



An  
Bord  
Pleanála

## **S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016**

### **Inspector's Report ABP-308431-20**

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#### **Strategic Housing Development**

Demolition of existing outbuildings, construction of 121 no. residential units (comprising of 52 no. houses and 69 no. apartments), childcare facility and all other associated site works.

#### **Location**

Trusky East, Trusky West, Freeport and Ahaglugger, Bearna, Co. Galway. ([www.burkewaybearnashd.com](http://www.burkewaybearnashd.com))

#### **Planning Authority**

Galway County Council

#### **Applicant**

Burkeway Homes Limited

#### **Prescribed Bodies**

Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media; Irish Water; An Taisce

**Observer(s)** Aonghus Flavin and Nicola de Faoite;  
Brenda Delaney;  
David and Maura Dunne;  
Declan Mahon and Valerie Davis Mahon;  
Dermot and Marguerite Kilfeather;  
Des Higgins;  
Desmond and Loran Sumner;  
Donal McWeeney and Aoife Kearney;  
Eileen and Martin Cassidy;  
Geraldine Sheridan;  
Heather Hill Management Company  
CLG;  
Jerry and Ann Twomey;  
John and Adrienne Devlin;  
Justin May and Sinead Flanagan;  
Michael and Martina Byrne;  
Michelle Halloran;  
Mike Mooney and other;  
Muireann Faherty;  
Nicole Burns;  
PJ and Aisling Griffin.

**Date of Site Inspection** 21<sup>st</sup> January 2021

**Inspector** Una O'Neill

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## 1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 2.0 Site Location and Description

- 2.1. The site is located in the townland of Trusky East, Bearna, Co. Galway. Bearna Village is approximately 6km to the west of Galway City. The site, with a stated area of 5.38 hectares, is located c. 690m north of Bearna Main Street, when measured from the western boundary of the site with Cnoc Fraoigh. It has no direct frontage onto a public road but adjoins a roadway in the existing Cnoc Fraoigh (Heather Hill) housing estate to the west, which has access onto the L1321. The L1321 runs in a north-south axis connecting with Bearna's Main Street to the south, which is part of the R336 Galway City to Spiddal Road. The L1321 serves a number of detached rural dwellings along its length proximate to the site.
- 2.2. The site has a boundary to the west and northwest with Cnoc Fraoigh housing development, which comprises 21 detached dwellings, a number of which have their rear site boundaries onto the application site. To the north and east the lands are in agricultural use. The land to the north of dwellings no.1-8 Cnoc Fraoigh is substantially higher than the rear gardens of the existing properties. To the southeast, on the opposite side of the Trusky Stream is an access road serving a number of detached dwellings in an area known as Scath na Mara, with this road terminating adjoining the southeast boundary of the site. There is a residential dwelling at this boundary which is at a higher level than the subject site.
- 2.3. The site is currently under grass and is undulating, sloping by c.10 metres from north to southeast. The Trusky Stream flows through the eastern section of the site, running from north to south. The site contains a substantial amount of rock outcropping and heather / gorse bushes. There is also evidence of significant earthworks directly adjacent to the end of the access road serving Cnoc Fraoigh. A wastewater treatment plant and associated percolation area which serves the existing Cnoc Fraoigh estate is located in the southern portion of the site on open space zoned lands.

2.4. Bearna is located within the Gaeltacht.

### 3.0 Proposed Strategic Housing Development

3.1. The proposal, as per the submitted public notices, comprises the construction of 121 residential units (including semi-detached/detached houses, terraced houses, duplex units, and apartments), a childcare facility, footpath connectivity along the L-1321, a public linear park along Trusky Stream, shared communal and private open space, car and bicycle parking, site landscaping and public lighting, decommissioning of the existing wastewater treatment plant and provision of all services, access from the L-1321 via the Cnoc Fraoigh development and all associated site development works.

