



An
Bord
Pleanála

Ordú ón mBord
Board Order
ABP-319154-24

Na hAchtanna um Pleanáil agus Forbairt, 2000 go 2022
Planning and Development Acts 2000 to 2022

Údarás Pleanála: Comhairle Contae na Gaillimhe
Planning Authority: Galway County Council

Uimhir Thagartha ar an gClár Pleanála: 23/60649
Planning Register Reference Number: 23/60649

Achomharc ó Gabriel McGoldrick, 6 Cnoc Fraoigh, Bearna, Contae na Gaillimhe, in aghaidh an chinnidh a rinne Comhairle Contae na Gaillimhe an 2^ú lá de mhí Feabhra 2024 cead a dheonú, faoi réir coinníollacha, do Burkeway Homes Limited faoi chúram MKO Planning and Environmental Consultants, Bóthar Thuama, Gaillimh, i gcomhréir le pleananna agus sonraí a taisceadh leis an gComhairle sin.

Forbairt Bheartaithe: 1. Leasuithe ar fhorbairt a ceadaíodh roimhe seo faoi ABP-308431-20, a bhfuil i gceist leo Bloc Árasán A5 nua (ina mbeidh ceithre cinn d'aonaid árasáin dhá sheomra leapa) a bheidh de chineál déphléacsach a chur in ionad Bhloic Árasán A1 agus A2 (ina mbeadh naoi gcinn d'aonaid árasáin aon seomra leapa agus 18 gcinn d'aonaid árasáin dhá sheomra leapa). 2. Mionleasuithe ar an leibhéal urláir críochnaithe ar Bhloic Árasán A3 agus A4, mar a ceadaíodh faoi ABP-308431-20. 3. 17 gcinn de thithe a sholáthar, a chuimseoidh 13 cinn de thithe scoite ceithre sheomra leapa, dhá

cheann de thithe sraithe ceithre sheomra leapa agus dhá cheann de thithe sraithe trí sheomra leapa. 4. Struchtúr droichid a sholáthar chun tacú le bóthar rochtana inmheánach nua do choisithe agus d'fheithiclí chun nascadh leis an mbóthar rochtana a ceadaíodh faoi ABP-308431-20. 5. Mionleasuithe ar an leagan amach páirceála carranna agus cosáin, mar a ceadaíodh faoi ABP-308431-20. 6. Spás oscailte comhchoiteann, spás oscailte príobháideach, cóireálacha tírdhreachaithe láithreáin agus teorann, soilsiú poiblí, spásanna páirceála carranna do chónaitheoirí agus do chuairoteoirí, pointí luchtaithe feithiclí leictreacha, spásanna páirceála rothar, stóráil dramhaíola, naisc do choisithe, do rothair agus d'fheithiclí ar fud an láithreáin, agus na hoibreacha forbartha láithreáin gaolmhara uile eile ag láithreán atá suite ag Troscaigh Thoir, Bearna, Contae na Gaillimhe, mar a athbhreithníodh leis na fógraí poiblí breise a fuair an t-údarás pleanála an 1^ú lá de mhí na Nollag 2023.

Cinneadh

Cead a DHEONÚ don fhorbairt bheartaithe thuas i gcomhréir leis na pleananna agus na sonraí luaite, bunaithe ar na cúiseanna agus na cúinsí faoi bhun agus faoi réir na gcoinníollacha atá leagtha amach thíos.

Cúiseanna agus Cúinsí

Ag féachaint do láthair an láithreáin laistigh de 'limistéar foirgnithe láithreach' Bhearna ar thailte criosaithe agus seirbhísithe, don chead pleanála atá ar marthain ón mBord le haghaidh forbairt chónaithe ar an láithreán, do na forálacha de Phlean Forbartha Contae na Gaillimhe 2022-2028 agus de Phlean Lonnaíochta Ceannchathartha Bhearna 2022-2028, go háirithe cuspóir beartais SSP1 maidir le tacú le ról an fháis laistigh de na lonnaíochtaí

