vehicular and 6 no. pedestrian link bridges; visitor parking areas; public realm landscaping including shared public open space and public lighting; decommissioning of existing WWTP and provision of all associated surface water and foul drainage services and connections; pedestrian and vehicular access from the L1321 via Cnoc Fraoigh and all associated site development works and services.

The Board refused permission for the following reason:

“The Board considers that the density of the proposed development is contrary to the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), issued to planning authorities under section 28 of the Planning and Development Act. The site of the proposed development is on serviceable lands, within the development boundary of Bearna, in an area earmarked for Phase 1 residential development and within the Galway Metropolitan Area as designated in the settlement strategy for the county. Having regard to the proposed density of development, it is considered that the proposed development would not be developed at a sufficiently high density to provide for an acceptable efficiency in serviceable land usage given the proximity of the site to the built-up area of Bearna and Galway City and to the established social and community services in the immediate vicinity. In addition, the proposed development does not have an adequate mix of dwelling types, being predominantly semi-detached and detached housing. It is considered that the low density proposed would be contrary to the aforementioned Ministerial Guidelines, which indicate that net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area”.

The Board Direction also included the following note: Any future planning application on the site should include details of proposed improvement works to the L1321

Moycullen roadway, to allow for improved connectivity with the centre of Bearna, including proposals for the delivery of the works.

5.0 National and Local Planning Policy

5.1.1. The following is a list of relevant section 28 Ministerial Guidelines:

- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ including the associated Urban Design Manual.
- ‘Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities’ as updated March 2018.
- ‘Design Manual for Urban Roads and Streets’ (DMURS)
- ‘The Planning System and Flood Risk Management’ including the associated ‘Technical Appendices’
- ‘Childcare Facilities – Guidelines for Planning Authorities’
- ‘Urban Development and Building Heights Guidelines for Planning Authorities’ (Consultation draft, August 2018)
- ‘Framework and Principles for the Protection of Archaeological Heritage’ (Dept. of Arts, Heritage, Gaeltacht and the Islands, 1999)

5.2. Galway County Development Plan 2015-2021

5.2.1. The overall development plan approach is based on promoting the development of Galway City and the associated Galway Metropolitan Area (GMA) along with the development of key towns and smaller villages along strategic development corridors focussed on transportation routes. Bearna is identified as within the GMA. Objective SS 1 – Galway Metropolitan Area applies:

“Galway County Council shall support the important role of Galway City and the Galway Metropolitan Area (which includes the City area and the Electoral Divisions of Oranmore, Bearna, Galway Rural and Ballintemple which are inextricably linked to and function as part of a greater Galway City), as key drivers of social and economic growth in the County and in the wider Western Region and will support the sustainable growth of the strategic settlements, including the future development of Ardaun and Garraun, within the Galway Metropolitan Area.”

The development plan core strategy allocates a population of 420 to Bearna with 130 no. housing units with a zoned land allocation of 12.2 ha.

- 5.2.2. Housing policy objective UH0 10 – Sequential Development includes a positive presumption in favour of the sequential development of suitably serviced Residential (Phase 1) lands in zoned towns and villages. Development on Residential (Phase 2) lands will normally only be considered where 50% of the lands in Residential Phase 1 are committed to development. Objective UHO 11 – Development Densities states:
- “Galway County Council shall ensure that the density of new development is appropriate to the particular land use zone and/or site context, is in keeping with the existing development pattern of the area, does not unduly impact on the amenities of the area and results in a positive relationship between existing development and any adjoining public spaces. The development of higher density development shall be promoted in appropriate locations, such as suitable sites within the town/village centre and adjacent to public transport facilities, where such development is compatible with heritage and urban design objectives, infrastructure capacity and environmental considerations. New development shall also have regard to the ‘Sustainable Residential Development in Urban Areas’ Guidelines (or any updated/superseding document).”*

5.3. Bearna Plan

- 5.3.1. A new Bearna Plan was adopted as Variation 2(a) of the current Galway County Development Plan 2015-2021 on 23rd July 2018, to replace the Bearna Local Area Plan 2007-2017.
- 5.3.2. The development site is zoned ‘Residential (Phase 1)’ and ‘Open Space / Recreation & Amenity’ in the Bearna Plan. There are also flood zones at the development site associated with the Trusky Stream, which are subject to ‘Objective CCF6 – Inappropriate Development on Flood Zones’.