3.2. An EIAR and NIS have been submitted with the application.

3.3. The following tables set out some of the key elements of the proposed scheme:

#### Key Figures

<b>Site Area Net</b>	3.47 ha net (5.38 ha gross)
<b>No. of Residential Units</b>	121
<b>Density</b>	35 units per ha
<b>Childcare Facility</b>	224.8sqm to accommodate 38 children
<b>Other Uses</b>	1 x multipurpose room in Apartment Block A2
<b>Public Open Space</b>	Proposed Open Space within net area = 6711 sqm (19.3% of net site area). Zoned open space = 13670sqm. Total public open space = 20381sqm / 42.1% of the gross site area.
<b>Height</b>	2-3 storeys
<b>Part V</b>	12 units

#### Unit Mix

	1 bed	2 bed	3 bed	4 bed	Total

<b>Duplexes</b>		18	18		<b>36</b>
<b>Apartments</b>	9	24			<b>33</b>
<b>Houses</b>			37	15	<b>52</b>
<b>Total</b>	<b>9</b>	<b>42</b>	<b>55</b>	<b>15</b>	<b>121</b>
<b>As % of total</b>	7.4%	34.7%	45.5%	12.4%	100%

#### Parking Provision

<b>Car Parking</b>	<p>Houses: 2 spaces per unit.</p> <p>Apartments: 1 space + 1 visitor space per 4 no apartments</p> <p>Total Residential: 190 spaces</p> <p>Total Creche: A set down area of 4 spaces is proposed and 4 parking spaces for staff.</p>
<b>Bicycle Parking</b>	<p>117 no. secure bicycle parking spaces (111 no. residential cycle spaces + 6 no. creche cycle spaces)</p>

- 3.4. The primary vehicular access to the site is proposed from the L1321, via the existing Cnoc Fraoigh housing estate.
- 3.5. It is proposed to connect to the public watermain and foul sewer on the L1321 via Cnoc Fraoigh. Surface water is proposed to discharge to the Trusky Stream.
- 3.6. The red line boundary of the site includes an area along the L1321 which is a public road within the charge of Galway County Council. A footpath is proposed along the eastern side of the L1321. A letter of consent from Galway County Council has been submitted with the application.
- 3.7. In terms of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer, in addition to the decommissioning of a wastewater treatment plant serving Cnoc Fraoigh and connection of Cnoc Fraoigh and the proposed development to the main wastewater

infrastructure. An Irish Water Pre-Connection Enquiry in relation to water and wastewater connections was submitted with the application, as required. It states that subject to a valid connection agreement being put in place and conditions listed, the proposed water and wastewater connection to the Irish Water network can be facilitated.

3.8. In addition to the architectural and engineering drawings, the application was accompanied by the following reports and documentation:

- EIAR
- NIS
- Planning Report and Statement of Consistency
- Statement of Material Contravention
- Statement of Response to Pre-Application Consultation Opinion
- Statement of Response to Opinion Issues to ABP
- Linguistic Impact Statement
- Architectural Design Statement
- Building Lifecycle Report
- Housing Quality Assessment
- Landscape Report
- Engineering Services Report
- Site Specific Flood Risk Assessment
- Trusky East Stream Flood Study
- DMURS Compliance Note
- Technical Note L1321 Footpath Works
- Traffic and Transport Report
- Stage 1 and 2 Road Safety Audit
- Overshadowing Analysis Report and Daylight Report
- Utility Report

- Energy Statement

## 4.0 Planning History

**ABP-302216-18** – Permission Granted by ABP for construction of 197 dwellings, a multi- purpose community room, 3 no. vehicular and 4 no. pedestrian link bridges, parking, bicycle and bin storage areas, landscaping, decommissioning of an existing wastewater treatment plant, ancillary surface water and foul drainage services and connections, pedestrian and vehicular access from the L-1321 via the Cnoc Fraoigh development as well as all associated site development works and services.

- The decision was the subject of a Judicial Review, setting aside the decision of the Board to grant permission on 21<sup>st</sup> June 2019.

**ABP-300009-17** – Permission Refused for construction of 113 houses, 2 no. vehicular and 6 no. pedestrian link bridges; visitor parking areas; public realm landscaping including shared public open space and public lighting; decommissioning of existing WWTP and provision of all associated surface water and foul drainage services and connections; pedestrian and vehicular access from the L1321 via Cnoc Fraoigh and all associated site development works and services.

The reason for refusal related to issue of density and mix of dwelling types.

The Board Direction also included a note requiring that any future planning application on the site should include details of proposed improvement works to the L1321 Moycullen roadway, to allow for improved connectivity with the centre of Bearna, including proposals for the delivery of the works.

