



An  
Bord  
Pleanála

## Inspector's Report PL 07.247446

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### Development

Construction of 1 no. infill one-bedroom terrace house between existing street front houses and demolition of partially built garage and construction of 15 no. houses.

### Location

Rinn Na Mara. Co Galway.

### Planning Authority

Galway Co Council.

### Planning Authority Reg. Ref.

16/147.

### Applicant(s)

Tribal Investments Ltd.

### Type of Application

Permission.

### Planning Authority Decision

To Grant Permission.

### Type of Appeal

Third Party

### Appellant(s)

David Green.

### Observer(s)

None.

### Date of Site Inspection

17<sup>th</sup>, January 2017.

### Inspector

Breda Gannon.

## 1.0 Site Location and Description

- 1.1. Bearna is a coastal village situated on the western edge of Galway city, approximately 6.5km west of the city centre. It has developed along the R336 Regional Road, which is the main coastal road that connects Galway city to Spiddal and the Connemara region. The original settlement centred on the pier area and adjacent roadways, with more recent development radiating out along the approach roads. The village has experienced significant development pressure in more recent years, which has altered its character.
- 1.2. The appeal site is located on the south side of the R336 in the centre of the village. It has an L-shaped configuration and a stated area of 0.572 ha. The site slopes downgradient from the road to the centre of the site rising again towards the rear and sides. The topography varies significantly in an east west direction, with the smaller western section forming a topographical hollow that is lower than the rest of the site.
- 1.3. The site is adjoined on its east side by a graveyard, with a single dwelling house towards the southern end. To the west there is wasteland, beyond which lies Supervalue car park and associated shops on higher ground. To the south agricultural land separates the site from the coastline. The site boundaries are defined by stone walls and overgrown hedgerows. Further north and to the east of the site access there are two dwelling houses facing the R336. The houses have small front gardens and finished floor levels below road level. To the west of the site entrance there is a thatched cottage, which is listed as a Protected Structure.
- 1.4. Opposite the site on the northern side of the regional road, there are a number of retail establishments. Modern recent development defines the corner at the junction to the east. To the southeast, there is an Architectural Conservation Area (ACA) associated with Pier Road. The pier itself is listed as a Protected structure.
- 1.5. There is a partially constructed building on the site. The site is not currently in active use but there is evidence that it has been used in the past for dumping of building material and other refuse.

## 2.0 Proposed Development

2.1. The development as described in the public notices submitted with the application proposes the following:

- Modifications and improvements to two existing two-storey street front houses, new public footpath and access to the houses, on street parking and boundary treatments.
- Construction of 1 no. infill one- bedroom terrace house between the existing street front houses.
- Construction of 15 no. new houses arranged around a shared landscaped home zone/village green amenity space, connection to existing drainage and watermain services, provision of new access road and car parking spaces.
- Demolition of existing partially constructed garage structure.

The houses would be 2/2.5 storeys in height and arranged in terraces within the site. The external finishes would include a mix of glazing, render finish, blue/black fibre cement or natural slates. All houses would be connected to existing drainage and watermain services. Public open space would be provided in the form of a soft landscaped area in the south western corner of the site, adjoined by a 'home-zone' area.

The application was supported by the following documents;

- Planning Statement prepared by Mc Carthy, Keville O'Sullivan, and
- Civil Engineering Planning Report prepared by O'Connor, Sutton, Cronin.

## 3.0 Further Information

Further information on the application was sought by the planning authority on April 6<sup>th</sup>, 2016 on the following matters;

- The planning rationale for the proposed residential scheme within the context of both the existing policies and objectives of the Bearna LAP and the existing and permitted development within the village core area.

- Design statement and visual impact assessment of the proposed development. Private open space provision, the provision of usable and qualitative public open space, location of car parking spaces.
- Visibility splays at entrance; road safety audit.
- Impact assessment of the development on the Protected Structure and the ACA.
- Archaeological impact assessment.
- Site specific flood risk assessment.

The response to the further information was received on September 9<sup>th</sup>, 2016 and will be addressed in more detail below in the assessment. It included a number of revisions to the original proposal as detailed in the cover letter.

## 4.0 Planning Authority Decision

### 4.1. Decision

The planning authority decided to grant permission for the development subject to 15 no. conditions. Apart from standard type construction/engineering conditions, the decision includes the following conditions of note:

**Condition No 2** – Requires that a revised design of the proposed access with the public road to include a standard graded junction as opposed to a raised ramp be submitted for written agreement with the planning authority prior to commencement of the development.

**Condition No 3** - Requires that 20% of the houses permitted be restricted to use by those who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht. Developer to enter into a Section 47 agreement with the planning authority. Controls occupancy of remaining houses to local people and those with connections in the area.

**Condition No 6** – Archaeological monitoring of all ground works.

**Condition No 8** – External finishes.

**Condition No 11** – Best construction practices to be employed to prevent any significant adverse impacts to nearby Natura 2000 sites.

**Condition No 14** – Financial contribution.

**Condition No 15** – Bond.

## 4.2. **Planning Authority Reports**

### 4.2.1. **Planning Reports**

The **Planning Officer's** report of September 23<sup>rd</sup>, 2016 notes that the site is zoned 'Village Core' in the Bearna LAP. The subject site adjoins but is not located with the Bearna ACA. There is a Protected Structure on the adjoining site to the west immediately adjacent to the site entrance. The site is located within a zone of archaeological potential around Recorded Monument (GA093-020: Graveyard) located on the adjoining site to the east. The site is partially located within an indicative coastal flood risk area. The site is located within the Connemara Gaeltacht and a Linguistic Impact Statement has been submitted with the application.

The report documents the various provisions of the Bearna LAP and the Galway County Development Plan 2015-2021. Following a review of the further information, it is recommended that permission be granted, subject to conditions.

### 4.2.2. **Other Technical Reports**

The **Conservation Officer's** report notes that the application does not address its location adjoining a protected structure or its location close to the ACA which protects the character of the Bearna Pier Road. It is recommended that further information be requested requiring that the impact of the proposed development on the building and the area be assessed.