Phlean Straitéisigh Limistéir Cheannchathartha agus cuspóir beartais BMSP1 laistigh den Phlean Lonnaíochta maidir le pobail chónaithe inbhuanaithe a sholáthar, don phatrún forbartha cónaithe sa limistéar agus do chineál agus scála measartha beag na leasuithe beartaithe, meastar, maidir leis an bhforbairt bheartaithe, faoi réir na coinníollacha atá leagtha amach thíos a chomhlíonadh, go mbeadh sí i gcomhréir le Croí-Straitéisí agus Straitéisí Lonnaíochta an Phlean Forbartha, go bhfuil acmhainn ann laistigh den bhonneagar píobaithe seirbhíse uisce, go bhfuil dlús beartaithe na forbartha cuí agus nach gcruthódh an fhorbairt guais tráchta ná riosca tuilte ar an láithreán ná laistigh de thailte cóngaracha agus nach ndéanadh sí díobháil thromchúiseach do thaitneamhachtaí cóngaracha ná don limistéar. Dá bhrí sin, bheadh an fhorbairt bheartaithe i gcomhréir le pleanáil chuí agus forbairt inchothaithe an limistéir.

Measúnacht Chuí - Céim 1

Chuir an Bord cleachtadh scagtha Measúnachta Cuí i gcrích i ndáil leis na héifeachtaí a d'fhéadfadh a bheith ag an bhforbairt bheartaithe ar láithreáin Eorpacha ainmnithe, agus aird á tabhairt ar chineál, scála agus láthair na forbartha beartaithe laistigh de láithreán atá seirbhísithe go leordhóthanach, ar an Tuarascáil maidir le Scagadh Measúnachta Cuí a cuireadh isteach in éineacht leis an iarratas, ar an Tuarascáil ón gCigire, agus ar na haighneachtaí a bhí ar comhad. Agus an cleachtadh scagtha á chur i gcrích aige, ghlac an Bord an tuarascáil ón gCigire, agus tháinig sé ar an gconclúid nár dhócha go mbeadh éifeacht shuntasach ag an bhforbairt bheartaithe, aisti féin nó i gcomhcheangal le forbairt eile sa chomharsanacht, ar aon láithreán Eorpach i bhfianaise chuspóirí caomhantais na láithreán sin, seachas Limistéar Caomhantais Speisialta Choimpléasc Chuan na Gaillimhe (Cód Láithreáin: 000268) agus Limistéar Cosanta Speisialta Chuan na Gaillimhe Istigh (Cód Láithreáin: 004031), arb iad na haon Láithreáin Eorpacha amháin a d'fhéadfadh a bheith faoi réir éifeachtaí suntasacha.

Measúnacht Chuí - Céim 2

Rinne an Bord breithniú ar Ráiteas Tionchair Natura agus ar gach aighneacht iomchuí eile, lenar áiríodh aighneachtaí a fuarthas ó shaineolaithe, agus rinne sé Measúnacht Chuí ar impleachtaí na forbartha beartaithe do Limistéar Caomhantais Speisialta Choimpléasc Chuan na Gaillimhe (Cód Láithreáin: 000268) agus do Limistéar Caomhantais Speisialta Chuan na Gaillimhe Istigh (Cód Láithreáin: 004031), i bhfianaise Chuspóirí Caomhantais na láithreán. Mheas an Bord gur leor an fhaisnéis a bhí os a chomhair chun measúnacht iomlán a dhéanamh ar na gnéithe uile den fhorbairt bheartaithe i ndáil le Cuspóirí Caomhantais na láithreán, agus leas á bhaint as an eolas eolaíoch is fearr atá ar fáil sa réimse.

Agus an mheasúnacht á cur i gcrích aige, rinne an Bord breithniú ar leith ar na nithe seo a leanas:

- (a) na tionchair dhíreacha agus indíreacha ar dóigh dóibh teacht as an bhforbairt bheartaithe, aisti féin nó in éineacht le plananna nó tionscadail eile,
- (b) na bearta maolaithe atá ar áireamh sa togra reatha,
- (c) na cuspóirí caomhantais do na láithreáin Eorpacha, agus
- (d) an tuarascáil ón gCigire Pleanála.

Agus an Mheasúnacht Chuí á cur i gcrích aige, ghlac an Bord leis an Measúnacht Chuí a rinneadh sa tuarascáil ón gCigire maidir leis na héifeachtaí a d'fhéadfadh a bheith ag an bhforbairt bheartaithe ar na Láithreáin Eorpacha réamhluaite, agus ghlac sé an mheasúnacht sin, agus aird á tabhairt ar chuspóirí caomhantais na láithreán.

