

An  
Bord  
Pleanála

**Board Direction**  
**BD-019701-25**  
**ABP-319154-24**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 16/05/2025.

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**

Having regard to the location of the site within the 'existing built up area' of Bearna on zoned and serviced lands, the extant planning permission for residential development on site permitted by the Board, the provisions of the Galway County Development Plan 2022-2028 and the Bearna Metropolitan Settlement Plan 2022-2028, specifically policy objective SSP1 regarding supporting the role of growth within the MASP settlements and BMSP1 within the Settlement Plan in relation to the provision of Sustainable residential communities, the pattern of residential development in the area, and the nature and relatively modest scale of the proposed amendments it is considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the Core and Settlement Strategies of the Development Plan, that there is capacity with the piped water service infrastructure, that the proposed density of development is appropriate and that the development would not result in the creation of a traffic hazard or a risk of flooding on site or within adjacent lands and not seriously injure the amenities of adjacent properties nor the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Appropriate Assessment-Stage 1**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within an adequately serviced site, the Appropriate Assessment Screening Report submitted with the application, the Inspector's Report, and submissions on file.

In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, other than the Galway Bay Complex SAC (Site Code 000268), the Inner Galway Bay SPA (Site Code 0004031), which is the European Site for which likelihood of significant effects could not be ruled out.

## **Appropriate Assessment-Stage 2**

The Board considered the Natura Impact Statement and all other relevant submissions including expert submissions received and carried out an Appropriate Assessment of the implications of the proposed development on the Galway Bay Complex SAC (Site Code 000268), the Inner Galway Bay SPA (Site Code 0004031) in view of the site's Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's Conservation Objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal,



- (c) the conservation objectives for the European sites, and
- (d) the report of the Planning Inspector.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site in view of the conservation objectives of the site. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars submitted on the 14th day of June 2023 and the 16th day of November 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

3. Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission Board reference number 308431-20 unless the conditions set out hereunder specify otherwise. This permission shall expire on the same date as the parent permission.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

4. The construction of the development shall be managed in accordance with a Construction Traffic Management Plan and a Construction and Environmental Management Plan, final details of which shall be agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of site access and egress, traffic management signage and speed limits, road cleaning, details of the implementation of the Traffic Management Plan, the storage of materials and parking for construction staff. The Environmental Management Plan shall provide details of intended construction practice for the development, management of construction waste and materials on site, environmental control measures, including noise, dust and vibration management measures, working hours, construction traffic and parking, management of laying of independent foul sewer line, liaisons with neighbours during the construction period, measures for managing construction sediment run-off and off-site disposal of construction/demolition waste.

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

5. 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. On-site attenuation shall be in accordance with the provisions of the Greater Galway Area Strategic Drainage Study, and shall be agreed in writing with the planning authority.

Reason: In the interest of public health.



6. The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Eireann prior to the commencement of this development.

Reason: In the interest of public health.

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

Reason: In the interests of visual and residential amenities.

8. (a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs and car parking bay sizes shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii within the development shall be in accordance with the guidance provided in the National Cycle Design Manual 2023.

(b) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.

(c) It shall be the responsibility of the developers to implement the recommendations of the Road Safety Audit and Traffic and Transport Assessment, submitted as part of the planning documentation to, the planning authority on the 16th day of November 2023.

Revised drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interests of pedestrian, cyclist, and traffic safety.

9. All of the mitigation measures cited in Section 5 of the Construction and Environmental Management Plan, submitted to the planning authority on the 14th day of June 2023, shall be implemented in full.

Reason: In the interest of the natural heritage of the area and protecting the environment.

10. Details of all boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual and residential amenity.

11. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme.

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

12. 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.

13. The landscape masterplan shown on drawing number 924-Rad-2307-01, as submitted to the planning authority on the 14th day of June 2023, shall be carried out within the first planting season following substantial completion of external construction works.

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



Reason: In the interest of residential and visual amenity.

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

Reason: In the interest of sustainable transportation.

15. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 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.

16. The construction of the development shall be managed in accordance with the Construction Waste Management Plan as submitted to the planning authority on the 14th day of June 2023.

Reason: In the interest of sustainable waste management and residential amenity.

17. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority full details of the proposed public lighting, including the lighting levels within open areas of the development.

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

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

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

19. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority evidence of a properly constituted management company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Confirmation that this management company has been established shall be submitted to the planning authority prior to the occupation of the first residential unit. The Management Company shall be solely responsible for all ancillary infrastructure, services, utilities, access roads, open space and other communal areas within the site.

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

20. Prior to the commencement of development the applicants shall submit details of certification by a Consultant Engineer that the footpaths and street lighting connecting the appeal site to Bearna village along the L1321 have been installed in accordance with best practice standards, including those set out within the Design Manual for Urban Roads and Streets 2019, and are fully operational and in



accordance with the planning conditions as set out under Board reference number 308431-20.

Reason: In the interest of pedestrian and traffic safety.

21. A minimum of 20% of the residential units hereby permitted shall be restricted to use by those who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht, for a period of 15 years.

Reason: To ensure that the proposed housing units are used to meet the GA4(b) development plan policy and that development in this area is appropriately restricted to meeting essential local need and to preserve and protect the language and culture of the Gaeltacht in the interest of the proper planning and sustainable development of the area.

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

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house unit or duplex for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence

from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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

23. (a) Prior to the commencement of development, the applicants shall submit details of consent and approval from the Office of Public Works under Section 50 of the Arterial Drainage Act, 1945, in relation to the construction of the bridge structure and associated infrastructure traversing the Trusky stream.

(b) The overbridge shall be operated and maintained by the applicants for the entirety of the development including provision of regular maintenance inspections by a suitably qualified professional. The overbridge structure and its ancillary roadside barriers and bridge approach roads infrastructure shall be constructed in accordance with Transport Infrastructure Ireland best practice guidance.

Reason: In the interests of pedestrian, traffic and public safety.

24. 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.

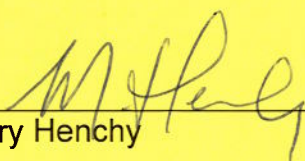


Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

25. 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.

**Board Member**

  
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Mary Henchy

**Date:** 19/05/2025