



An
Bord
Pleanála

Inspector's Report

ABP-308037-20

Development	Permission for the construction of a housing development consisting of 40 residential units. A Natura Impact Statement was lodged with the planning application and a revised Natura Impact Statement was lodged following a request for further information by the Planning Authority.
Location	Truskey West, Bearna, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	191983
Applicant(s)	Truskey West (Property Holdings) Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Truskey West (Property Holdings) Ltd
Observer(s)	(1) Louise Fagan & Carlos Torregrosa (2) Patrick & Johanna Medley

- (3) Brendan Power & Olive Ward-Power
- (4) Helen Roberts
- (5) Aidan & Anne Miller
- (6) David & Maura Carr and Irene Carr
- (7) Anna Maguire & Kieran Burke
- (8) Mike Keane, 29 Thornberry
- (9) Andy Taylor & Dr Sinead Murphy
- (10) An Taisce
- (11) Michael Donnelly

Date of Site Inspection

25th November 2020

Inspector

Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 1.33 hectares is located to the north of Bearna. The appeal site is an undeveloped site located on the western side of the L-13215-0. Levels on site increase gradually moving northwards on site. The L-13215-0 defines the eastern boundary of the site. To the west and south is an existing housing development, Thronberry consisting of two-storey detached and terraced dwellings, which back onto the southern and western boundary of the site. The northern boundary is not defined by any physical structure or barrier as the appeal site is taken from a larger landholding with a portion of undeveloped land to the north that is zoned Residential (Phase 2) to the north of the appeal site. The nearest existing dwellings to the appeal site are to the south and west within Thronberry. Other dwellings in close proximity to the site include two existing dwellings (one is accessed off the L-13215-0) on the eastern side of the L-13215-0 on the opposite side of the public road from the main body of the site and three detached dwelling to the north but separated by the site by the lands zoned Residential (Phase 2). The appeal site also includes the L-13215-0 along the eastern boundary of the main body of the site and a portion of undeveloped land located on the eastern side of the L-13215-0 with road frontage on the L-1321-58 (Moycullen Road).

2.0 Proposed Development

2.1. Permission is sought for a development comprising 40 no. residential units (22 no. dwellings and 18 no. apartments).

2 no. house type B-3 bed two-storey semi-detached.

8 no. House type C-4 bed two-storey semi-detached.

2 no. house type C1-4 bed two-storey semi-detached.

6 no. house type D-3 bed two-storey terraced.

4 no. house type D1-3 bed two-storey terraced.

18 no. apartment within a single two-storey and a half block consisting of 8 no. 1 bed apartments, 9 no. two bed apartments and 1 no. three bed apartment.

The proposal includes the construction of part of the Bearna Inner Relief Road previously permitted under Part 8 Planning reference No. LA2706. This new section of roadway (link road) will connect the L-13215-0 county road and the L-1321-58 county road, with the provision of a new priority junction with the L-1321-58 to serve the area.

The permanent closure of a section of the L-13215-0 county road to vehicular traffic and provision for this section of the road to be used as a pedestrian and cyclist route.

The construction of a new access junction off the proposed new link road to serve the proposed housing development.

Connection to public mains water infrastructure, including connection to existing surface water and foul drainage network to serve the development.

Provision of public open space, a playground, a private open space, a surface level car parking. Stone shed, revised boundary treatments, together with site works and services associated with the proposed development.

- 2.2 As part of a response to further information an amendment was made to the design and scale of the apartment block with a reduction in the ridge height from 11.39m to 10.92m.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on three reasons...

1. The proposed apartment development to the north of the site comprising of 18 residential units by reason of its overall design, scale and mass as proposed are considered to be discordant with the prevailing character of the area and contrary the provision of UD2 of the current Bearna Plan. The development as proposed is considered to be out of keeping with the prevailing character of the area and would

fail to integrate effectively into the landscape/built environment. The proposal is therefore considered to be an inappropriate form of development which would have a negative impact on the character of the area and would be contrary Objective UD2 of the current Bearna Pan would set an undesirable precedent for similar development in the area and therefore is not considered in accordance with the proper planning and sustainable development of the area.

2. On the basis of the information included with the planning application particularly the Natura Impacts Statement which relies on the preparation of a Construction Environmental Management Plan and the site being connected to a Galway Bay Complex SAC and the Inner Galway Bay SPA the Planning Authority have concerns in terms of the potential for adverse impacts on Natura 2000 sites as a consequence of the proposed development. The Planning Authority are not satisfied due to the requirement for Construction Environmental Management Plan to be prepared and for same not to have been provided as part of the planning application documents lodged. Accordingly to grant the proposed development would be prejudicial to public health , would pose an unacceptable risk to water quality, would adversely affect the integrity and conservation objectives/qualifying interest of European sites, and therefore, would be contrary to the proper planning and sustainable development of the area.