The **Roads & Transportation Report** requested that further information be requested showing visibility splays, in the horizontal and vertical planes (eye height 1.15m to objects 0.26m and 0.6m) and available from a 2.4m set back from the near edge of the trafficked carriageway on both approaches, and in the case of the western approach, the distance available from the centre line. Parking should not be provided within, or have to traverse a visibility envelope.

It also stated that a an independent road safety audit was required to ensure that the design of the access and the developments internal traffic arrangements are assessed for safety, the safety of vehicles, cyclist and pedestrians. A traffic impact assessment is not necessary as the traffic generated by the proposed development will not have a significant impact, due to the existing background traffic in the village and on the R336.

#### 4.3. **Prescribed Bodies**

**Transport Infrastructure Ireland (TII)** issued a standard type response on 29/2/16 stating that they would rely on the planning authority to abide by official policy in relation to development on/affecting national roads as outlined in the DoECLC Spatial Planning and National Roads Guidelines for Planning Authorities (2012).

The **Department of Arts Heritage and the Gaeltacht** in their report of March 16<sup>th</sup>, 2016 noted that the development is large scale and is adjacent to Recorded Monument GA 093-020-Graveyard. It recommended that an archaeological impact assessment be carried out.

#### 4.4. **Third Party Observations**

A submission was received by the planning authority from Mr David Green. The issues raised were similar those raised in the appeal.

### 5.0 **Planning History**

**00/805** – Permission refused for the construction of a dwelling house, shed and septic tank system on April 4<sup>th</sup>, 2000 adjacent to the eastern boundary of the subject site.

**00/2416** – Permission granted for the construction of a dwelling house, shed and septic tank system on December 4<sup>th</sup>, 2000, subject to 11 no. conditions adjacent to the eastern boundary of the subject site.

**03/3969** -Permission sought for the retention of a garage and to retain continued change of use as a panel beating workshop. Application withdrawn.

## 6.0 Policy Context

### 6.1. Development Plan

The site is located within the development plan boundary of the Bearna Local Area Plan 2007-2017, which was adopted on December 17<sup>th</sup>, 2007 and amended on 20<sup>th</sup> December 2012.

The site is located within the Village Consolidation Zone and the Village Core Area development areas. The following objectives are relevant;

*Objective LU1 -Village Consolidation Zone:* To promote the development and consolidation of the village as a high quality, mixed use environment that is supported by a range of facilities and amenities, that is accessible to the local community, that supports public transport and that can be adequately and cost-effectively serviced.

*Objective LU3 -Village Core Area:* Promote the development of the Village Core as an intensive, high quality, well landscaped, appropriately scaled and accessible environment with a mix of residential, commercial, service, tourism, enterprise, public and community uses that provides a range of services, facilities and amenities to the local community and visitors to Bearna.

Bearna is located within a Gaeltacht Area. Section 5.6.2.1(c) of the Gaeltacht Local Area Plan 2008-2018 provides that 'within the Local Area Plan boundaries of Maigh Cuilin, Bearna and Baile Chlair, a language Enurement Clause will be applied to 20% of the units in residential developments of two or more units and be of 15 years duration (Section 5.5.2.1(c)).

## 7.0 The Appeal

### 7.1. Grounds of Appeal

The grounds of appeal may be summarised as follows:

*Site entrance/Sight lines* – There is extremely limited visibility to the west due to the presence of roadside walls and pillars that form part of the thatched house (Protected Structure). In response to concerns, the applicant proposes using a

raised junction but sightlines will still not be available to the nearside edge of the road to the west. The Board recently refused permission for a single dwelling house to use an existing entrance onto the R336 by reason of restricted sightlines (PL 07. 243126). The proposal for a junction with inadequate sightlines to serve multiple residential development would be unacceptable.

*Absence of TIA and Safety Audit* – It is highly unusual that an application for a significant residential proposal seeking access onto a busy regional road would not be accompanied by a TIA. A Safety Audit was requested as part of the further information request and it was prepared by the applicants' own designers, when what is required is an impartial and independent assessment.

*Interference with permitted access* – The proposed development would materially contravene Condition No 7 of Ref No 00/2461. This was not addressed by the planning authority or the applicant's agent.

*Material contravention of plan* – The proposed single use residential scheme within the mixed use zoning materially contravenes the objectives of the Bearna Local Area Plan, which encourages a mix of uses in the village core and especially along the main street. The suburban scheme will not assist the delivery of an intensive village core or provide for a range of facilities/services.

*Density* – In the interests of sustainable development, the Bearna LAP requires a plot ratio of 1.00-1.25. The low density development with a plot ratio of 0.44 materially contravenes Objective LU 10. The Board must have regard to the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas', which offers clear advice on density. A density of 30-40+ dwelling is prescribed within small towns and villages. Mixed use development is also referred to. The single use residential scheme proposed amounts to a density of 29 dwellings per hectare.

*Archaeology* – The site adjoins an Archaeological Monument (RMP Ref No. GA093-020), a Graveyard. The buffer zone around the RMP extends into the subject site and overlaps with proposed house Types A1 and B. From the description of the RMP it would appear that the western extent of the graveyard (adjacent and potentially overlapping with the subject site) is archaeologically significant. Digging one trench



perpendicular to the graveyard is insufficient investigation especially when the RMP noted that the graveyard was extended westwards.

*Impacts on ACA* – The rear of the proposed residential terrace will back onto the Pier Road ACA. This will impact on the integrity of the ACA and will offer poor design intervention as viewed from the Pier Road.

*Impacts on Protected Structure* – The adjoining property to the west and northwest is a Protected Structure (RPS Ref No 748). The full impact on the protected structure does not appear to have been assessed, including new boundary wall and raised junction/ramp. Views from the protected structure have not been assessed. Due to the scale, height, mass and bulk of the proposal, the setting of the thatched cottage, barn and curtilage will be dominated by the proposed development, especially when viewed from the Spiddal approach.