Sa chonclúid fhoriomlán uaidh, ba dheimhin leis an mBord nach ndéanadh an fhorbairt bheartaithe, aisti féin nó in éineacht le pleananna nó tionscadail eile, dochar do shláine na Láithreán Eorpach, i bhfianaise chuspóirí caomhantais na Láithreán. Tá an chonclúid sin bunaithe ar mheasúnacht iomlán ar na gnéithe uile den fhorbairt bheartaithe, agus níl aon amhras eolaíoch réasúnach ann maidir le héifeachtaí dochracha a bheith in easnamh.

Coinníollacha

1. Déanfar an fhorbairt agus críochnófar í i gcomhréir leis na pleananna agus na sonraí a taisceadh in éineacht leis an iarratas agus a leasaíodh leis na pleananna agus na sonraí breise a cuireadh isteach an 14^ú lá de mhí an Mheithimh 2023 agus an 16^ú lá de mhí na Samhna 2023, seachas de réir mar is gá ar shlí eile chun na coinníollacha seo a leanas a chomhlíonadh. I gcás go gceanglófar leis na coinníollacha sin go gcomhaontófaí mionsonraí leis an údarás pleanála, comhaontóidh an forbróir le mionsonraí den sórt sin i scríbhinn leis an údarás pleanála sula dtosófar an fhorbairt, agus déanfar an fhorbairt agus críochnófar í i gcomhréir leis na sonraí comhaontaithe.

Cúis: Ar mhaithe le soiléire.

2. Cuirfear chun feidhme na bearta maolaithe atá i Ráiteas Tionchair Natura a cuireadh isteach.

Cúis: Chun sláine Láithreán Eorpach a chosaint.

3. Ach amháin i gcás aon imeacht a údaraítear go sonrach leis an gcead seo, comhlíonfaidh an fhorbairt coinníollacha an mháthaircheada – uimhir thagartha an Bhoird: 308431-20 – mura sonraítear a mhalairt sna coinníollacha atá leagtha amach thíos. Rachaidh an cead seo in éag ar an dáta céanna a rachaidh an máthairchead in éag.

Cúis: Ar mhaithe le soiléire agus chun a chinntiú go ndéanfar an fhorbairt fhoriomlán i gcomhréir leis an gcead roimhe nó leis na ceadanna roimhe.

4. Bainisteofar tógáil na forbartha i gcomhréir le Plean Bainistíochta Tráchta Tógála agus le Plean Bainistíochta Comhshaoil Tógála, agus comhaontófar mionsonraí deiridh na bpleananna sin i scríbhinn leis an údarás pleanála sula dtosófar an fhorbairt. Tabharfar sa Phlean Bainistíochta Tráchta Tógála mionsonraí faoin mbealach isteach chuig an láithreán agus faoin mbealach amach as, faoi chomharthaí bainistíochta tráchta agus faoi luasteorainneacha, faoi ghlanadh bóithre, faoi chur chun feidhme an Phlean Bainistíochta Tráchta, faoi stóráil ábhar, agus faoi spásanna páirceála do bhaill foirne tógála. Tabharfar sa Phlean Bainistíochta Comhshaoil mionsonraí faoin gcleachtas beartaithe tógála don fhorbairt, faoin dóigh a mbainisteofar dramhaíl tógála agus ábhair thógála ar an láithreán, faoi bhearta rialaithe comhshaoil, lena n-áirítear bearta bainistíochta torainn, deannaigh agus tonnchreatha, faoi uaireanta oibre, faoi thrácht agus páirceáil tógála, faoin dóigh a mbainisteofar leagan na líne neamhspleáiche séarach bréan, faoi idirchaidreamh le comharsana le linn na tréimhse tógála, faoi bhearta le haghaidh rith dríodair tógála chun srutha a bhainistiú, agus faoi dhiúscairt dramhaíola tógála/scartála lasmuigh den láithreán.

Cúis: Ar mhaithe le sábháilteacht an phobail agus taitneamhacht cónaithe.