3. In the absence of sufficiently detailed design of the local access road L-13215, the revised road safety audit. In the context of conflict with an existing Part 8 planning permission Reg Ref. LA 2706, the planning authority is not satisfied the function of this route as a suitably designed vehicular carriageway can be maintained south of the proposed public open space area. Therefore the proposed development would accordingly be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (20/02/20): Further information required including a phasing proposal having regard to the reliance on implementation of the inner relief road proposals, additional details concerning the pedestrian/cyclist infrastructure connecting the appeal site to the village core, justification for the level of apartment in the context of Bearna Plan policy (RD2 and RD3), measures to deal with concerns regarding scale and design of the apartment block in the context of UD2 of the Bearna Plan, improved proposal regarding landscaping, car parking schedule, contiguous elevations, details of external finishes, liaise with local authority regarding water requirements, proposal to deal with recommendations in the Road Safety Audit, update the NIS to address the location of the Trusky River within the appeal site and its link to Natura 2000 sites, an updated bat survey and details of work that has taken place on the site.

Planning report (29/07/20): The scale and design of the proposed apartment element was considered to be out of character at his location and contrary policies under the Bearna Plan. It was determined that the applicant had not demonstrated the proposal would not have significant effects on two Natura 2000 sites. It was considered there was a lack of sufficient detail regarding proposal for the L-13215 in the context of permitted plans for the Inner Relief Road. Refusal was recommended based on the reasons outlined above.

3.2.2. Other Technical Reports

Roads (14/02/20): Conditions recommended including a bond for works on public roads, a detailed drainage design for works on the public road and a traffic management plan for traffic at the construction stage to be agreed in writing.

Roads (29/07/20)

3.3. Prescribed Bodies

TII (16/01/20): The development to be undertaken in accordance with Transport Assessment and Road Safety Audit submitted.

An Taisce (24/01/20): Concerns expressed regarding ecological impact of culverting/altering a stream on site.

Department of Culture, heritage and the Gaeltacht (DAU) (05/02/20): Archaeological assessment required.

3.4. Third Party Observations

3.4.1 Several observations were submitted with the issues raised including...

- Inappropriate design, scale, character and type of development, traffic concerns, drainage/flooding, Part 8 issues, ecological impact, pollution of on-site water course, existing residential amenity.

4.0 Planning History

4.1 No planning history on the appeal site.

5.0 Policy Context

5.1. Development Plan

The relevant development Plan is the Galway County development Plan 2015-2022. Variation 2(a) Bearná Plan.

The appeal site is zoned Residential (Phase 1) with a stated objective

Objective LU2 - Residential (R) Promote the development of appropriate and serviced lands to provide for high quality, well laid out and well landscaped sustainable residential communities with an appropriate mix of housing types and densities, together with complementary land uses such as community facilities, local services and public transport facilities, to serve the residential population of the area. Protect existing residential amenities and facilitate compatible and appropriately designed new infill development, in accordance with the proper planning and sustainable development of the area.

Objective RD1 - Residential Development Phasing Support the development of lands designated as Residential (Phase 1) within the lifetime of the Plan, subject to normal planning, access and servicing requirements, and reserve the lands designated as Residential (Phase 2) for the longer term growth needs of the village. Residential (Phase 2) lands are generally not developable for housing within the lifetime of this Plan, with the exception of the following developments, which may be considered by the Planning Authority, subject to a suitable evidence based case being made for the proposal.

Objective RD2 – Apartment Development Facilitate the development of apartments at appropriate locations, e.g. the village centre, and have regard to the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2015)(or as updated), the Sustainable Residential Developments in Urban Areas: Guidelines for Planning Authorities (2009) and Urban Design Manual: A Best Practice Guide – A Companion Document to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) in the assessment of this type of development.

Objective RD3 - Quality Housing Environments Bearna Plan Page 8 Encourage the development of sustainable residential communities through the promotion of innovative, high quality building design and appropriate layouts, that prioritise walking, cycling and public transport options and provide for a high level of permeability, accessibility and connectivity to the existing built environment, services and facilities. In this regard, future residential development proposals will be in accordance with the principles set out in the DoEHLG document Sustainable Residential Development in Urban Areas 2009 and its companion document Urban Design Manual: A Best Practice Guide for Planning Authorities 2009, or any updated version of these documents published during the lifetime of this plan and shall also have regard to the design principles as set out in the Design Manual for Urban Roads and Streets (2013) (or as updated).