Objective LU2 – Residential (R):

“Promote the development of appropriate and serviced lands to provide for high quality, well laid out and well landscaped sustainable residential communities with an appropriate mix of housing types and densities, together with complementary land uses such as community facilities, local services and public transport facilities, to serve the residential population of the area. Protect existing residential amenities

and facilitate compatible and appropriately designed new infill development, in accordance with the proper planning and sustainable development of the area.”

Objective LU4 seeks to:

“Promote the development of open spaces and recreational activities in accordance with best practice and on suitable lands with adequate access to the local community and retain existing open space and recreational facilities, unless it can be demonstrated to the satisfaction of Galway County Council that these uses are no longer required by the community. Ensure that any flood risk areas within the OS zone are appropriately managed to avoid, reduce and/or mitigate, as appropriate, the risk and potential impact of flooding.”

5.3.3. Objective RD1 - Residential Development Phasing supports the development of lands designated as Residential (Phase 1) within the lifetime of the plan, subject to normal planning, access and servicing requirements, with Residential (Phase 2) zoned lands reserved for the longer term growth needs of the village. The following residential development objectives are also relevant: RD2, RD3. Development management guideline DM1 specifies a plot ratio of 0.1 - 0.5, maximum site coverage of 50% and minimum public open space provision of 15% for residentially zoned lands. The following guidance is provided on residential density:

Residential Density	Units / ha	Possible Appropriate Locations
Medium to high	35-50	Village centre or immediately adjacent to public transport hubs.
Low to medium	15-35	Neighbourhood centres (typically within 400m walking distance of centre point), inner urban suburbs.
Low	5-15	Urban periphery, outlying lands, areas with capacity / environmental constraints.

5.3.8. Objective BNH4 - Local Streams applies:

“Protect the riparian zones of watercourse systems throughout the plan area, recognising the benefits they provide in relation to flood risk management and in relation to the ecological integrity of watercourse systems. This will include a general 10 metre protection buffer from rivers within the plan area as measured from the near river bank (this distance may be increased and decreased on a site by site basis, as appropriate).”

5.3.9. Objective CCF6- Inappropriate Development on Flood Zones:

“Where a development/land use is proposed within any area subject to this objective the development proposal will need to be accompanied by a detailed hydrological assessment and robust SUDS design which demonstrates the capacity to withstand potential flood events to maintain water quality and avoid potential effects to ecological features.”

Other factors to be considered where Objective CCF6 applies include:

- Development proposals to comply with The Planning System and Flood Risk Management Guidelines for Planning Authorities / Circular PL2/2014 and the associated Development Management Justification Test.
- Climate Change should be duly considered.
- Protect the riparian zones of watercourse systems through a general 10 m protection buffer from rivers as measured from the near river bank, (this distance may be increased and decreased on a site by site basis, as appropriate).
- Any development proposals submitted for this site will require a detailed ecological report(s), carried out by suitably qualified personnel for the purposes of informing AA Screening by Galway County Council, the competent authority.

5.4. Gaeltacht Local Area Plan 2008-2018

- 5.4.1. Bearnna is within District F, Imeach Na Cathrach / An Eachreidh. A Language Inurement Clause is applicable to 20% of the units in residential developments of 2 or more units which is of 15 years' duration. County Development Plan objectives UHO 12 & UHO 13 also apply.