5. Maidir le socruithe soláthair agus draenála uisce, lena n-áireofar uisce dromchla a mhaolú agus a dhiúscairt, comhlíonfaidh siad ceanglais an údaráis pleanála le haghaidh oibreacha agus seirbhísí den sórt sin. Déanfar maolú ar an láithreán i gcomhréir leis na forálacha de Staidéar Draenála Straitéiseach Mhórchéantar na Gaillimhe, agus comhaontófar é i scríbhinn leis an údarás pleanála.

Cúis: Ar mhaithe leis an tsláinte phoiblí.

6. Sula dtosófar an fhorbairt seo, déanfaidh an forbróir comhaontú nó comhaontuithe um nasc uisce agus/nó um nasc fuíolluisce le hUisce Éireann.

Cúis: Ar mhaithe leis an tsláinte phoiblí.

7. Cuirfear mionsonraí faoi ábhair, dathanna agus uigeacht na mbailchríoch seachtrach uile ar an bhforbairt bheartaithe, lena n-áireofar soilsiú seachtrach ar fud na forbartha, faoi bhráid an údaráis pleanála, agus comhaontófar iad i scríbhinn leis, sula dtosófar an fhorbairt.

Cúis: Ar mhaithe le taitneamhachtaí amhairc agus cónaithe.

8. (a) Maidir leis an ngréasán inmheánach bóithre lena bhfreastalófar ar an bhforbairt bheartaithe, lena n-áireofar méideanna bá casta, méideanna acomhail, méideanna limistéir páirceála, méideanna cosáin, méideanna colbha agus méideanna bá páirceála carranna, comhlíonfaidh sé ceanglais an Lámhleabhair Deartha do Bhóithre agus Sráideanna. Go háirithe, beidh leithid charrbhealaigh agus gathanna cúinne laistigh den fhorbairt i gcomhréir leis an treoir atá tugtha sa Lámhleabhar Náisiúnta maidir le Dearadh Rothaíochta 2023.

- (b) Comhlíonfaidh na hábhair a úsáidfear ar aon bhóithre nó ar aon chosáin a sholáthróidh an forbróir na caighdeáin mhionsonraithe a bheidh i bhfeidhm ag an údarás pleanála le haghaidh oibreacha bóthair den sórt sin.
- (c) Beidh sé de fhreagracht ar na forbróirí cur chun feidhme a dhéanamh ar na moltaí ón Iniúchadh ar Shábháilteacht ar Bhóithre agus ón Measúnacht Tráchtá agus Iompair, a cuireadh faoi bhráid an údaráis pleanála mar chuid de na doiciméid phleanála an 16^ú lá de mhí na Samhna 2023.

Cuirfear líníochtaí agus sonraí athbhreithnithe lena léirítear comhlíonadh na gceanglas sin faoi bhráid an údaráis pleanála, agus comhaontófar iad i scríbhinn leis, sula dtosófar an fhorbairt. Cheal comhaontú, tarchuirfear an ní nó na nithe atá faoi dhíospóid chuig an mBord Pleanála lena chinneadh nó lena gcinneadh.

Cúis: Ar mhaithe le sábháilteacht coisithe, rothaithe agus tráchtá.

- 9. Cuirfear chun feidhme ina n-iomláine gach ceann de na bearta maolaithe atá luaite i Rannán 5 den Phlean Bainistíochta Comhshaoil Tógála, a cuireadh faoi bhráid an údaráis pleanála an 14^ú de mhí an Mheithimh 2023.

Cúis: Ar mhaithe le hoidhreacht nádúrtha an limistéir agus ar mhaithe leis an gcomhshaol a chosaint.

- 10. Cuirfear mionsonraí faoi gach cóireáil teorann faoi bhráid an údaráis pleanála, agus comhaontófar iad i scríbhinn leis, sula dtosófar an fhorbairt.

Cúis: Ar mhaithe le taitneamhacht amhairc agus cónaithe.



11. Cuirfear tograí le haghaidh scéim ainmniúcháin agus uimhriúcháin agus le haghaidh comharthaí gaolmhara faoi bhráid an údaráis pleanála, agus comhaontófar iad i scríbhinn leis, sula dtosófar an fhorbairt. Ina dhiaidh sin, soláthrófar gach comhartha agus gach uimhir i gcomhréir leis an scéim chomhaontaithe.

Cúis: Ar mhaithe le taitneamhacht agus ar mhaithe le pleanáil chuí agus forbairt inchothaithe an limistéir.