Objective UD2 - New Buildings Building heights, widths and material finishes shall be in keeping with the character and scale of existing development in the area and shall be appropriate to the locality, site context and building function. A maximum building height of two and half storeys will generally apply but reduced building heights will be required in visually vulnerable locations e.g. coastal side of the road. Increased building heights may be considered in exceptional circumstances where they contribute positively to the village character and design, subject to a high standard of urban design and have no adverse impacts on amenity.

5.2 National Policy

5.2.1 The Urban Development and Building Height - Guidelines for Planning Authorities (December 2018)

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).

Urban Design Manual, A Best Practice (DOEHLG, 2009)

Urban Design Manual- A Best Practice Guide and the Design Manual for Urban Roads and Streets (2013).

5.2. Natural Heritage Designations

Galway Bay Complex SAC (Site Code 000268), 1.4km from the site.

Inner Galway Bay SPA (Site Code 004031), 1.6km from the site.

5.3. EIA Screening

5.3.1 Having regard to the nature and scale of the development which consists of a 40 unit housing development on zoned lands within an urban settlement, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by Planning Consultancy Services on behalf of the applicant, Truskey West (Property Holdings) Ltd. The grounds of appeal are as follows...

- It is noted that principle of the proposed development is acceptable with the site zone for residential and being in an urban area. It is considered that the design and scale would not be out of character and would be acceptable in the context of visual amenity.
- In response to refusal reason no. 2 the applicant has submitted a Construction Environmental Management Plan (CEMP) and updated the Natura Impact Statement in this regard. It is considered that this could have been sought by way of clarification of further information. It is considered that the proposed development would have a significant effects on the integrity of any Natura 2000 site.
- In relation to refusal reason no. 3 it is noted that such is not a coherent reason. It is noted the applicants engaged in pre-planning and the proposal is informed by such. It is noted there is flaw in the Part 8 scheme as there is no detailed design to provide for traffic travelling northwards on the L-13215 to turn right onto the link road and the applicant was advised to keep the south part of the L-13215 open to vehicular traffic. The applicant is providing a revised layout that provides local access to the new link road from the L-13215 and closes off the southern section for vehicular traffic using bollards. It is noted that this proposal would not conflict with the Part 8 scheme and deal with the issue of local access.

6.2. Planning Authority Response

6.2.1 No response.

6.3. Observations

6.3.1 A number of observations have been submitted by the following...

Louise Fagan & Carlos Torregrosa, Inis Cuin, Truskey West, Barna, Co. Galway.

Patrick & Johanna Medley, Truskey West Bearna Co. Galway.

Brendan Power & Olive Ward-Power, Truskey West, Bearna, Galway.

Helen Roberts, Muirelinn, Truskey West, Barna, Co. Galway.

Aidan & Anne Miller, 28 Thorneberry, Truskey West, Barna, Galway.

David & Maura Carr and Irene Carr, Villa de Porres, Truskey West, Bearna, Co. Galway.

Anna Maguire & Kieran Burke, 26 Thornberry, Barna, Co. Galway.

Mike Keane, 29 Thornberry, Barna, Co. Galway.

Andy Taylor & Dr Sinead Murphy, Truskey West, Barna, Galway.

An Taisce

Michael Donnelly, Stonecroft, Truskey West, Barna, Galway.

Due to similar in issues the issues raised can be summarised as follows...

- The proposal for the apartment block is inappropriate in scale and out character at this location, would be contrary development plan policy for development in Bearna. Inappropriate density at this location.
- The proposal would alter the development permitted under Part 8 with question regarding the validity of the proposals including the status of the Part 8 permitted itself.
- Failure to comply with development permitted under the Part 8, LA2706 including the provision of pedestrian and cycling facilities along the L-13215 and the Moycullen Road. The proposals are considered inappropriate along the L-13215 in terms of facilitating traffic movements and service vehicles. The design and layout of the proposed link road and entrance onto the

Moycullen Road are consider to inadequate to cater for the turning movement likely to be generated and be traffic hazard.

- The applicants do not have sufficient control over the L-13215 to carry out the development including the plans to close access to the road.
- Adverse impact due to increased intensity of development, construction activity and increased activity on the L-13215.
- Adverse ecological impact with inadequate provision for a bat survey and loss of mature trees on site.
- The stream on site should not be culverted and there are existing drainage issue along the L-13215
- In relation to Thornberry, concerns are expressed in relation to accuracy of the position of western boundary, proposals for boundary treatment should be provided, the scale of development adjoining dwellings Thornberry is excessive with concerns regarding loss of light and privacy, provision of arear lanes along the western boundary raise concerns regarding anti-social behaviour. Question of accuracy of location of the western boundary.
- Failure to adhere to the terms of a legal agreement with the former owner of the site.