*Open space* – Very steep topography exists at the location of the proposed communal open space. The applicants appear to be proposing significant infill to provide a more gradual incline. Details of the infill are not provided and the infill area is located in an identified coastal flood risk area. Given the absence of usable open space the application should be refused.

*Overlooking* – Most of the Type B houses are located less than 11m to the neighbouring property to the east. The most southerly Type B house (2.5/3 storeys) is unacceptable close to the existing house to the south-east. As part of the original application in an attempt to mitigate the risk of overlooking along the entire Type B terrace, obscure glazing is proposed. This would result in the bedrooms on the second floor not having clear daylight which represents a poor form of residential amenity.

*Inadequate private open space* – Private open space to some of the dwellings is extremely limited and confined i.e. Type B units to the south of the site and the rear garden of the proposed infill house located along the R336 to the north.

*Contaminated land* – With the remains of an unauthorised commercial garage on the site, remnants of hydrocarbons and lubricants in the soil is likely. In the absence of suitable site testing, the application should be refused on the grounds of public health.

*Percolation area* – The septic tank and percolation area permitted under Ref No 00/2461 appears to overlap with the location of proposed house types A & A1, which appears to have been ignored by Galway Co Council.

*Flood Risk* – The site is located in an extreme coastal flooding area. The response to further information acknowledges the presence of the Coastal Flood Risk area within the site. The water logged nature of the site is further substantiated in the archaeological trench testing and the Conservation Impact Statement which also confirms that the site is prone to waterlogging. Map 2.8.1C/Objective IS 19 identifies this area as being at risk from coastal flooding.

The Flood Risk Assessment shows the extent of the flood zone within the site. It overlaps with the proposed communal open space area and the proposed Type C residential terrace. The report finds that the development will result in the displacement of 393 m<sup>3</sup> of flood water. It notes that the displaced water post development will be displaced into the greater Galway Bay area. However, the site does not adjoin Galway Bay to the south. It adjoins future development lands zoned 'Village Core' under the LAP. There is a real risk that the proposed development will cause and exacerbate the risk of coastal flooding on the adjoining lands to the south. A Justification Test did not accompany the Flood Risk Assessment. In these circumstances the proposed development would materially contravene Objectives NH9 and IS19 of the Plan.

## 7.2. **Applicants Response**

The applicants' response to the appeal may be summarised as follows:

*Site entrance* – The proposed entrance will be via an existing site entrance that serves the subject lands to the rear. The site entrance will be realigned and enhanced to provide safe ingress and egress to the site off the R336. The entrance is located within the village core where a speed limit of 50km/h operates. To the west a continuous white line extends through the village. It influences the setting of the sight line envelope.

The existing junction enhancement has been designed in accordance with the Design Manual for Urban Roads (DMUR) and through discussions with Galway Co. Council. As part of the junction proposal the location of the existing site entrance

junction has been moved 3m to the east in accordance with pre-planning discussions held with the Road's Department. This optimised visibility for the proposed junction in the west direction. The levels at the proposed new road junction at the Bearna Road intersection have been raised to provide a level landing for cars entering/exiting the site and provides for maximum visibility in the vertical plane at the proposed site junction.

The visibility envelope and sight distances has been designed in accordance with the DMUR manual. The observation made in respect to the appeal queries the reason for the visibility envelop in the west direction being derived from the intersection with the centreline of the road rather than the nearside kerb. The DMUR's manual figure 4.63 Option 2 'Alternative Visibility Splay' has been used in the design of the visibility splay layout for the enhanced road junction due to the presence of a continuous white line.

The visibility splay envelope provided in the design is in accordance with the requirements set out in the DMUR manual (Figure 4.67) to ensure that the forward visibility in the vertical plane in the east and west direction along the R 336, encompasses a driver height of 1.05m and an object height of 0.6m and taking the visibility envelope to the centre line of the road, where a restraint on overtaking is in existence, as is the case at the proposed road junction.

The visibility splay envelop onto the proposed road junction lies outside the wall and pier curtilage of the protected structure to the west of the proposed access point. Details of the Visibility Splay Envelope layout is contained on OCSC Dwg No B806G-1007 of the submitted planning drawings. Appendix A of the response demonstrates full compliance of the junction visibility envelope with DMUR standards.

*Absence of TIA and Road Safety Audit* – The proposed development comprises 18 no. residential units. In accordance with Table 1.4 of the Traffic Management Guidelines (TMG) a TIA is required where the development exceeds 200 dwellings. The proposed development does not therefore require a TIA.

A Road Safety Audit was carried out in accordance with relevant requirements. For the audit, OCSC had no prior involvement in the scheme.

*Material Contravention of the Plan* –The site lies within the Village Core designated lands. The response to further information referred to a number of policies and objectives of the Bearna LAP. The site lies within the sub-areas described as ‘Main Street’ and ‘Central Areas’. Section 3.1.1 of the LAP states that ‘Medium to High Density Residential Development’ is appropriate in both sub areas.

The LAP does not include a specific objective that each individual development proposal brought forward within the Village Core must include a mix of uses. Such a rigid approach would be unsustainable in the context of the extant Bearna LAP. It is contended that the overall ethos of Section 3.1.1 of the LAP is to encourage a balanced mix of uses within the overall Village Core Area.

The proposal constitutes smaller scale infill development. Design Principle 4 of the DoEHLG’s Urban Design Manual’ (2009) states in relation to small infill schemes that *‘a development that is well connected to a good range of facilities within walking distance may be able to demonstrate that there is no need for any non-residential uses within the development site’.*

The applicants’ commissioned a number of surveys (land use, vacancy and planning search to illustrate the number of existing/permitted commercial developments within the Village Core Area) to justify the purely residential scheme. The surveys indicate a wide range of uses within the village core, including retail and non-retail facilities (educational, leisure hotels, pubs etc) and local businesses and residential uses. The surveys indicate that there were a total of 40 no. retail/commercial units both occupied and unoccupied in the village core area. Four of the units are currently vacant. The planning search also indicated that there are a number of permitted development, which have yet to be implemented, which suggests an absence of market demand for additional retail/commercial type developments in Bearna village at this time.