6.0 Forming of the Opinion

Pursuant to section 6(7) of the Act of 2016, regard is had in the forming of the opinion to the documentation submitted by the prospective applicant; the planning authority submission and the discussions which took place during the tripartite consultation meeting. I shall provide a brief detail on each of these elements hereunder.

6.1. Documentation Submitted

The prospective applicant has submitted information pursuant to section 5(5)(a) of the Planning & Development (Housing) and Residential Tenancies Act 2016 and Article 285 of the Planning and Development (Strategic Housing Development) Regulations 2017. This information included, inter alia, a Cover Letter, Completed Application Form, Planning Report and Statement of Consistency, Natura Impact Statement, Appropriate Assessment Screening Report, Ecological Impact Assessment, Architectural Design Statement, Building Life Cycle Report, Residential Quality Audit, Summary Schedule, Landscape Report, Overshadowing Analysis Report, Daylight Report, Photomontages / Methodology Report, 5 no. CGI Images, Site Specific Flood Risk Assessment, Engineering Services Report, Architectural Drawings, Landscape Drawings and Engineering Drawings.

6.2. Statement of Consistency

Section 5(5)(b) of the Act of 2016 requires the submission of a statement that, in the prospective applicant's opinion, the proposal is consistent with both the relevant objectives of the development plan or local area plan concerned, and the relevant guidelines issued by the Minister under section 28 of the Act of 2000. These statements have been submitted, as required. The key points set out are summarised as follows:

- Development compliant with NPF and DMURS.
- Galway County Development Plan: Bearna is part of the Galway Metropolitan Area and is on the first tier of the settlement hierarchy. The Core Strategy allocation for the Metropolitan Area is 1,590 people. Variation No. 2 (a) incorporated the Bearna Plan into the GCDP. The subject site is zoned Residential (Phase 1).
- The Draft RSES includes a MASP for the Galway Metropolitan Area (inc. Bearna). Target is to grow the population of the MASP by 25,000 persons to 2026 and 38,300 persons to 2031 and to deliver at least half of all new homes within the existing built-up footprint. Strategic sites are listed in the following order: (i) consolidation of Knocknacarra, Ragoon, Castlegar and Roscam; (ii) regeneration lands at Ceannt Station Quarter, Inner Harbour and Headford

Road; (iii) Ardaun; Marrough; Baile Chlair, Bearna, Oranmore, Briarhill. The scheme will contribute towards growing the population of the Galway MASP.

- The site is within the Gaeltacht Area. Requirement under the CDP and the Gaeltacht Plan to reserve 20% of the permitted dwellings for native Irish speakers will be adhered to.
- Under the Urban Development and Building Height Guidelines it is government policy that building heights must be generally increased in appropriate locations and that there is a presumption in favour of buildings of increased height in town / city cores and other urban locations with good public transport accessibility.
- The Sustainable Urban Housing: Design Standards for New Apartments Guidelines identify the types of location in cities and towns that may be suitable for apartment development. The guidelines state that 'peripheral and / or less accessible urban locations', are generally suitable for low – medium densities of <45 dwellings per hectare net. The proposed development equates to a density of 35 dwellings per hectare.
- Residential Quality Audit and Design Statement demonstrate that the proposed scheme complies with the standards in the Apartment Guidelines.
- Architectural Design Statement sets out the design rationale and the key criteria considered in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas.
- The scheme includes a childcare facility in accordance with the Childcare Facilities Guidelines 2001.

6.3. Planning Authority Submission

A submission was received by An Bord Pleanála on 17th February 2020 from Galway County Council. The 'opinion' of the planning authority included, inter alia, the following:

- Site zoned residential (Phase 1), save for public roads and lands zoned open space / recreation and amenity. No development proposed on open space / recreation and amenity lands.