12. Beidh gach cábla seirbhíse a bhaineann leis an bhforbairt bheartaithe (amhail cáblaí leictreacha, cáblaí teileachumarsáide agus cáblaí comhchoiteanna teilifíse) lonnaithe faoi thalamh. Soláthróidh an forbróir ductú ionas gur féidir bonneagar leathanbhanda a sholáthar laistigh den fhorbairt bheartaithe. Déanfar gach cábla láithreach os cionn talún a athlonnú faoi thalamh mar chuid de na hoibreacha forbartha láithreáin.

Cúis: Ar mhaithe le taitneamhacht amhairc agus cónaithe.

13. Déanfar an máistirphlean tírdhreachaithe atá léirithe ar uimhir líníochta 924-Rad-2307-01, mar a cuireadh faoi bhráid an údaráis pleanála an 14^ú lá de mhí an Mheithimh 2023, a chur i gcrích laistigh den chéad séasúr cuir tar éis oibreacha tógála seachtracha a chríochnú go substaintiúil.

Déanfar na plandaí ar fad a chosaint go leordhóthanach ar dhamáiste go dtí go mbunófar iad. Aon phlandaí a éagfaidh, a bhainfear nó a thiocfaidh chun bheith an-damáistithe nó an-ghalrach laistigh de thréimhse cúig bliana ón bhforbairt a chríochnú, nó go dtí go nglacfaidh an t-údarás pleanála an fhorbairt faoi chúram, cibé acu is túisce, cuirfear ina n-ionad plandaí eile de mhéid chomhchosúil nó de speiceas comhchosúil laistigh den chéad séasúr cuir eile, ach amháin i gcás go gcomhaontófar a mhalairt i scríbhinn leis an údarás pleanála.

Cúis: Ar mhaithe le taitneamhacht cónaithe agus amhairc.

14. Soláthrófar naisc leictreacha do na tithe uile ag a mbeidh spásanna páirceála laistigh dá gcúirtealáiste ionas go mbeifear in ann pointí luchtaithe feithiclí leictreacha a sholáthar amach anseo, agus beidh na naisc sin suite ar an taobh amuigh den teach. Soláthrófar pointí feidhmiúla luchtaithe feithiclí leictreacha do na limistéir chomhchoiteanna pháirceála uile a bheidh ag freastal ar na haonaid chónaithe ionas go mbeifear in ann pointí luchtaithe feithiclí leictreacha a sholáthar amach anseo. Cuirfear mionsonraí faoi conas a chomhlíonfar na ceanglais sin faoi bhráid an údaráis pleanála, agus comhaontófar iad i scríbhinn leis, sula dtosófar an fhorbairt.

Cúis: Ar mhaithe le hiompar inbhuanaithe.

15. Maidir le hoibreacha forbartha agus tógála láithreáin, ní dhéanfar iad ach amháin idir 0700 agus 1900 ón Luan go dtí an Aoine, agus an dá lá sin san áireamh, agus idir 0800 agus 1400 ar an Satharn, agus ní dhéanfar aon oibreacha ar bith ar an Domhnach ná ar laethanta saoire poiblí. Ní cheadófar aon imeacht ó na hamanna sin ach amháin in imthosca eisceachtúla ina bhfuarthas réamhcheadú i scríbhinn ón údarás pleanála.

Cúis: Chun taitneamhachtaí cónaithe na réadmhaoine sa chomharsanacht a choimirciú.

16. Bainisteofar tógáil na forbartha i gcomhréir leis an bPlean Bainistíochta Dramhaíola Tógála, mar a cuireadh faoi bhráid an údaráis pleanála an 14^ú de mhí an Mheithimh 2023.

Cúis: Ar mhaithe le bainistíocht inbhuanaithe dramhaíola agus taitneamhacht cónaithe.

17. Sula dtosófar an fhorbairt, cuirfidh an forbróir mionsonraí iomlána faoin soilsiú poiblí beartaithe, lena n-áireofar leibhéil soilsithe laistigh de limistéir oscailte den fhorbairt, faoi bhráid an údaráis pleanála, agus comhaontóidh sé iad i scríbhinn leis.

Cúis: Ar mhaithe le sábháilteacht an phobail agus taitneamhacht cónaithe.