The overall ethos of Section 3.1.1 of the Bearna LAP is to encourage a balanced mix of uses within the overall Village Core Area. The LAP does not include a specific objective that each individual development proposal brought forward within the Village Core Area must include a mix of uses. Such an approach would be unsustainable and would not accord with the proper planning and sustainable development of the village core area.

*Density* – In addition to the requirements of the LAP, it is considered that the assessment of density and plot ratio should also be informed by the particular site form, being an infill and backland site with a number of building constraints including an adjoining protected structure, the site's location adjacent to a Recorded Monument and proximity to the Pier Road ACA. It is considered that the density of the proposed scheme is appropriate taking cognisance of the site configuration, context, location, topography and adjoining structures, resulting in a positive residential addition to Bearna's village core.

The design approach adopted for the proposed development has taken cognisance of the impact of the height, scale and massing of the proposed development, in addition to the Bearna LAP requirements relating to open space, car parking requirements and home zone provisions. Whilst the proposed plot ratio of 0.44 is below the maximum plot ratio of 1.0-1.25 for Village Core, the proposed design successfully addresses and responds to the myriad of architectural, heritage, archaeological and urban design constraints that form the context of the application site. The photomontages submitted with the further information demonstrates that the proposed development sits comfortably in its existing urban context and contributes to the proper planning and sustainable development of the area, in accordance with the provisions of the Bearna LAP. The adopted design approach is well considered and sensitive to the context of the proposed site.

*Adverse impact on archaeology* – Archaeological testing on the site did not result in the discovery of heretofore unknown or unrecorded archaeological material. Two finds were made of post medieval pottery, but no other finds of archaeological significance were recovered during the testing. The report prepared recommends archaeological monitoring during groundworks, which is also required by Condition No 6 of the planning authority's decision.

*Adverse impact on ACA and Protected Structure* – A Conservation Impact Statement (CIS) was prepared in response to the request for further information. It assesses the impacts on two Protected Structures (RPS 748-Thatched Cottage and RPS 886 – Bearna Pier) and on the ACA (Pier Road). The impact on the protected structure is deemed to be positive in so far as it does not impose itself on the cottage and will tidy its entrance. There will be no impact on Bearna Pier due to distance and lack of visual connectivity. The graveyard wall is in very poor condition

and the proposed development should impact positively as the boundary wall can be secured and stabilised. It is contended that the proposed development will have an overall positive impact on the village.

*Usable communal open space* - The proposed scheme has been designed to provide an appropriate amount of high quality well located open space within the proposed development. It has been designed to provide both active and passive recreational areas as well as contributing to the local environment by accommodating biodiversity and wildlife features. It includes hard and soft landscaped areas, which will encourage the provision of links and connections to adjoining sites.

The three amenity spaces combined over the entire site area equate to 1301m<sup>2</sup> over 5727m<sup>2</sup> or 22.71%. The village green on its own equates to 14% of the entire site area. Public open space exceeds the minimum standards set out in the County Development Plan and the LAP and is compliant with the aspirations set out in both plans in terms of provision of homezone and quality amenity that is passively surveyed.

*Overlooking* – The proposed development does not adversely impact on the degree of overlooking and any resulting loss of privacy. In general, a minimum back to back distance between dwellings of 22m is considered where practicable. Undue overlooking is avoided by not placing habitable living rooms in these situations and by the use of opalescent glass (Type B No. 11) or windows orientated to the front (Type C No's 12-15).

*Inadequate Private Amenity Space* – Each dwelling is provided with private open space in excess of the areas set out in the plan. Revised site plan diagrams/ drawings 2296-PA-200 illustrates full compliance. Following a review of the drawings, the private open space provision for houses numbered 10, and 12, 13 and 17 were clarified as exceeding the minimum standard behind the building line.

*Contaminated land and percolation area on the site* – The OCSC technical note (Appendix A) confirms that the issue raised is not relevant as the existing septic tank will no longer be used when the site is developed. Under the planning application, it is proposed to connect the existing houses located along the road frontage of the R 336 to the local authority sewer system. The existing septic tank and percolation area will be demolished.

*Flood Risk* – The Flood Risk Assessment submitted in response to the further information request has been updated to address the flood risk observation made in the appeal. The OPW flood hazard mapping shows no previous flood event on, or, near to the proposed development site. A small localised low lying area of the site has the potential for coastal flooding risk according to the documentation reviewed as part of this flood risk assessment. The existing low lying areas of the site are to be filled to raise the overall site level in these areas. The flood risk assessment has shown that the displacement of this water resulting from possible coastal flooding has no measurable effect on the water levels in Galway Bay.

*Part V* – In accordance with the social housing requirements of the Urban Regeneration and Housing Act 2015 and the Planning and Development Act, 2000, as amended, it is proposed to provide 1 no. one-bed and 1 no. two bed own door houses to satisfy Part V obligations. Galway Co Council Housing Section have confirmed that they agree in principle.

### 7.3. **Planning Authority Response**

No response to the grounds of appeal were submitted by the planning authority

### 7.4. **Observations**

None

## 8.0 **Assessment**

8.1. The main issues that arise for determination by the Board in respect to this appeal are as follows:

- The principle of the development in this location
- Material contravention of the development plan
- Site access and parking
- Open space provision
- Impacts on Protected Structures and ACA
- Impacts on archaeology

- Flooding
- Other matters

## **1. Principle of the development in this location**

Bearna village forms part of the Galway Metropolitan Area (GMA) in the Settlement Strategy for county Galway. It includes Galway city and a number of electoral divisions adjacent to the city. The Galway Co Council Development Plan recognises and supports the strategic importance of the area in terms of the growth of the city and as a key driver of economic and social growth in the county. The GMA is at the top of the settlement hierarchy (Tier 1), which highlights its importance in terms of potential scale of population growth permissible within the lifetime of the plan.