6.4. Further Responses

6.4.1 Response by the applicants, Truskey West (Property Holdings) Ltd.

- The response is to the issues raised by the observers.
- The appellants refute the claims regarding validity of the Part 8 process noting such has been authorised. It is noted that the application includes the link road permitted under Part 8 at the insistence of the Planning Authority and that such should form part of the construction of the proposed development. It is noted that the proposal is in accordance with the Part 8 proposal permitted under LA2706.
- In relation to issue of flood risk it is noted the site is in Flood Zone C and that the proposal would not contribute to an increase of flooding in the area.

- In relation to pollution it is noted that the proposal would not result in pollution to the Truskey River as well as noting that measures to protect water quality are included in the NIS submitted.

7.0 Assessment

7.1 Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Design, scale, development management standards

Adjoining amenity

Traffic/road layout

Flooding/Drainage issues:

Other Issues

7.2 Design, scale, development management standards:

7.2.1 Permission was refused on the basis that the proposed apartment development to the north of the site comprising of 18 residential units by reason of its overall design, scale and mass as proposed was considered to be discordant with the prevailing character of the area and contrary the provision of UD2 of the current Bearna Plan. The development as proposed is considered to be out of keeping with the prevailing character of the area and would fail to integrate effectively into the landscape/built environment. In terms of density the overall site is 1.33 hectares, which includes an area that incorporates the public road network and a separate portion of land on the opposite side of the L-13215. For the purposes of calculating density it is appropriate to use the main body of the site, which is 1.18hectares. This gives a density of 34 units per hectare.

7.2.2 The Bearna Plan outlines the Development Density Guidelines under section 3.1 of the plan. This includes guidance on density level, plot ratio, site coverage and level of public open space. The proposal is compliant with the standards for plot ratio

(0.10-0.50), site coverage (50%) and level of public open space (15%). In relation to density the level proposed falls within the low to medium category (16-35 units per hectare) with the appropriate location being “neighbourhood centres (typically within 400m walking distance of centre point), inner urban suburbs”. For “urban periphery, outlying lands, areas with capacity/environmental constraints” a lower density is stated of (5-15). The southern part of the site is within 400m walking distance of the Main Street of Bearna. I would consider that the density proposed is in line with the policy under the Bearna Plan. This location would correspond to the definition of an ‘outer suburban / greenfield site’ in the Guidelines for Planning Authorities for Sustainable Residential Development in Urban Areas. The Guidelines encourage densities of 35-50 units/ha at such sites, to involve a variety of housing types where possible. Development at net densities of < 30 units/ha is discouraged.

7.2.3 The relevant and most up to date standards for apartment developments are the Sustainable Urban House: Design Standard for New Apartments (March 2018). The proposed apartment block entails the provision of 18 no. within a single two-storey and a half block consisting of 8 no. 1 bed apartments, 9 no. two bed apartments and 1 no. three bed apartment. The design and layout of the proposed apartment meets all relevant standard under the aforementioned guidelines including apartment size, room dimension, aspect and private open space.

7.2.4 The proposal entails the provision of an L-shaped apartment block that is two and a half storeys (second floor in roof space) containing 18 no. apartments to the north of the site. Along the western and southern boundary of the site are two-storey dwellings backing onto the boundaries. There is central open space along the eastern boundary with the apartment block and dwellings units arranged around it. The refusal reason indicated that the apartment block element of the scheme is inappropriate in terms of scale and type of development at this location. The site is on the edge of the Bearna in an area zoned for residential use. There are already a number of existing housing developments in the vicinity including Thornberry which adjoins the site to the west and south. There are existing two-storey detached and terraced dwellings backing onto the western and southern boundaries of the appeal site.

7.2.5 Objective UD2 states that new buildings, building heights, widths and material finishes shall be in keeping with the character and scale of existing development in the area and shall be appropriate to the locality, site context and building function. A maximum building height of two and half storeys will generally apply but reduced building heights will be required in visually vulnerable locations e.g. coastal side of the road. Increased building heights may be considered in exceptional circumstances where they contribute positively to the village character and design, subject to a high standard of urban design and have no adverse impacts on amenity. The building height of the apartment element is consistent with the two and a half storey provision under the objective. The applicants did revise the design of the apartment block with a reduction in the ridge height from 11.39m to 10.92m. In terms of overall visual impact I would consider that the overall design and scale of the apartment element would not be detrimental to the visual character of the area. The appeal site is zoned for residential use and is located adjacent existing residential suburban style development. I would consider that overall design and scale of the proposed apartment development and the scheme itself is not out of character at this location and the provision of two and a half storey apartment building would not be a significant deviation from the established pattern of development at this location. I am satisfied that subject to adequate landscaping proposals that the design and physical scale of the proposed development would be acceptable in the context of visual amenity and the objectives of the Bearna Plan.