18. Sula dtosófar an fhorbairt, déanfaidh an t-iarratasóir nó duine eile a bhfuil leas aige nó aici sa talamh lena mbaineann an t-iarratas comhaontú i scríbhinn leis an údarás pleanála i ndáil le tithíocht a sholáthar i gcomhréir le ceanglais alt 94(4) agus alt 96(2) agus (3) (Cuid V) den Acht um Pleanáil agus Forbairt, 2000, arna leasú, ach amháin i gcás go ndearnadh iarratas ar dheimhniú díolúine, agus gur deonaíodh an deimhniú sin, faoi alt 97 den Acht, arna leasú. I gcás nach dtiocfar ar chomhaontú den sórt sin laistigh d'ocht seachtaine ó dháta an ordaithe seo, féadfaidh an t-údarás pleanála nó aon pháirtí ionchasach eile sa chomhaontú an ní atá faoi dhíospóid (seachas ní a bhfuil feidhm ag alt 96(7) maidir leis) a tharchur chuig an mBord Pleanála lena chinneadh aige.

Cúis: Chun ceanglais Chuid V den Acht um Pleanáil agus Forbairt, 2000, arna leasú, agus ceanglais na straitéise tithíochta sa phlean

forbartha don limistéar a chomhlíonadh.

19. Sula dtosófar an fhorbairt, cuirfidh an forbróir fianaise ar chuideachta bhainistíochta atá bunaithe go cuí faoi bhráid an údaráis pleanála, agus comhaontóidh sé í i scríbhinn leis. Áireofar leis sin léarscáil leagan amach den fhorbairt cheadaithe lena léireofar na limistéir a ghlacfar faoi chúram agus na limistéir sin a bheidh á gcothabháil ag Cuideachta Bhainistíochta an Úinéara. Cuirfear deimhniú á rá gur bunaíodh an chuideachta bhainistíochta sin faoi bhráid an údaráis pleanála sula n-áiteofar an chéad aonad cónaithe. Is ar an gCuideachta Bhainistíochta, agus uirthi amháin, a bheidh an fhreagracht as gach bonneagar coimhdeach, gach seirbhís, gach fóntas, gach bóthar rochtana, gach spás oscailte agus gach limistéar comhchoiteann eile laistigh den láithreán.

Cúis: Chun a chinntiú go ndéanfar an fhorbairt a chríochnú agus a chothabháil go sásúil go dtí go nglacfar faoi chúram í.

20. Sula dtosófar an fhorbairt, cuirfidh na hiarratasóirí mionsonraí isteach faoi dheimhniú ó Innealtóir Comhairleach á rá go ndearnadh na cosáin agus an soilsíú sráide lena nasctar an láithreán is ábhar don achomharc le sráidbhaile Bhearna feadh an L1321 a shuiteáil i gcomhréir leis na caighdeáin dea-chleachtais, lena n-áirítear iad sin atá leagtha amach laistigh den Lámhleabhar Deartha do Bhóithre agus Sráideanna Uirbeacha 2019, go bhfuil siad i mbun feidhme go hiomlán agus go bhfuil siad i gcomhréir leis na coinníollacha pleanála atá leagtha amach faoi uimhir thagartha 308431-20 ón mBord.

Cúis: Ar mhaithe le sábháilteacht coisithe agus tráchta.

21. Ar feadh tréimhse 15 bliana, déanfar 20% ar a laghad de na haonaid chónaithe a cheadaítear leis seo a theorannú dá n-úsáid acu sin ar féidir leo a léiriú go bhfuil cumas acu teanga agus cultúr na Gaeltachta a chaomhnú agus a chosaint.

Cúis: Chun a chinntiú go n-úsáidfear na haonaid tithíochta bheartaithe chun freastal ar bheartas plean forbartha GA4(b) agus go mbeidh forbairt sa limistéar seo teoranta go cuí do fhreastal ar riachtanas bunriachtanach áitiúil chun teanga agus cultúr na Gaeltachta a chaomhnú agus a chosaint ar mhaithe le pleanáil chuí agus forbairt inchothaithe an limistéir.