### **Other Applications at the Development Site:**

PL07.236240 – Permission refused by ABP for 104 dwellings, 5 commercial units and a creche, on the grounds that the proposed development would be premature, pending the upgrade of the existing Mutton Island Sewerage Treatment Plant and the operation of an alternative temporary on-site wastewater treatment system would result in a public health hazard.

Reg. Ref. 06/903 - Permission granted for relocation of WWTP.

Reg. Ref. 04/4249 - Permission refused for 15 dwellings.



Reg. Ref. 03/4315 and 04/3846 - Permission granted for 22 dwellings under 03/4315. Permission granted for revisions to the scheme under 04/3846.

## **5.0 Section 5 Pre Application Consultation**

### **5.1. Pre-Application Consultation**

5.1.1. A section 5 pre-application consultation with the applicants and the planning authority took place at the offices of Galway County Council on 6th March 2020 (reference ABP-306443-20) in respect of a proposed development of 121 no. residential units (58 no. houses, 63 no. apartments), creche and associated site works. The main topics discussed at the meeting were –

- Core Strategy
- Development Strategy
- Flood Risk
- Water Services
- Road Infrastructure
- Any Other Matters

Copies of the record of the meeting, the Inspector's Report, and the Opinion are all available for reference on this file.

### **5.2. Notification of Opinion**

5.2.1. An Bord Pleanála issued a notification that it was of the opinion that the documents submitted with the request to enter into consultations would constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála. Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was also notified that the following specific information should be submitted with any application for permission arising from this notification:

1. Notwithstanding that the proposal constitutes a reasonable basis for an application the prospective applicant is advised to address the following in the documents submitted:

(a) Provide further justification in relation to the distribution of density and height within the site. This justification should include, inter alia, details of alternatives considered.

(b) Provide further justification in relation to flood risk. This further justification should address, inter alia, indicative and modelled flood extents and the requirement for a justification test under Objective CCF6 of the Galway County Development Plan.

(c) Provide further justification in relation to Sustainable Urban Drainage. This further justification should address, inter alia, the storage options considered and the operation of the system during a flood event.

2. A housing quality assessment which provides the specific information regarding the proposed apartments required by the 2018 Guidelines on Design Standards for New Apartments. The assessment and/or the statement of consistency should set out how the proposed apartments comply with the various requirements of those guidelines and its specific planning policy requirements.
3. Plans and particulars to an appropriate scale for proposed upgrade works to the Moycullen Road.
4. An archaeological impact assessment having regard to the comments raised in the submission of the Department of Culture, Heritage and the Gaeltacht.
5. A schedule of public and communal open space.
6. Landscaping details for the overall site and design details for bicycle parking and bin storage facilities.
7. A phasing plan for the development.

### 5.3. Applicant's Statement

- 5.3.1. A statement of response to the Pre-Application Consultation Opinion, as issued by the Board, was submitted with the application, as provided for under section 8(1)(iv) of the Act of 2016, which is briefly summarised as follows:

**Item 1(a) Justification in relation to the distribution of density and height within the site. This justification should include, inter alia, details of alternatives considered:**

- A comprehensive review of the urban design strategy for the scheme was carried out and alternatives are presented.
- It is stated the chosen option increases the distribution of density across the scheme, with the higher density units distributed on an approximately north-south axis with a prospect over the public open space within the scheme and the open space zoned land.
- The apartment buildings to the entrance area reduced to 2 no. 3 storey apartment buildings rather than 3 no. 3.5 storey buildings.

**Item 1(b) Justification in relation to flood risk. This further justification should address, inter alia, indicative and modelled flood extents and the requirement for a justification test under Objective CCF6 of the Galway County**

**Development Plan:**

- No buildings are proposed on the two areas within the subject site that are zoned 'R' where Objective CCF6 applies. The northern area where this R with CCF6 applies will be developed for open space amenity only including items such as trees, park benches and playground equipment. The second, more southerly, of the two areas zoned 'R' where Objective CCF6 applies will be developed for open space amenity and car parking. It is stated the development on lands zoned 'R' and subject to Objective CCF6 is considered ancillary to the residential development and therefore a Development Management Justification Test is required, in accordance with the decision of the High Court in Heather Hill Management Company CLG v An Bord Pleanála [2019] I.E.H.C. 450.
- In compliance with the Flood Risk Management Guidelines, Objective CCF6, a Site-Specific Flood Risk Assessment (SSFRA) and Trusky East Stream Flood Study have been prepared.
- It is stated that the SSFRA report demonstrates (i) the manner in which the "Justification Test" has been applied on behalf of the developer and should be

applied by the Board and (ii) the criteria of that test are met in respect of the proposed development.