7.3 Adjoining Amenity:

7.3.1 In terms of adjoining development the appeal site is defined by the L-13215 along its eastern boundary. There is an existing dwelling located on the opposite side of the L-13215 (Villa De Porres B& B) with its entrance off the L-13215. There are two other dwellings on opposite side of the public road however such front onto the L-1321 (Moycullen Road). To the south and west is the housing development of Thornberry with a mixture of detached and terraced two-storey dwellings backing onto the site boundaries. To the north of the site is the remainder of the landholding the site is taken from and is zoned Residential (Phase 2) under the Bearna Plan.

7.3.2 The proposal in terms of layout, design and scale would have adequate regard to the amenities of adjoining properties with the dwellings immediately adjoining the western and southern boundary similar in scale and pattern of development to that on the adjoining site (Thornberry). There is an adequate level of separation between such and the proposed dwellings are similar in scale to development on the adjoining site. In addition there is already established boundary treatment along the western and southern boundary provided to the rear of the dwellings in Thornberry. The location of apartment block on site is such that it is not in close proximity to any existing dwellings with the remainder of lands under the applicants control located to north and between the appeal site and existing dwellings further to the north. The apartment block is sited adjacent a link road between the L-13215 and the Moycullen Road and is sufficient distant from any existing dwellings so as to have no significant or adverse impact on adjoining amenities.

7.3.3 The impact of construction is likely to be disruptive however I would consider that adequate construction management measures would be sufficient to deal with this matter as well as restriction on construction hours. I would recommend a condition requiring submission of a construction management plan prior to the commencement of development. It is also notable that the applicant supplied details regarding phasing and that the road improvements are to be provided in the first phase of development, which would be appropriate.

7.4 Traffic/roads layout:

7.4.1 The proposal is located on the western side of the L-13215, which is 3m wide local road. It forms a junction with the public road to the south of the site. The L-1321 (Moycullen Road) is located further to the east with a portion of the site located between it and the L-13215. The Bearna Plan includes an objective relating to the provision of an Inner Relief Road, which entails improvement works to the L-1321 (Moycullen Road) to the east of the site and the public road to the south of the site. This objective also indicates that there is to be provision of a link road between the L-1321 and the L-13215/the appeal site. A Part 8 proposal in relation to the works to

facilitate the Inner Relief Road objective was granted under ref no. LA2706. The current proposal entails provision of part of the works authorised under the Part 8, which is the link between the L-1321 and the L-13215 and the applicant has stated that such is at Local Authority's insistence. The proposal entails alteration to the L-13215 with the link road providing access for the proposed development and existing dwellings off the L-13215 (to the north of the site) to the Moycullen Road with a new T junction in line with the authorised Inner Relief Road plan. This will entail closure of a section of the L-13215 to vehicular traffic (adjacent the proposed public open space) with bollards. The closed off section will incorporate cycling and pedestrian infrastructure. The southern part of the L-13215 will remain open to traffic with an existing dwelling/B&B having vehicular access off this section of road.

7.4.2 Permission was refused on the basis that "in the absence of sufficiently detailed design of the local access road L-13215, the revised road safety audit. In the context of conflict with an existing Part 8 planning permission Reg Ref. LA 2706, the planning authority is not satisfied the function of this route as a suitably designed vehicular carriageway can be maintained south of the proposed public open space area". During the application stage the applicant was requested to submit further information including details of phasing in the context of the implementation of the inner relief road and a demonstration of appropriate pedestrian connections to the village core. The information submitted included a phasing proposal that indicates that the road infrastructure to provide connection to the Moycullen Road will be phase 1. In regards to connection to the village core, it is proposed to provide to provide a footpath that links into an existing section of footpath on the western side of the L-13215 (adjacent Thornberry).

7.4.3 In response to the reason for refusal the first party appellants have submitted an alternative roads layout. The alternative layout differs from the original proposal in that the southern section of the L-13215 is to be closed to vehicular traffic between the junction with the public road to south and the just below the vehicular entrance to the existing dwelling/B&B (Villa de Porres). Vehicular traffic from the existing dwelling would be facilitated to the north and using the new link road with a 1.8m

wide footpath provided along the western side of the road linking with an existing section of footpath to the south.