Under the provisions of the county development plan, Bearna has been identified for future growth and assigned a population growth target of 420 people. The current proposal, which will provide additional housing units within the village, is consistent with Settlement Strategy and will facilitate the strengthening of the GMA in accordance with the provisions of the Plan.

The Bearna LAP, seeks to ensure that the growth and development of Beara is in accordance with the provisions of the Core Strategy and Settlement Strategy for the County (Policy 2.2.2). It also seeks to consolidate the village core through the provision of a mixed use environment. The proposed development is located on lands zoned for the development within the village core, where residential uses are permissible in principle. It will contribute towards the range of uses available within the village and is, therefore, acceptable in principle in this location.

## **2. Material contravention of the Plan**

The appellant contends that the proposed development materially contravenes the zoning and density standards of the Bearna LAP and is at variance with the provisions of the *'Guidelines for Planning Authorities on Sustainable Development in Urban Areas'* (DoEHLG, 2009).

With regard to zoning, the appellant takes issue with the use of the site for residential purposes only, noting that the LAP seeks to promote a mix of uses within the Village Core.



The land use strategy adopted in the LAP seeks to move away from conventional land use zoning, where single or limited uses, such as residential development are permitted in particular zones. It is designed to provide for a greater mix of complimentary uses and maximise community gain in the development areas. Within the Village Core medium to high density residential development is facilitated in conjunction with other uses. Under the provision of the LAP, the only area within the LAP that might be considered as a primarily residential area is the Outer Village Area within the Village Consolidation Zone' (Page 17 Development Phasing & Map 2.3.2A).

The LAP was adopted in 2007 and amended in 2012. Despite being in operation over a considerable period, it's objectives regarding the provision of mixed use development on the subject site have not been achieved. The site remains vacant and underutilise. It forms a gap in the townscape on the south side of the regional road between the development centred on the pier area to the east and the area associated with Supervalu to the west. It is located in a prime location, the development of which would facilitate the consolidation of the village core in line with the provisions of the plan.

It has been demonstrated by the First Party that the village already has a wide mix of uses. The land use study conducted to support the applicant's rationale for the proposed development, revealed that the village is well served by a wide range of uses (including comparison and convenience retail, food outlets/hotels, medical and health, financial and business etc). A vacancy survey indicated that 10% of retail units were vacant at the time of survey. A planning search of planning permissions for retail/commercial developments in the village, indicated that a significant number have not been implemented, which suggests an absence of market demand for additional services at the current time.

The need for additional housing in the village has been identified in the Settlement Strategy. The provision of additional houses in this central location would support the range of existing facilities and act as a catalyst for additional services which would further consolidate the village in accordance with the provisions of the LAP. It would secure the development of an existing underused site in the centre of the village adhering to the sequential approach to development in accordance with Objective LU10 of the LAP.

Whilst the proposed single use scheme does not strictly accord with the land use policies of the plan, I consider that it will have a positive outcome for the village in terms of achieving redevelopment of a centrally located backland site, which will in turn encourage and support the mix of uses in the village core in line with the provisions of the LAP.

The proposed development achieves a plot ratio of 0.44 and a density of 31 dwellings/hectare. Whilst I accept that this is below the maximum plot ratio development standard of 1.00 – 1.25 for the Village Core set out in the LAP, I note that under its provisions, varied plot ratio's may be considered where appropriate and in the interests of the proper planning and sustainable development of the area.

I would point out to the Board that the density standards provided for in the DoEHG guidelines are not intended to be prescriptive and whilst higher densities are promoted in central sites, it is recognised that there are marked variations in development context which affect the density of development.

I accept that the level of development that can be effectively be accommodated within the site is constrained by the configuration of the site and its context (protected structure, recorded monument etc). I consider that an acceptable balance has been achieved in the design of the scheme, maximising the use of the site while at the same time ensuring an appropriate level of residential amenity is afforded to future residents, and that the existing character of the village is not compromised.

### **3. Site access and parking**

The site lies within a 50 km/h speed zone and a continuous white line exists on the carriageway at the front of the site, which extends east and west of the site entrance. Visibility at the site entrance is curtailed to the west by the walls and pillars associated with the existing thatched cottage (protected structure). Access to the proposed new housing scheme will be through the existing site entrance which will be realigned and enhanced. The location of the existing site entrance junction will be relocated 3m to the east to optimise visibility in a west direction.

In response to the issues raised by the planning authority regarding visibility at the site entrance, a Stage 1/2 Road Safety Audit was conducted by the applicant.

Design changes were incorporated into the original proposal to address the issues raised in the audit (Dwg No B806G-1004 Rev E & B806G-1007P01). These included

raising the levels at the proposed new road junction at the R336 intersection to provide a level landing for cars entering/exiting the site.

The visibility splays have been re-designed to address the Planning authority's concerns and have been demonstrated to be in accordance with DMUR's Manual. The visibility splay envelop lies outside the walls and pillars of the thatched cottage ensuring that visibility in a west direction from the proposed site access is unobstructed. The removal of the proposed 4 no. car parking spaces to the east ensures that visibility in this direction will not be obstructed. Subject to the entrance being developed as proposed, it would appear that adequately visibility can be in both directions to ensure safe traffic manoeuvres.

There is no evidence on the planning file that the revised proposals were circulated for comment to the Roads & Transportation section. The provisions of Condition No 2 indicate that the raised ramp arrangement is not acceptable to the Council. It requires a revised design incorporating a standard graded junction and replacing the 3.0m turning radii with 6.0m radii.

I note that the audit raised issues with the 6m turning radii regarding them to be excessive and not consistent with DMUR's principles. Section 4.3.3 of the DMURS manual advocates reduced radii in areas where design speeds are low and movements of large vehicles are infrequent. Other advantages include the creation of more compact junctions and improved pedestrian and cyclist safety by lowering the speeds at which vehicles can turn corners. Having regard to the location of the site within the village core, the nature and scale of the proposed development and that it has been demonstrated that the junction can be designed to provide safe ingress/egress, I consider that the junction radii should be maintained at 3m.