22. (a) Sula dtosófar aon teach nó aon aonad déphléacsach san fhorbairt mar atá ceadaithe, déanfaidh an t-iarratasóir nó aon duine a bhfuil leas aige nó aici sa talamh comhaontú leis an údarás pleanála (ar comhaontú é nach mór uimhir agus láthair gach tí nó gach aonaid dhéphléacsach a bheith sonraithe ann) de bhun alt 47 den Acht um Pleanáil agus Forbairt, 2000, arna leasú, lena dteorannófar na tithe ceadaithe uile agus na haonaid dhéphléacsacha ceadaithe uile dá n-áitiú ag ceannaitheoirí aonair ar dtús, is é sin le rá, iad sin nach eintiteas corparáideach iad, agus/nó acu sin atá incháilithe le haghaidh tithíocht shóisialta agus/nó inacmhainne a áitiú, lena n-áirítear tithíocht ar cíós de réir costais.
- (b) Maidir le comhaontú a rinneadh de bhun alt 47, beidh feidhm aige ar feadh thréimhse an cheada pleanála, ach amháin i gcás, tar éis tréimhse nach lú ná dhá bhliain ó dháta críochnaithe gach aonaid tithíochta shonraithe, go léireofar é chun sástacht an údaráis pleanála nach rabhthas in ann gach teach sonraithe nó gach aonad déphléacsach sonraithe a dhíol lena úsáid ag ceannaitheoirí aonair agus/nó acu sin atá incháilithe le haghaidh tithíocht shóisialta

agus/nó inacmhainne a áitiú, lena n-áirítear tithíocht ar cíós de réir costais.

- (c) Beidh an cinneadh ón údarás pleanála a cheanglaítear i mír (b) faoi réir fianaise dhoiciméadach shásúil a bheith faighte ag an údarás pleanála agus ag an údarás tithíochta ón iarratasóir nó ó aon duine a bhfuil leas aige nó aici sa talamh maidir le díol agus margú na n-aonad tithíochta sonraithe. Sa chás sin, deimhneoidh an t-údarás pleanála i scríbhinn don iarratasóir nó d'aon duine a bhfuil leas aige nó aici sa talamh gur foirceannadh an comhaontú a rinneadh faoi alt 47 agus gur comhlíonadh ceanglas an choinníll pleanála sin i leith gach aonaid tithíochta shonraithe.

Cúis: Chun forbairt tithíochta nua a theorannú dá húsáid ag daoine d'aicme nó de thuairisc ar leith chun rogha agus soláthar leordhóthanach tithíochta, lena n-áirítear tithíocht inacmhainne, a chinntiú ar mhaithe le leas an phobail.

23. (a) Sula dtosófar an fhorbairt, cuirfidh na hiarratasóirí mionsonraí isteach faoi thoiliú agus ceadú ó Oifig na nOibreacha Poiblí faoi alt 50 den Acht Siltin Airtéirigh, 1945, i ndáil leis an struchtúr droichid agus an bonneagar gaolmhar a thrasnóidh Sruth Throscaí a thógáil.
- (b) Déanfaidh na hiarratasóirí an tardhroichead a oibriú agus a chothabháil ar feadh thréimhse iomlán na forbartha, lena n-áireofar cigireachtaí tráthrialta cothabhála a shocrú ó ghairmí atá cáilithe go cuí. Déanfar an struchtúr tardhroichid agus na bacainní cois bóthair agus na bóithre isteach sa droichead a bheidh ag gabháil leis a thógáil i gcomhréir leis an treoir dea-chleachtais ó Bhonneagar Iompair Éireann.

Cúis: Ar mhaithe le sábháilteacht coisithe agus tráchta agus sábháilteacht an phobail.

24. Sula dtosófar an fhorbairt, taiscfidh an forbróir leis an údarás pleanála taisce airgid, banna de chuid cuideachta árachais nó urrús eile chun a áirithiú go soláthrófar bóithre, cosáin, príomhlíonra uisce, draenacha, spás oscailte poiblí agus seirbhísí eile a cheanglaítear i ndáil leis an bhforbairt agus go ndéanfar iad a chríochnú agus a chothabháil go sásúil go dtí go nglacfaidh an t-údarás pleanála faoi chúram iad, mar aon le comhaontú lena dtabharfar de chumhacht don údarás pleanála urrús den sórt sin nó cuid de a úsáid chun aon chuid den fhorbairt a chríochnú nó a chothabháil go sásúil. Comhaontófar foirm agus méid an urrúis idir an t-údarás pleanála agus an forbróir nó, cheal comhaontú, tarchuirfear an ní chuig an mBord Pleanála lena chinneadh.