7.4.4 The reason for refusal mentions two aspects, conflict with an existing Part 8 planning permission Reg Ref. LA 2706 and the fact that planning authority is not satisfied the function of this route as a suitably designed vehicular carriageway can be maintained south of the proposed public open space area. The proposal has been designed to be consistent with the Part 8 permission granted in with provision of the link between the L-1321 and the L-13215. It does not appear that the permitted part 8 provided for any design or layout for the L-13215 south of the new link road. The L-13215 where it adjoins the site is narrow and lacking any footpaths or public lighting. The applicants' original proposal provided for an improved level of pedestrian facilities and a reduction in vehicular traffic along the road. The original proposal still provided for access from the south of the existing dwelling/B&B. I would consider that the original layout proposed would be satisfactory in the context of traffic safety and the turning movement likely to be generated. The existing alignment of the L-13215 is too narrow to facilitate the level of traffic likely to be generated. The proposal for a new link road is in keeping with the Part 8 proposals and the objectives of the Bearna Plan.

7.4.5 The proposal for a T junction onto the Moycullen Road is in keeping with development plan objectives. The location of this T junction is within the 50kmph speed limit zone of the town and the alignment of the public road/sightlines in either direction would be of a good standard (in accordance with DMURS, 45m). The observations are critical of this proposal in that it fails to provide the pedestrian and cycling facilities that are proposed under the Part 8 proposal. In this regard I would note that the proposals along the L-13215 provide for upgraded pedestrian facilities and reduced levels of vehicular traffic. The appeal site is within 400m walking distance of the village core along the L-13215 and there is nearly a continuous pedestrian link to such with the proposals under the application apart from two small sections including the necessity to cross the public road to the south and a lack of footpath as part of a cul-de sac further to the south. The provision of the entrance on

the Moycullen Road would not prejudice the provision of footpaths and cycle infrastructure along the Moycullen Road at a future time. In relation to the proposals along the L-13215, I would recommend that the original layout be authorised as such facilitates improved pedestrian facilities including and still allows vehicular access to the existing dwelling/B&B as per the existing arrangement (access from the south). I am satisfied that the design and layout of roads infrastructure and entrance layout at the Moycullen road is of a satisfactory standard in terms of dealing with the likely traffic movements. The application is accompanied by a Traffic and Transportation Assessment and a Road Safety Audit. I am satisfied with scope and conclusion of such in regards to traffic impact.

7.5 Flooding/Drainage issues:

7.5.1 The observations raised concerns regarding flooding and note that a significant level of surface water is evident along the L-13215. The application is accompanied by a flood risk assessment with it indicated that the site is located within Flood Zone C. There is no evidence of the site being impacted by fluvial or pluvial flood sources. It would appear there are drainage issues along the L-13215 in terms of localised surface water drainage issues. I would question whether such is an issue that cannot be overcome with some sort of engineering solution. It is notable that the proposal entails alterations to the L-13215 including provision of a footpath and cycling facilities as well as closing off a portion of it to vehicular traffic. In a do-nothing scenario such drainage issue may persist however the redevelopment of the site for the purposes of housing as per the zoning objective of the site under the Bearna Plan would allow for solution of such a drainage issue and it is requirement of the applicants to provide for adequate surface water drainage proposals.

7.5.2 There is a proposal to culvert the existing stream on site. This would entail diversion only of existing flows with storm water to be discharged to the public network. The culvert can be installed without impacting on the existing stream during the construction phase. The documents submitted including the NIS, an amended version of such as well as the construction management plan submitted with the appeal submission detailing mitigation measures to prevent pollution of the existing

surface water body during construction. The information on file also indicates that the culvert will be able to deal with the peak flow of the existing stream. I am satisfied that sufficient information has been submitted in regards to drainage and subject to mitigation measures adequate protection measures will be implemented to prevent water pollution.

7.6. Other Issues:

7.6.1 A number of the observations raised questions regarding the validity of the existing Part 8 development authorised under ref no. LA2706. The observations state that a number of existing part 8 projects elsewhere have been questioned on the basis of lack of Environmental Impact Assessment. The first thing I would note the proposal is not a part 8 application and is an application for development under Section 34 of the Planning and Development Act, 2000 (as amended). The proposal entails the provision of part of a development that has previously been sought under the Part 8 proposal. This development is being assessed under the provision of section 34 and is not assessment of status of validity of the Part 8 granted under ref no. LA2706. The proposal is being considered on its merits and in accordance with the proper planning and sustainable development of the area. The observers' questions regarding the status of the existing Part 8 permission does not preclude consideration of the current proposal or their ability to implement any permission granted. The link road infrastructure is part of development description and is to be provided by the applicant as part of the proposed development if permitted.

7.6.2 The proposal entails works within the public road network and the appeal site boundary includes areas that are outside of the applicants' ownership. Some of observers note that the applicant does not have sufficient control of the ensure lands subject to the proposal. If permitted it is clear that applicant may need consent to carry out works within the public road network and there may be others legislature provisions that may need to occur to facilitate closure of a public road that are not conferred by the granting of permission. In this case I would refer to Section 34(13) which states that "a person shall not be entitled solely by reason of a permission under this section to carry out any development".