The planning authority is clearly not satisfied with the proposed raised ramp arrangement. Should the Board be minded to grant permission for the development, I recommend that a condition be attached requiring the applicant to revert back to the planning authority to agree suitable junction details in accordance with DMUR requirements and the detailed requirements of the planning authority, prior to commencement of development.

Adequate car parking (31 spaces) are proposed within the site which satisfies the LAP requirement of 1.5 space per house. As noted by the First Party there is no requirement for a Transport Impact Assessment for a development of the scale.

The appellant refers to a decision by the Board to refuse permission for a single house further to the east on the grounds of traffic safety (PL 07.243126). The cases are not directly comparable in that the issues regarding regional road sightlines could not be overcome.

It would appear that rear vehicular access to the rear of the property fronting onto the R336 which was permitted Reg Ref No 00/2416, was not formally constructed. The property now forms part of the subject site, where different alternative arrangements are proposed. Vehicular access will be available to car parking on the site and rear access (not vehicular) is provided.

#### **4. Open Space Provision**

The largest area of amenity space will be located in the south-western corner of the site. This corresponds with the lowest level of the site, which will be infilled to provide a more usable space. This soft landscaped area will lie adjacent to a paved 'home zone', designed to encourage shared use. These spaces combined will make provision for both active and passive use by the residents of the scheme. In addition, the houses fronting onto the R 336 will be provided with a shared front yard area which will enhance the amenity of these dwellings close to the public road.

The Bearna LAP specifies that within residential areas public open space should be a minimum of 10-15% of the total site area. It is acknowledged that within the Village Core this will be influenced by site circumstances and community gain priorities but shall be no less than 10%. I note that the main amenity area (770 m<sup>2</sup>) on its own satisfies the 10% requirement.

Whilst I accept that it would be preferable if the open space was more centrally located within the scheme, I accept that this is constrained by the site's configuration. The space is overlooked by a number of dwellings which together with its location adjacent to the 'home zone' will ensure adequate informal surveillance. It is a generous space, well set back from the public road, which will provide a safe play space for children and a good amenity area for residents.

It is a requirement of the LAP that 50m<sup>2</sup> of private open space be provided for a 1/2 bed house and 60-70 m<sup>2</sup> for a 2/4/5/ bed house, behind the building line. The planning authority in its request for further information raised issues regarding the private open space associated with 4 no. dwellings (10,12,13 & 17), which it considered would fall below development plan requirements.

Private gardens will be provided at the rear of each house. In some instances, this falls below development plan requirements. It has been demonstrated in the response to further information that in these cases, occupants will have access to sunken gardens/covered areas at lower ground level and raised decks at upper ground floor level (House Type B) and to a roof terrace at second floor level (House Type C), ensuring that all of the dwellings are provided with a reasonable level of amenity space that is free from undue observation.

## **5. Impacts on Protected Structures and ACA**

There are two protected structures in the vicinity of the site, namely Bearna Pier and the thatched cottage adjacent to the site. Bearna Pier (RPS No 886) is located at a distance to the south-east and within the Pier Road ACA and is considered in more detail below.

The thatched cottage (RPS Ref No 748) that lies immediately to the west of the site entrance is described as follows is as follows:

*'A detached 5 bay detached cottage with end gable stacks and attic storey, late 19<sup>th</sup> century. The roughly rendered façade has replacement windows. 2 storey slated barn. Set adjoining road.*

*Regional Rating-Good example of an increasingly rare type of building in this part of Galway. The building retains a patina of age. It is a landmark building.*

The thatched cottage addresses the R336 and has a small front garden enclosed by a low rendered wall, with rubble walls to the side. To the rear there is a more modern flat roof single-storey extension. To the east there is a roofless lean-to structure and the remnants of a rubble wall. To the south-west there is a two-storey pitched slateless shed. The cottage shares the same vehicular entrance as the proposed development.

It is contended by the appellant that the potential impacts of the development on the outlook from the house and on its character and setting arising from the relocation of the site entrance, with new boundary walls and the provision of a ramped access have not been properly assessed.

The western boundary of the application site extends as far as the eastern gable of the cottage. There are no proposals to disturb the partially demolished lean-to located along its eastern gable, despite it being located within the application site. There will be no direct impacts on the fabric of the cottage or its curtilage. It is proposed to remove the projecting rubble walls and to provide a new 1m high stone faced wall, to define the curtilage. Low level planting will be provided in front of the wall. I consider that the works proposed along the eastern gable of the cottage will enhance rather than detract from the character and setting of the protected structure.

In assessing the impacts of the development on the character and setting of the protected structure, regard must be had to its existing context. The Board will note that the cottage sits within the streetscape of the village surrounded by more modern development. The rear curtilage of the building and its associated buildings has been neglected. It's outlook to the rear is over vacant land that has been disturbed, excavated and used for the deposition of building and other material.

Having regard to the location of the cottage within the built up area of the village surrounded by more modern development, it is not considered that the proposed development will result in significant adverse impacts on the character of the protected structure or its setting, to warrant refusal of the application on those grounds. When viewed from the streetscape and the wider locality, the photomontages contained within the Conservation Impact Assessment show that the proposed development will not overwhelm or significantly impose on the protected structure such that its character or setting will be detrimentally affected. Whilst the proposal will introduce built elements into the landscape, this is a site that is zoned, with a reasonable expectation that it will be developed at some point in the future.

With regard to impacts on the outlook from the cottage, these will occur to the rear only and it is difficult to argue that the development of the existing vacant site with an appropriately designed housing scheme, will give rise to impacts which would negatively impact on the existing outlook from the cottage. Furthermore, it is not

considered that the works proposed to provide a level platform for vehicles entering/leaving the site will be of such significance to impact detrimentally on the character or setting of the protected structure.