- It is stated that the SSFRA demonstrates that the proposed development will not have adverse impacts or impede access to a watercourse, on floodplains or flood protection and management facilities, or increase the risk of flooding to other locations.
- It is stated that in compliance with Objective CCF6, the Trusky East Stream Flood Study report provides a hydrological assessment of the stream catchment, the SSFRA report demonstrates the capacity to withstand potential flood events and the Engineering Services Report includes a hydrological assessment of the subject site and describes the SUDS design.
- It is stated that in accordance with Objective CCF6, the stream is separated from the main construction footprint by over 10m at its nearest point.
- It is stated that in compliance with CCF6, ecological reports are submitted with this application, including an Appropriate Assessment Screening Report and Natura Impact Statement to enable the Board to carry out a Stage One Screening for Appropriate Assessment and a Stage Two Appropriate Assessment.

**Item 1(c) Justification in relation to Sustainable Urban Drainage. This further justification should address, inter alia, the storage options considered and the operation of the system during a flood event:**

- The submitted Engineering Report details the proposed Sustainable Urban Drainage Design.
- It is stated that the proposed drainage system incorporates Sustainable Drainage Systems (SuDS) that will control the discharge rate through the use of a vortex flow control device (Hydrobrake or similar), which will reduce the volumetric runoff from the site. The surface water drainage system provides a minimum freeboard of 500mm to finished floor levels from the 1% AEP design top water level in the attenuation facilities.
- The wastewater drainage infrastructure includes a new pumping station in an area of the site zoned 'R' where the Objective CCF6 applies to replace an

existing wastewater treatment works within an area of the site zoned 'OS'. The submitted report states the new pumping station will include duplicate pumps in alternating duty-standby arrangement and will include an emergency storage tank providing 24-hour capacity, in accordance with Irish Water requirements; it is stated that these measures will effectively mitigate the risk of flooding from the pumping station arising from a potential interruption of service.

**Item 2 Housing Quality Assessment:**

- A Housing Quality Assessment has been submitted.
- The Planning Report and Statement of Consistency Report provides details on how the proposed apartments comply with the 2018 Guidelines on Design Standards for New Apartments.

**Item 3 Moycullen Road/L1321 Road Upgrade Plans:**

- The construction of approximately 330m section of footpath on the eastern side of the L1321 will improve pedestrian connectivity to the village. The proposed footpath width of 1.8m is the minimum allowed under DMURS and is considered appropriate based on the level of pedestrian activity. The works required to provide the path and the proposals compliance with DMURS is discussed in further detail in the Engineering Services Report and associated Technical Note L1321 Footpath Works.

**Item 4 Archaeological Impact Assessment:**

- An archaeological and cultural heritage chapter was prepared by Dominic Delany & Associates (DDA) as part of the Environmental Impact Assessment Report.

**Item 5 Open Space Schedule:**

- A schedule and diagram of public open space has been prepared by McCauley Daye O'Connell Architects Design and is enclosed as an Appendix to the Architectural Design Statement.
- Open Space within the land zoned for Residential development equates to 0.67 hectares (19.3% of residential zoned lands), while the Open Space

within the land zoned for Open Space /Recreation & Amenity equates to 1.37 hectares.

#### **Item 6 Landscaping and Design Details:**

- A landscape plan is submitted.
- The proposed scheme includes a public linear park on lands zoned 'OS' providing open space for recreational activities for the community and a potential for a future pedestrian link access to Bearna village.
- Details for bicycle parking and bin storage facilities have been prepared. A bin storage plan and bike storage plan have been submitted.

#### **Item 7 Phasing Plan:**

- It is stated that the scheme will be developed in 4 no. stages, with proportionate amounts of communal open space provided in each phase. The proposed childcare facility will be provided in Phase 3, with a total of 52 units being delivered in Phase 1 (31 units) and Phase 2 (21 units).