7.6.3 The observations raise concern regarding ecological impact. The appeal site is not designated as being a habit of any significant ecological value or and is an undeveloped site that is zoned for residential use within the boundary of an urban settlement. A bat survey was conducted on site and concluded that the site has low suitability for bat roosting and bat activity on site was low in level.

8.0 **Appropriate Assessment**

8.1 A Natura Impact Statement Limited was been submitted by the applicant, an amended NIS was submitted in response to further information

8.2. Screening

8.2.1 I followed the staged approach to screening for appropriate assessment as recommended in both EU Guidance and by the Department of Environment, Heritage and Local Government:-

1. Description of the plan or project and local site or plan area characteristics.
2. Identification of relevant Natura 2000 sites and compilation of information on their qualifying interests and conservation objectives.
3. Assessment of likely significant effects-direct, indirect and cumulative, undertaken on the basis of available information.
4. Screening statement with conclusions.

8.2.2 Project Description and Site Characteristics

8.2.3 The proposed development is as described in the report above and in the application submissions.

8.2.4. Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives: Two sites are identified within the zone of influence of the proposed development based on proximity and potential hydrological links. These are the...

Galway Bay Complex SAC (Site Code 000268), 1.4km from the site.

Inner Galway Bay SPA (Site Code 004031), 1.6km from the site.

Site Code, Site Name and Designation	Approx. Distance form Site	Conservation Objectives; Qualifying Habitats and Species
000268 Galway Bay Complex SAC	1.4km form the site.	<p>To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected:</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Coastal lagoons [1150]</p> <p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Turloughs [3180]</p> <p><i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davalliana</i> [7210]</p> <p>Alkaline fens [7230]</p>

		<p>Limestone pavements [8240]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Phoca vitulina (Harbour Seal) [1365]</p>	
004031 Inner Galway Bay SPA	1.6 km from the site.	<p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservations Interests for this SPA:</p> <p>Black-throated Diver (<i>Gavia arctica</i>) [A002]</p> <p>Great Northern Diver (<i>Gavia immer</i>) [A003]</p> <p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Grey Heron (<i>Ardea cinerea</i>) [A028]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p>	

		Black-headed Gull (Chroicocephalus ridibundus) [A179] Common Gull (Larus canus) [A182] Sandwich Tern (Sterna sandvicensis) [A191] Common Tern (Sterna hirundo) [A193] Wetland and Waterbirds [A999]	
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8.2.5 Assessment of likely Effects:

The applicants Screening Report identifies there are possible effects based the fact that a stream traversing the site discharges into Galway Bay and therefore there is hydrological link between the appeal site and both the Galway Bay Complex SAC and the Inner Galway Bay SPA. It was determined that there is potential for pollutants to enter the stream and discharge to the designated sites.

8.2.6 Screening Statement and Conclusions:

It was concluded in screening assessment that significant effects cannot be ruled out on the Galway Bay Complex SAC and the Inner Galway Bay SPA and that a Stage 2 Appropriate Assessment is required. In conclusion having regard to the foregoing, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that significant effects cannot be ruled out and a Stage 2 Appropriate Assessment is therefore required.

8.3 Stage 2 Appropriate Assessment

8.3.1 The relevant sites are

Galway Bay Complex SAC (Site Code 000268), 1.4km from the site.

Inner Galway Bay SPA (Site Code 004031), 1.6km from the site.

Potential direct and indirect effects:

The submitted NIS predicts the following potential effects arising from the proposed development.

8.3.2 The assessment of potentially significant effects include...

The source-pathway-receptor model identifies six qualifying interests of the Galway Bay Complex SAC and Inner Galway SPA that there is potential for significant effects on the qualifying interests of the designated sites which are dependent on water quality.

Listed below.

Galway Bay Complex SAC

Mudflats and sandflats

Large shallow inlets and bays

Reefs

Otter

Harbour seal

Inner Galway SPA

Wetlands

Potential significant effects (indirect) are possible during the construction phase including release of sediment and pollutants via surface water runoff due to construction works on site (excavation, movement of vehicles, storage of material on site, storage of chemicals/hydrocarbons, fuelling and maintenance of construction vehicles), use of machinery, storage of materials, pouring of concrete and adverse weather conditions posing risk of increased runoff. Such has the potential to cause indirect effects such as the reduction of water quality and have significant effects on the Annex I habitat(s) and/or the Annex II species identified above. The risk of significant effects during the operational phase is much lesser with the main risk

being existing outfall and its potential impact on water quality. Such would have potential to have significant effects on species and habitats dependent on maintaining a good level of water quality.