- CDP Core Strategy allocates a population of 420 persons to Bearnna, with expected housing yield of 130 no. dwellings (approx.). The proposed development is below the core strategy allocation of 130 no. units and may not trigger the requirement for a material contravention. There are 3 no. extant permissions for residential development in Bearnna (16/147 (15 units); 17/1314 (48 units); and 19/314 (20 units). Question as to whether other extant permissions should be factored in.
- In relation to density, the site is an edge of settlement greenfield site on the periphery of Bearnna Village. Bearnna has a population of 2,000 persons falling into the 'Small Town' category under the Sustainable Residential Development in Urban Area Guidelines. This is complicated by Bearnna being in the Galway Metropolitan Area. ABP has previously indicated that the site should be classified as an 'Outer Suburban / Greenfield' site associated with a city / large town and that the corresponding density of 35-50 units per ha is applied. The PA take the view that the site is an 'edge of centre' site within a small town and target the upper density ranges for this category (ideally over 30 units per hectare). Overall it is considered that the proposed development with a net density of 35 units per ha is within the appropriate density parameters.
- The following items warrant further consideration:
 - The layout is sub optimum, having regard to Objectives UD1 and RD3 of the Bearnna Plan, in terms of amenity and placemaking with below optimum public open space in the western section of the development. Strong placemaking justification to omit units 43 to 49 inclusive in favour of a central urban space in the form of an enclosed public square or green.
 - 4 storey apartment blocks will be difficult to assimilate by reason of their considerable height and massing, character of prevailing / contextual development and the exposed nature of the site. Given the prominent siting and dominance of this typology within the south east of the scheme (and to a lesser extent the 3-storey duplex blocks towards the northern end of the site) the PA is of the view that this aspect of the proposal

required reconsideration and that there may be a possible contravention of Objective UD2 of the Bearna Plan.

- Deep plan nature and hipped roofscape design of other units differs from prevailing street typologies in Bearna.
- Recommended that a Site-Specific Flood Risk Assessment accompany any SHD application.
- Below threshold for TTA. Recommend that TTA is carried out in view of proximity to proposed Galway City Ring Road and in view of the situation where the prospective development would functionally form part of the Cnoc Fraoigh housing estate.
- Details sought in relation to proposed footpath on the L1321 Moycullen Road.
- Further detail in relation to childcare provision (analysis of demographics and local childcare facilities and availability) and parking provision.
- SHD application should be referred to the Development Applications Unit of the DCHG for comment as there is potential for sub-surface archaeology.

6.4. Response from Prescribed Bodies

- 6.4.1. A submission from Irish Water states that a connection to the network can be facilitated. The submission notes that the IW water and wastewater networks are along the public road and that connections would be required via private lands / networks. For connections via third party lands / private networks the submission advises that the applicant must secure appropriate permissions and confirm that private infrastructure has the capacity and is structurally adequate to facilitate existing and proposed development and that unrestricted access can be provided for future maintenance.

6.5. Consultation Meeting

A Section 5 Consultation meeting took place at the offices of Galway County Council on 6th March 2020, commencing at 11.30. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting.

The main topics raised for discussion at the tripartite meeting were based on the agenda that issued in advance and contained the following issues:

1. Core Strategy
2. Development Strategy
3. Flood Risk
4. Water Services
5. Road Infrastructure
6. Any other matters

1. In relation to Core Strategy An Bord Pleanála sought further elaboration/ discussion/ consideration in relation to the Core Strategy of the Bearna Plan and the submitted material contravention statement.
2. In relation to Development Strategy An Bord Pleanála sought further elaboration/ discussion/ consideration of the following: density and height strategy, site layout and design.
3. In relation to Flood Risk An Bord Pleanála sought further elaboration/ discussion/ consideration in relation to flood extents and the justification test in the context of objective CCF6 of the Development Plan.
4. In relation to Water Services An Bord Pleanála sought further elaboration/ discussion/ consideration in relation to SUDs strategy, the outfall to Trusky Steam and in relation to the matters raised in the submission from Irish Water.
5. In relation to Roads Infrastructure An Bord Pleanála sought further elaboration in relation to the proposed upgrade works to the Moycullen Road and matters raised by the PA in relation to the internal road layout (e.g. turning radii, hammerheads and access for emergency vehicles and refuse trucks, and parking).
6. In relation to other matters, An Bord Pleanála recommended that the matters raised by DCHG under previous applications are addressed in any future SHD application and that landscaping proposals should address the overall site.