Bearna Architectural Conservation Area is centred on Pier Road to the south east of the appeal site. It extends northwards from the pier (RPS No 886) encompassing the buildings and lands each side of the road. It extends to include the building on the northeast (Donnelly's Bar) at the junction but does not include the more modern development on the opposite side to the west.

It is requirement of both the development plan and the LAP that future development should reflect and respect its established and respond positively to the existing character of the buildings within the ACA in terms of their design, height, material treatment etc. I would point out to the Board that no part of the development will encroach into the ACA. However, the site shares a common boundary with the graveyard, which is included in the ACA.

Whilst the site is visible from the pier, the proposed development will be read in conjunction within the existing built form of the village and no significant impacts on the character or setting of the protected structure will therefore arise. The houses will be visible from within the graveyard but it is already impacted by adjacent development, particularly the more recent development directly adjoining to the north. While there will be intermittent views of the tops of the houses from Pier Road, where gaps occur in the streetscape, I do not consider that the impact will so significant that the overall character or integrity of the ACA will be seriously compromised.

## **5. Impacts on Archaeology**

It is contended in the appeal that impact on archaeology may arise due to the location of the site within the buffer zone of the Recorded Monument and that the western end of the graveyard may overlap with the appeal site. Issues have also been regarding the adequacy of the assessment.

The graveyard located to the east of the appeal site is a Recorded Monument (GA093-020). Whilst it is acknowledged in the Archaeology Report that the graveyard was extended westwards from the original site and it is evident from the

various editions of OS maps that the boundaries of the graveyard have changed over time, there is no evidence that the graveyard extended into the appeal site.

Trial testing has been carried out on the site in response to the issues raised by the DAHG. A total of 6 no. trenches were excavated at various locations within the site as shown in the Archaeology Report. No archaeological features or materials of significance were discovered in any of the excavated trenches. There is evidence on the ground that parts of the site have been excavated and the archaeological assessment noted evidence of a significant amount of infill material deposited in low lying areas adjacent to the graveyard.

No works are proposed which would directly impact on the graveyard. The common boundary with the appeal site is formed by a stone wall, sections of which are in a poor state of repair. It is intended that the walls will be retained. I have no concerns regarding the adequacy of applicants' assessment and subject to archaeological monitoring of ground works during construction as recommended, I do not consider that any issues arise regarding the protection of archaeology.

Should the Board be minded to grant permission for the development, I recommend that a condition be attached requiring archaeological monitoring of all groundworks.

## **7. Flooding**

As noted by the appellant, the OPW Preliminary Flood Risk Assessment (PFRA) flood maps indicated that part of the site was at risk from extreme coastal events.

A Flood Risk Assessment was carried out in response to the request for further information. A review of published data sources was carried out including the OPW National Flood Hazard Mapping, CFRAM Flood Risk Study, Irish Coastal Protection Strategy Study, the Development Plan and the LAP.

The OPW flood hazard maps do not show any recorded flood events on the site or in its environs. The OPW CFRAM maps show no known flood risks in the immediate area of the proposed development or within Bearna village. The nearest known flood risk area highlighted in these maps lies c 4km to the east of Bearna village. A more recent study, the Western CFRAM Flood Risk Review 2012, suggests that the flood risk to Bearna is 'Low frequency' due to recent drainage improvements. It is acknowledged in the assessment that the lower sections of the site are vulnerable to flooding arising from storm surges coupled with high tide.



Reference has already been made to the variations in site levels across the site. At its lowest level adjacent to an existing drain to the south, it is 3.5m OD. It is proposed to fill the low lying areas of the site to allow site contours to be more gradual and consistent. The lowest proposed road level in the development is 5.748m OD Malin. The lowest proposed finished floor level is 5.8m OD Malin.

The Irish Coastal Protection Strategy Study -Phase 4-West Coast provides information on Flood Mapping for the coastal area. It provides details of water levels in Galway Bay close to the Bearna for various flood events. The information shows a water level of 3.93m OD in Galway Bay during a 1:1000 year return event. The lowest level of the proposed development is therefore 1.18m above the 1:1000 year coastal flood level.

Infilling of the low lying area of the site will result in the displacement of 393 m<sup>3</sup> of water in the case of a 1:1000 year event. I accept that the displacement of such a small volume of water into the wider expanse of Galway Bay, will have an immeasurable impact on sea level.

I note the issues raised by the appellant regarding the justification test under the Flood Risk Management Guidelines. During the amendment of the Bearna LAP in 2012, a Strategic Flood Risk Assessment was undertaken. It was accepted by Galway Co. Council in the designation of the lands for development that the justification test has been carried out. In this regard I would draw the attention of the Board to Section 2.8.1 of the Plan which states;

*‘A portion of lands at risk of coastal flooding to the west of Bearna pier has been zoned as Village Core and has been subject to the justification test in accordance with the Flood Risk Management Guidelines 2009’.*

- The lands were considered to satisfy the justification criteria on the following basis that Bearna was targeted for growth in the county development plan,
- the strategic location of the lands within the village core,
- that flood risk can be managed to avoid unacceptable adverse impacts elsewhere, and

- that any residual risks, and specific mitigation measures to avoid reduce or mitigate can be further assessed through the development management process and site specific flood risk assessment.

It has been established in the site specific flood risk assessment carried out in support of the application that the site is not normally at risk from coastal or other flooding. It is acknowledged that in an extreme event, the lower section of the site would be prone to flooding where there is a combination of a tidal surge and high tides. Raising ground levels above the extreme coastal water level event will mitigate any potential impacts that could arise.

I accept that the flood risk assessment carried out as part of the application is robust, comprehensive and satisfies the requirements for site specific assessment under the requirements of Objective IS 19 of the LAP. The Board will note that all elements of the development including public areas of open space/home zone areas are all above the 1: 1000 coastal flood event. I consider that the applicant has effectively demonstrated that the completed development site is not at risk from coastal flooding and that refusal of permission on these grounds would not therefore be warranted.