Cúis: Chun a chinntiú go ndéanfar an fhorbairt a chríochnú agus a chothabháil go sásúil go dtí go nglacfar faoi chúram í.

25. Íocfaidh an forbróir leis an údarás pleanála ranníocaíocht airgeadais i leith bonneagar agus saoráidí poiblí a rachaidh chun tairbhe d'fhorbairt i limistéir an údaráis pleanála, ar nithe iad a sholáthróidh an t-údarás nó a sholáthrófar thar a cheann, nó a bhfuil sé beartaithe ag an údarás iad a sholáthar nó a bhfuil sé beartaithe iad a sholáthar thar a cheann, i gcomhréir le téarmaí na Scéime Ranníocaí Forbartha arna déanamh faoi alt 48 den Acht um Pleanáil agus Forbairt, 2000, arna leasú. Déanfar an ranníocaíocht sula dtosófar an fhorbairt nó trí cibé íocaíochtaí céimnithe a éascóidh an t-údarás pleanála, agus beidh sí faoi réir aon fhorálacha innéacsaithe is infheidhme den Scéim tráth na híocaíochta.
- Comhaontófar mionsonraí chur i bhfeidhm na Scéime idir an t-údarás pleanála agus an forbróir nó, cheal comhaontú, tarchuirfear an ní chuig an mBord Pleanála chun cur i bhfeidhm cuí théarmaí na Scéime a chinneadh.

Cúis: Ceanglaítear leis an Acht um Pleanáil agus Forbairt, 2000, arna leasú, go ndéanfaí coinníoll lena gceanglaítear ranníocaíocht i gcomhréir leis an Scéim Ranníocaí Forbartha arna déanamh faoi alt 48 den Acht a chur i bhfeidhm i leith an cheada.

Appeal by Gabriel McGoldrick of 6 Cnoc Fraoigh, Bearna, County Galway against the decision made on the 2nd day of February, 2024 by Galway County Council to grant subject to conditions a permission to Burkeway Homes Limited care of MKO of Tuam Road, Galway in accordance with plans and particulars lodged with the said Council.

Proposed Development: (1) Amendments to a previously permitted development under reference ABP-308431-20 comprising the replacement of Apartment Blocks A1 and A2 (consisting of nine number one-bed and 18 number two-bed apartment units) with a new duplex style Apartment Block A5 (consisting of four number two-bed apartment units); (2) minor amendments to the finished floor level of Apartment Blocks A3 and A4 as permitted under reference ABP-308431-20; (3) the provision of 17 number houses comprising 13 number four-bed detached houses, two number four-bed terraced houses and two number three-bed terraced houses; (4) the provision of a bridge structure to support a new internal pedestrian and vehicular access road to connect to the access road permitted under reference ABP-308431-20; (5) minor amendments to the car parking and footpath layout as permitted under reference ABP-308431-20 and (6) provision of communal open space, private open space, site landscaping and boundary treatments, public lighting, resident and visitor car parking, electric vehicle charging points, bicycle parking, refuse storage, pedestrian, cycle and vehicular links throughout the development and all other associated site development works at Trusky East, Bearna, County Galway, as amended by the further public notices received by the planning authority on the 1st day of December, 2023.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

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 SS1 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 Special Area of Conservation (Site Code 000268) and the Inner Galway Bay Special Protection Area (Site Code 004031), 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 Special Area of Conservation (Site Code 000268) and the Inner Galway Bay Special Protection Area (Site Code 004031) 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 Sites 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, 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 ABP-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.

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 Construction and 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, 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 interests 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 Éireann 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 in Appendix E of the Engineering Services Report 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 interests 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 interests 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 interests 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 interests 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 applicant 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 ABP-308431-20.

Reason: In the interests 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 applicant 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 applicant 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.



Mary Henchy

**Comhalta den Bhord
Pleanála atá údaraithe go cuí
chun séala an Bhord a
fhíordheimhniú**

**Member of An Bord
Pleanála duly authorised
to authenticate the seal
of the Board.**

Arna dhátú an

9th

lá seo de



2025