## **6.0 Relevant Planning Policy**

### **6.1.1. Project Ireland 2040 - National Planning Framework**

A number of key policy objectives are noted as follows:

- National Policy Objective 2(a): A target of half (50%) of future population and employment growth will be focused in the existing five Cities and their suburbs.
- National Policy Objective 3(b): Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, with their existing built-up footprints.
- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and Well-being.
- National Planning Objective 13: In urban areas, planning and related standards, including, in particular, height and car parking will be based on

performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

- National Policy Objective 27: Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.
- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

#### 6.1.2. **Section 28 Ministerial Guidelines**

The following list of Section 28 Ministerial Guidelines are considered to be of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities (2018)
- Urban Development and Building Height Guidelines for Planning Authorities (December, 2018)
- Design Manual for Urban Roads and Streets (December 2013) and as amended
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)
- ‘Framework and Principles for the Protection of Archaeological Heritage’, Dept. of Arts, Heritage, Gaeltacht and the Islands (1999)

- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)

## 6.2. Regional Policy

### 6.2.1. Regional Spatial and Economic Strategy for the Northern and Western Regional Assembly (January 2020)

- The principal purpose of the Regional Spatial & Economic Strategy for the Northern & Western Regional Assembly (RSES) (2020) is to support the implementation of the National Planning Framework and the economic policies and objectives of the Government by providing a long-term strategic planning and economic framework for the development of the regions.
- Section 3.6 of the RSES sets out the Galway Metropolitan Area Strategic Plan (MASP), which provides a framework for development plans and investment prioritisation over the plan period.
- The MASP reiterates the significant population growth targets which are set out in the National Planning Framework and the RSES, which are that the population of Galway MASP to grow by 27,500 to 2026 and by a further 14,500 to 2031 with the population of the city and suburbs accommodating 23,000 to 2026 and a further 12,000 to 2031; and to deliver at least half (50%) of all new homes that are targeted within the MASP to be within the existing built-up footprint.
- The MASP identifies strategic locations within its plan boundary which: ‘present the opportunity and capacity to deliver the quantum of housing on the appropriate sites, subject to the adequate provision of services’ - Bearnna is identified as a strategic location (see page 53 of the RSES).
- The following is stated in relation to Bearnna:
 

“Bearnna is located to the west of the Metropolitan Area, at the gateway to the Gaeltacht na Gaillimhe (County Galway Gaeltacht). It has experienced significant growth in and surrounding the village and is serviced through



the Mutton Island Wastewater Treatment Plant. Its location favours future growth that should have a focus that includes the consolidation of built-up areas of the village and the provision of supporting community infrastructure and services that are easily accessible by walking, cycling or public transport. The built, archaeological and cultural heritage of Bearna are important assets that should be conserved appropriately, including the Pier Road Architectural Conservation Area. While there is currently circa 14ha of residential phase 1 lands identified in the Bearna Local Area Plan that can accommodate growth in the short/medium term, there are additional lands available to facilitate further growth. The identification of such lands shall be a matter for the statutory plan-making process and shall have regard to environmental considerations, including flood risk and climate change.”

- The Galway Transport Strategy (GTS) will be implemented as an objective of the MASP under RPO 3.6.7.
  - The GTS supports opportunities that will reduce congestion and car dependency through increased capacity of reliable and sustainable public transport and the promotion and facilitation of cycling and walking, which in turn promotes the reduction of greenhouse gas emissions. The strategy includes traffic management, giving priority to walking, cycling and bus movements, modifications to the traffic network, management of parking activities and heavy goods vehicles, improvements to the public realm and use of ‘smarter mobility’.
  - One of the Key Transport Components for the MASP is the ‘Provision of a primary network of cycle routes comprising of two greenways connecting into the county settlements – the Oranmore to the City Centre and onwards to Bearna Greenway and City Centre to Oughterard Greenway’.

### **6.3. Local Planning Policy**

#### **6.3.1. Galway County Development Plan 2015-2021 (as varied):**

Chapter 2, Section 2.7 – Settlement Strategy Options:

The overall development plan approach is based on promoting the development of Galway City and the associated Galway Metropolitan Area (GMA), as the top tier of the settlement hierarchy, along with the development of key towns and smaller villages along strategic development corridors focussed on transportation routes. Bearna is identified as a satellite settlement within the GMA.

**Objective CS 2 – Development Consistent with the Core Strategy**

Galway County Council shall ensure that developments permitted within the County are consistent with the County population allocations set out in the Regional Planning Guidelines.