It is proposed to attenuate storm water discharge within the site. The storm water network will be designed to flow by gravity into an attenuation tank to be provided beneath the proposed green area located in the south western corner of the site. The tank will be sized to cater for the 1: 100 year storm event. Water will be discharged into the existing stream that flows southwards away from the site using a hydro-brake control valve at a rate of 2.1 litres/per second. The water will be subject to hydrocarbon interception prior to discharge.

There is no assessment of the impact of the proposed storm water discharges on the stream flowing south. Should the Board be minded to grant permission for the development, I recommend that a condition be attached requiring that prior to commencement of development that the developer be required to demonstrate that the stream has the capacity to cater for the discharge rate proposed.

## **8. Other Matters**

There is an existing septic tank system associated with the house permitted under Reg Ref No 00/2461 within the appeal site. This will be demolished and removed off

site by a registered waste collector. The house will be connected to the public collection system and accordingly no further issues arise.

There is a partially constructed building on the site, which appellant states was associated with an unauthorised commercial garage on the site. His concerns relate to the potential for soil contamination arising from oil/fuel leakages. There is no information on the scale of the operation or how long the unauthorised use was in place. The First Party has not provided any response to the issues raised. Should any issue arise regarding contaminated soil, the developer will have obligations regarding disposal under the Waste Management Acts

The appellant raises issue regarding the provision of obscure glazing to bedroom windows in House Type B. These houses form a terrace with the rear elevation facing east towards the graveyard and the rear of an existing dwelling. Obscure glazing is proposed to the bedroom window on the second floor of House No 10 and 11, which are closest to the common boundary. There is shed adjacent to the boundary associated with the existing house which will block views into rear garden at lower levels.

I accept that the provision of obscure glazing in the bedroom window at second floor level will impact on the amenity of the house. Having regard to the urban context of the proposal and the 15m separation distance that exists, I consider that that the proposal is acceptable and will not result in a significant diminution of adjoining residential amenity.

Condition No 3 of the planning authority's decision requires that 20% of the houses be restricted to use by those with a proficiency in the Irish language. I note that a similar condition was not attached by the Board in a recent development for housing in the village (PL 07. 242850).

### **Appropriate Assessment**

The planning officer noted in his report that there are 11 no designated European sites within 15 km of the subject site. The nearest are Galway Bay Complex cSAC (Site Code:00268) and Inner Galway Bay SPA (Site Code : 004031), located a number of kilometres east of Bearna. The Natura 2000 sites are well removed from the appeal site.

The proposed development is a scheme of houses which will be connected to the existing public water and wastewater infrastructure operating in Barna Village. The lower sections of the site are currently drained by a small stream that flows through the adjacent land to the south prior to discharge into Galway Bay.

Having regard to the nature of the development proposed, and the proposal to control discharges and reduce potential pollutants in storm water discharges, it is considered that the proposed development either alone or in combination with other plans or projects, does not have the potential to impact adversely on the qualifying interests of any Natura 2000 site. Stage 2 Appropriate Assessment is not therefore required.

## **9.0 Recommendation**

9.1. Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and the responses thereto, my inspection of the site and my assessment of the planning issues, I recommend that permission be granted for the development for the reasons and considerations set out below.

## **10.0 Reasons and Considerations**

Having regard to the policy framework for the area, the pattern of development in the vicinity, the location of the site within the village core and the wide mix of uses available, it is considered that subject to the conditions set out below, the proposed development would consolidate the village core in accordance with the provisions of the Bearna LAP 2007-2017 and would provide an appropriate form and density of development in this location. It is considered that the proposed development would not seriously injure the residential or visual amenities of the area, would not detract

from the character or setting of the thatched cottage (Protected Structure) would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 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 9<sup>th</sup> day of September 2016, 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 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 interests of clarity.

2. Prior to the commencement of the development the developer shall submit for the written approval of the planning authority a detailed design for the proposed junction of the site access road with the adjoining regional road in accordance with the requirements of the Design Manual for Urban Roads and Streets (2013) and the requirements of the planning authority. The junction shall be designed so that kerb radii do not exceed 3m.

**Reason:** To ensure safe and proper access from the site.

3. Details of the materials, colours and textures of all the external finishes to be proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Front doors shall be in solid wood only.

**Reason:** In the interest of visual amenity.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. This scheme shall include the following;

(a) a plan of not less than 1:500 showing-

- (i) proposals for screen planting along the eastern boundary adjacent to the graveyard and along the rear boundary of the terrace of House Type C
- (ii) detailed proposals for hard and soft landscaping to provide for active and passive recreation and including play facilities for children,
- (iii) details of the species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder. Cupressocyparis x leylandii shall not be used in any part of the site,
- (iv) details of types of paving to be used in the home zone area.

- (b) a timescale for implementation

All planting shall be adequately protected from damage until established.

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

5. Prior to commencement of development, details of site boundary walls and house garden walls to include height and finish shall be submitted for written agreement with the planning authority. All walls shall be suitably capped.

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

6. Water supply and drainage arrangements including the attenuation and disposal of surface water shall be in accordance with the requirements of the planning authority for such works. Prior to commencement of development the developer shall submit details for written agreement with the planning authority confirming that water discharges from the proposed attenuation tank shall not exceed the receiving capacity of the existing stream.

**Reason:** To ensure adequate servicing of the development and to prevent flooding and pollution.

7. The internal road network serving the proposed development including parking areas, footpaths, kerbs etc shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

8. 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. Such lighting shall be provided prior to the making available for occupation of any house.

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

9. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior to commencement of the development. Thereafter, all estate and street signs and house numbers shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

**Reason:** In the interest of urban legibility.

10. 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.

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

11. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

**12.** Site development and building works shall be carried out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

**13.** 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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

**14.** 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.

**15.** 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 satisfactory completion and maintenance until taken in charge by the local authority of services required in connection with the proposed development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion and 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 agreement.

**Reason:** To ensure the satisfactory completion of the development.

**16.** Prior to the 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 the Board for determination.

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

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Breda Gannon  
Planning Inspector

21<sup>st</sup> February 2017.