Both the prospective applicant and the planning authority were given an opportunity to comment and respond to the issues raised by the representatives of ABP. Those comments and responses are recorded in the 'Record of Meeting' which is on file.

I have fully considered the responses and comments of the prospective applicant and planning authority in preparing the Recommended Opinion hereunder.

7.0 Conclusion and Recommendation

- 8.2.1 Based on the entirety of the information before me, it would appear that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 8.2.2 I have examined all of the information and submissions before me including the documentation submitted by the prospective applicants, the submissions of the planning authority and the discussions which took place at the tripartite meeting. I have had regard to both national policy, via the section 28 Ministerial Guidelines and local policy via the statutory plans for the area.
- 8.1 Having regard to the above, I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 6(7)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016, stating that it is of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act: constitutes a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 8.2 I would also recommend that the prospective applicant be notified, pursuant to article 285(5)(b) of the 2017 Regulations, that specified information (as outlined hereunder) be submitted with any application for permission that may follow. I believe the specified information will assist the Board at application stage in its decision making process. I am also recommending that a number of prescribed bodies (as listed hereunder) be notified by the prospective applicant of the making of the application.

8.0 Recommended Opinion

The Board refers to your request pursuant to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Section 6(7)(a) of the Act provides that the Board shall form an opinion as to whether the documents submitted with the consultation request (i) constitute a reasonable basis for an application under section 4 of the Act, or (ii) require further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála is of the opinion that the documentation submitted would constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.

Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission arising from this notification:

1. Notwithstanding that the proposal constitutes a reasonable basis for an application the prospective applicant is advised to address the following in the documents submitted:
 - (a) Provide further justification in relation to the distribution of density and height within the site. This justification should include, *inter alia*, details of alternatives considered.
 - (b) Provide further justification in relation to flood risk. This further justification should address, *inter alia*, indicative and modelled flood extents and the requirement for a justification test under Objective CCF6 of the Galway County Development Plan.
 - (c) Provide further justification in relation to Sustainable Urban Drainage. This further justification should address, *inter alia*, the storage options considered and the operation of the system during a flood event.

2. A housing quality assessment which provides the specific information regarding the proposed apartments required by the 2018 Guidelines on Design Standards for New Apartments. The assessment and/or the statement of consistency should set out how the proposed apartments comply with the various requirements of those guidelines and its specific planning policy requirements.
3. Plans and particulars to an appropriate scale for proposed upgrade works to the Moycullen Road.
4. An archaeological impact assessment having regard to the comments raised in the submission of the Department of Culture, Heritage and the Gaeltacht.
5. A schedule of public and communal open space.
6. Landscaping details for the overall site and design details for bicycle parking and bin storage facilities.
7. A phasing plan for the development.

Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is informed that the following authorities should be notified in the event of the making of an application arising from this notification in accordance with section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016:

1. The Minister for Culture, Heritage and the Gaeltacht
2. The Heritage Council
3. An Taisce
4. Udaras na Gaeltachta
5. Inland Fisheries Ireland
6. Irish Water
7. National Transport Authority
8. Galway County Childcare Committee

PLEASE NOTE:

Under section 6(9) of the Planning and Development (Housing) and Residential Tenancies Act 2016, neither the holding of a consultation under section 6, nor the

forming of an opinion under that section, shall prejudice the performance by the Board, or the planning authority or authorities in whose area the proposed strategic housing development would be situated, of any other of their respective functions under the Planning and Development Acts 2000 to 2016 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

Karen Kenny

Senior Planning Inspector

13th March 2020