8.3.3 Cumulative effects may arise in-combination with other plans and projects in the vicinity including residential and commercial development in the vicinity. Permitted residential developments are on zoned lands and benefit from connection to municipal infrastructure in terms of surface water drainage and sewerage. It is not considered that there will be in-combination effects with other plans and projects.

8.3.4 Mitigation Measures

A number of mitigation measures are proposed during construction and operation. These include construction management (a construction management plan was submitted with appeal submission detailing mitigation and construction management measures) including a construction compound and measures to prevent run-off and accidental discharges (silt fencing, de-watering, re-fuelling and storage in bunded areas, no concrete mixed on site). During the operational phase measures are proposed to restrict and regulate surface water including and prevent any discharge of surface water or suspended solids. Measures are proposed for storage of chemical/hydrocarbons and for fuelling to prevent accidental spillages. Measures are also proposed to prevent invasive species such as washing of vehicles and appropriate storage of materials on site. Operational measures will include management of and storage measures to prevent discharge or accidental spillages of chemicals/hydrocarbons.

8.3.5 It has been demonstrated based on the information in the submitted Natura Impact Statement that with implementation of mitigation measures including construction management and operational measures that the proposed development, individually or in combination with other plans and projects would not adversely affect the Galway Bay Complex SAC (Site Code 000268) and the Inner Galway Bay SPA (Site Code 004031).

8.4 Appropriate Assessment Conclusions

8.4.1 I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the Galway Bay Complex SAC (Site Code 000268) and the Inner Galway Bay SPA (Site Code 004031).

8.4.2 A Construction Environmental Management Plan, which incorporates all mitigation measures indicated in the Natura Impact Statement should be agreed between the Council and the relevant statutory authorities prior to the commencement of development.

9.0 Recommendation

9.1. I recommend a grant of permission subject to the following conditions.

10.0 Reasons and Considerations

Having regard to:

(a) The provision of the Galway County Council Development Plan 2015-2022, including Variation no. 2(a) Bearnna Plan

(b) The existing pattern of development at this location,

(c) The design, scale and layout of the proposed development, and

(d) The submissions and observations on file,

It is considered that, subject to the compliance with the conditions set out below, the proposed development would be in accordance Development Plan policy, would not detract from the visual amenities of the area, would be acceptable in the context of the amenities of adjoining properties and be satisfactory in the context of traffic safety and convenience. The proposed development would therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment:

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Galway Bay Complex SAC (Site Code 000268) and the Inner Galway Bay SPA (Site Code 004031) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura impact statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Galway Bay Complex SAC (Site Code 000268) and the Inner Galway Bay SPA (Site Code 004031), in view of the sites' conservation objectives.

The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii) the mitigation measures which are included as part of the current proposal, and
- iii) the conservation objectives for the European Site.

In completing the appropriate assessment, the Board accepted and adopted the screening and the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, 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 sites' conservation objectives.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by the further plans submitted on the 24th day of June 2020, 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. Details of the materials, colours and textures of all the external finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The streets and junctions that are constructed and/or completed on foot of this permission shall comply with the standards and specifications set out in of the Design Manual for Urban Roads and Streets (DMURS) issued in 2013.

Reason: In the interests of road safety and to ensure that the streets in the authorised development facilitate movement by sustainable transport modes in accordance with the applicable standards set out in DMURS.

4. Prior to the commencement of development the applicant/developer shall consult with the Planning Authority and submit for the written agreement details of any alterations to the public roads surrounding the site including road layout, traffic markings, pedestrian crossings and cycle path provision.

Reason: In the interests of orderly development and traffic safety.

5. The proposal shall be carried out as per the phasing proposed in the response to further information submitted on the 24th day of June 2020. The works identified in

Phase 1 shall also include the improvement works relating to the L-13215 with Phase 1.

Reason: In the interests of orderly development.

6. Proposals for street names, numbering schemes 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. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

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

7. 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.

Reason: In the interests of public health.

8. The applicant or developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

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

Reason: In the interests of visual and residential amenity.

10. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable

materials and for the ongoing operation of these facilities within each block shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

11. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

12. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be landscaped in accordance with the landscaping scheme submitted. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

13. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and on-site car parking facilities for site workers during the course of construction and the prohibition of parking on neighbouring residential streets;

(b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(e) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(f) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.

Reason: In the interest of amenities, public health and safety.

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

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

15. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and

Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

16. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:-

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, and employ a suitably-qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

the nature and location of archaeological material on the site, and the impact of the proposed development on such archaeological material.

A report containing the results of the assessment shall be submitted to the planning authority with any application for permission consequent on this grant of outline permission. Details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to the commencement of construction work, shall be determined at permission consequent stage.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

17. 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.

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 of the area.

19. 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

Colin McBride
Planning Inspector

08th December 2020