



An  
Bord  
Pleanála

**Board Direction**  
**BD-001562-18**  
**ABP-302216-18**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/11/2018.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

#### **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- (a) the site's location, adjoining the established settlement of Bearna, Co. Galway,
- (b) the policies and objectives in the Galway County Development Plan 2015-2021 and the Bearna Local Area Plan, adopted as Variation 2(a) of the County Development Plan on 23<sup>rd</sup> July 2018,
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- (d) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, and the accompanying Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (e) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in March 2018,



- (f) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013,
- (g) the nature, scale and design of the proposed development and the availability in the area of a wide range of social and transport infrastructure,
- (h) the pattern of existing and permitted development in the area,
- (i) the submissions and observations received, and
- (j) the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below, the proposed development would represent an appropriate density of residential development having regard to the location of the site close to the centre of Bearna, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not lead to a risk of flooding and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### **Appropriate Assessment Screening**

The Board noted the Statement of Screening for Appropriate Assessment submitted by the applicant and the Appropriate Assessment Screening determination carried out by the Inspector.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening determination carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on those European sites in view of the sites' conservation objectives.

The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on European sites Galway Bay Complex Special Area of Conservation (site



code 000268) and Inner Galway Bay Special Protection Area (site code 004031), or any other European site, in view of the sites' conservation objectives, and a Stage 2 Appropriate Assessment is not therefore required.

### **Environmental Impact Assessment**

The Board completed an environmental impact assessment in relation to the proposed development, taking into account the nature, scale and extent of the proposed development and concluded that the effects on the environment of the proposed development by itself and in combination with other development in the vicinity would be acceptable.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows:
  - (a) The proposed community facility shall be replaced by a childcare facility in accordance with the document "Childcare Facilities: Guidelines for Planning Authorities" issued by the Department of Environment and Local Government in June 2001. An application for planning permission for the facility shall be made and the facility shall be provided prior to commencement of construction of the third phase of development as indicated in the Phasing Report submitted with the application.



- (b) The first floor terraces of duplex units 52-57 and 58-63 shall be provided with opaque glazed screens, which shall extend to 1.8m above the level of the terraces.
- (c) All rear gardens of houses shall be bounded with concrete block walls, which shall be a minimum of 1.8 metres high, and shall be suitably capped and rendered on both sides, except where bounding public open spaces or roads, when the walls shall be two metres in height. All boundary walls facing open spaces shall be finished in local natural stone. Post and timber fences shall not be used for any rear garden boundaries.
- (d) The alleys accessing gardens to the rear of terraced units shall be omitted and adequate bin storage shall be provided to the front of terraced houses in lieu, with the areas thus released incorporated into the adjoining garden.

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

**Reason:** In the interests of residential and visual amenities, in order to ensure the provision of durable boundary treatments and to ensure that childcare facilities are provided in association with residential units.

- 3. A minimum of 25% of the houses hereby permitted shall be restricted to use as a house by those who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht, unless otherwise agreed in writing with the planning authority, for a period of 15 years. The developer shall submit a completed Linguistic Impact Statement to the planning authority providing details of compliance with this requirement prior to the commencement of development.

Prior to commencement of development, the developer shall enter into a legal agreement with the planning authority (under the provisions of section 47 of the Planning and Development Act, 2000, as amended), the purposes of which shall be to restrict or regulate a portion of the residential elements of the development hereby permitted for the use of occupants who have an appropriate competence/fluency in Irish.



Details of the standard of Irish to be achieved and method of evaluating this shall be agreed in writing with the planning authority prior to the finalization of the agreement hereby conditioned. (Qualification for the Sceim Deontais Tithe will automatically qualify).

Within three months of commencement of development, the developer shall enter into a legal agreement with the planning authority (under the provisions of section 47 of the Planning and Development Act, 2000, as amended), the purposes of which shall be to give effect to the above restrictions. No house shall be occupied until an agreement has been entered into with the planning authority pursuant to section 47 of the Planning and Development Act, 2000, as amended.

**Reason:** To ensure that development in the area in which the site is located is appropriately restricted.

4. The period during which the development hereby permitted may be carried out shall be five years from the date of this Order.

**Reason:** In the interests of proper planning and sustainable development.

5. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with the planning authority prior to commencement of any development. In particular, the pedestrian connection on the L-1321 road shall be completed in Phase 1 prior to the making available for occupation of any residential units.

**Reason:** To ensure the timely provision of services, and the provision of a pedestrian connection to the centre of Bearna, for the benefit of the occupants of the proposed dwellings.

6. Mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment Report submitted with this



application, as set out in Section 6 "Mitigation Measures", shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.

7. (a) Prior to commencement of development, the developer shall submit to, and obtain the written consent of the planning authority for:
- (i) A detailed landscaping plan including specific details as to the plant sizes and species to be used.
  - (ii) Detailed design proposals for natural and local play areas proposed.
  - (iii) Detailed proposals for the management of riparian habitat along the Trusky Stream including enhancement of existing vegetation, road and pedestrian bridges, wetland areas, filtration beds and soil cut and fill measures. Also details of proposed fencing along the banks of the Trusky Stream.
  - (iv) Details of the proposed pedestrian bridges over the Trusky Stream.
- (b) All front and rear private garden spaces shall be soiled and seeded prior to the occupation of any dwelling unit within each phase.
- (c) The public open space / pocket parks shall be developed for and devoted to public use. They shall be free from any development and shall not be enclosed by any means, except where otherwise agreed. When the development is being taken in charge, the open spaces shall be vested to the planning authority, at no cost to the planning authority, as public open space.
- (d) The establishment of new hedgerow, hedge boundaries and public open space areas shall take place at an advanced or initial stage of each phase of the proposed development. Such measures shall include a three-year maintenance or aftercare contract for all landscape elements, hedgerow, tree planting and open spaces on an on-going basis. All defects shall be identified and corrected as necessary.



- (e) A suitably qualified Landscape Architect shall be appointed prior to the commencement of any development on the subject site to oversee and monitor the project construction and early operational stages of development.
- (f) Landscaping of the overall development shall be carried out in accordance with the agreed landscaping plan required under condition 7(a) above, and shall be carried out and completed prior to the completion of each phase. The completion of landscaping and boundary treatments with respect to each phase of development shall be completed in full post the construction of the relevant phase and prior to the occupation of any units within the following phase.

**Reason:** To protect the riparian habitat along the Trusky Stream and ensure a high quality landscape design throughout the scheme in the interest of proper planning and sustainable development.

8. The internal road network serving the proposed development, including turning bays, junctions, sight distances, footpaths and kerbs shall be in accordance with the detailed requirements of the planning authority for such works, and shall comply in all respects with the provisions of the Design Manual for Urban Roads and Streets.

**Reason:** In the interest of pedestrian and traffic safety, and in order to comply with national policy in this regard.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the



provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

10. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Public lighting shall be provided prior to the making available for occupation of any house.

**Reason:** In the interests of residential amenity.

11. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the planning authority's Taking in Charge Policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority. The areas to be taken in charge shall, in addition to the submitted design as shown in Appendix 2 of the submitted design statement include all of the areas shown as public open space in this statement including all surface water attenuation facilities. No part of the development other than the internal common areas of the apartments shall be maintained by a private management company.

**Reason:** In the interest of the amenities of the occupants of the proposed housing and to comply with National Policy in relation to taking in charge of residential housing estates.

12. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning



authority for such works and services. The developer shall comply with the following particular requirements:

- (a) The developer shall satisfy the planning authority that all new road and pedestrian bridges have adequate capacity to carry the predicted flood flows of relevant return periods and that all appropriate consents from statutory bodies including the Office of Public Works and Inland Fisheries Ireland have been obtained.
- (b) The developer shall satisfy the planning authority that discharge of surface water run-off to the Trusky Stream and the construction of a new road and pedestrian bridges thereon are fully compliant with all relevant statutory requirements that apply thereto following consultation with the relevant statutory bodies including the Office of Public Works, Inland Fisheries Ireland regarding inter alia temporary channel diversions during construction, hydraulic capacity and flood impact, and the planning authority regarding the pollution prevention requirements during and after construction.
- (c) The developer shall satisfy the planning authority that adequate drainage provision is being made for the Trusky Stream and any other watercourses/ditches traversing the development site.
- (d) The developer shall submit full details of the proposed surface water attenuation system to the planning authority for consent in writing prior to the commencement of development, to include details of outflow rates, design calculations to allow for a 20% climate change factor, Sustainable Drainage Systems measures, storm attenuation storage chambers, pipe network design and connections to the existing surface water network in the area.
- (e) The developer shall submit a revised Site-Specific Flood Risk Assessment, to provide full assessment of any impacts of the proposed ground works and cut and fill measures at the development site, to the planning authority prior to the commencement of development.

**Reason:** In the interest of public health and in order to address flood risk.



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

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

14. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour of all houses and duplex blocks shall be blue black or slate grey (including ridge tiles)

**Reason:** In the interest of the visual amenities of the area.

15. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act, 2000 (as amended).



16. The developer shall facilitate an archaeological appraisal of the site and shall comply with the following requirements of the Department of Culture, Heritage and the Gaeltacht:
- (a) The developer shall engage the services of a suitably qualified archaeologist to carry out an archaeological impact assessment of the development site.
  - (b) The archaeologist should carry out any relevant documentary research and inspect the site. A programme of test excavation should be carried out at locations chosen by the archaeologist and licensed under the National Monuments Acts 1930-2004.
  - (c) Where archaeological material/features are shown to be present the archaeologist should consult with the National Monuments Service of the Department of Culture, Heritage, and the Gaeltacht regarding further mitigation.
  - (d) Having completed the assessment, the archaeologist should submit a written report to the planning authority and to the National Monuments Service. Preservation in situ, preservation by record (excavation) or monitoring may be required.

**Reason:** To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

17. Site development and building works shall be carried out only between 0800 to 1900 hours Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

18. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in



writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, noise management measures, and off-site disposal of construction/demolition waste.

**Reason:** In the interest of the proper planning and sustainable development of the area.

19. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

20. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic and parking for construction workers during the construction phase, and arrangements for delivery of abnormal loads to the site.

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



21. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

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

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



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

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

**Board Member**

Paul Hyde

**Date:** 08/11/2018