**Objective CS 8 – Core Strategy and Demand for Development**

Galway County Council is committed to ensuring that the overall population growth of the County complies with the level of growth set by the Regional Planning Guidelines and settlement hierarchy as outlined within the Core Strategy.

**Objective SS 1 – Galway Metropolitan Area applies:**

Galway County Council shall support the important role of Galway City and the Galway Metropolitan Area (which includes the City area and the Electoral Divisions of Oranmore, Bearna, Galway Rural and Ballintemple which are inextricably linked to and function as part of a greater Galway City), as key drivers of social and economic growth in the County and in the wider Western Region and will support the sustainable growth of the strategic settlements, including the future development of Ardaun and Garraun, within the Galway Metropolitan Area.

**Core Strategy Table, February 2015:** The development plan core strategy allocates a population of 420 to Bearna, 130 no. housing unit yield, with indicated density specification of 16 units per hectare, with a zoned land allocation of 12.2 ha.

The following objectives are noted in particular.

Chapter 3: Housing – Urban Housing Policies & Objectives

- **Objective UHO 7 – High Quality/Mix and Sensitive Design:**

Ensure that new developments are responsive to their site context and in keeping with the character, amenity, heritage, environment and landscape of the area. New development proposals will be required to complement the existing character of the town centre/area in terms of scale, height, massing, building line, housing mix, urban grain and definition and through high quality design and layout proposals for buildings and structures.

- **Objective UHO 8 – Urban Design:**

Promote the use of sustainable urban design principles and approaches that will help to create high quality built and natural environments appropriate to the context and landscape setting of the specific area, having regard to the guidance contained in the *Sustainable Residential Development in Urban Areas Guidelines 2009*, the accompanying *Urban Design Manual 2009* (or any updated version) and the *Design Manual for Urban Roads & Streets* (2013) (including any superseding document).

- **Objective UHO 10 – Sequential Development** which states there shall be ...a positive presumption in favour of the sequential development of suitably serviced Residential (Phase 1) lands in zoned towns and villages... development on Residential - Phase 2 lands will normally only be considered where 50% of the lands in Residential Phase 1 are committed to development.

- **Objective UHO 11 – Development Densities:**

Galway County Council shall ensure that the density of new development is appropriate to the particular land use zone and/or site context, is in keeping with the existing development pattern of the area, does not unduly impact on the amenities of the area and results in a positive relationship between existing development and any adjoining public spaces. The development of higher density development shall be promoted in appropriate locations, such as suitable sites within the town/village centre and adjacent to public transport facilities, where such development is compatible with heritage and urban design objectives, infrastructure capacity and environmental considerations. New development shall also have regard to the 'Sustainable Residential

Development in Urban Areas' Guidelines (or any updated/superseding document).

Chapter 8, Section 8.6: Flooding: Flood Risk Management Policies & Objectives

- **Objective FL 1 – Flood Risk Management and Assessment**

Comply with the requirements of the DoEHLG/OPW The Planning System and Flood Risk Management Guidelines for Planning Authorities and its accompanying Technical Appendices Document 2009 (including any updated/superseding documents). This will include the following:

(a) Avoid, reduce and/or mitigate, as appropriate in accordance with the Guidelines;

(b) Development proposals in areas where there is an identified or potential risk of flooding or that could give rise to a risk of flooding elsewhere will be required to carry out a Site-Specific Flood Risk Assessment, and justification test where appropriate, in accordance with the provisions of The Planning System and Flood Risk Management Guidelines 2009 (or any superseding document);

(c) Development that would be subject to an inappropriate risk of flooding or that would cause or exacerbate such a risk at other locations shall not normally be permitted;

(d) Galway County Council shall work with other bodies and organisations, as appropriate, to help protect critical infrastructure, including water and wastewater, within the County, from risk of flooding.

- **Objective FL 2 – Surface Water Drainage and Sustainable Drainage Systems (SuDs)**

Maintain and enhance, as appropriate, the existing surface water drainage system in the County. Ensure that new developments are adequately serviced with surface water drainage infrastructure and promote the use of Sustainable Drainage Systems in all new developments. Surface water run-off from development sites will be limited to pre-development levels and planning applications for new developments will be required to provide details of surface water drainage and sustainable drainage systems proposals.

- **Objective FL 3 – Protection of Waterbodies and Watercourses**

Protect waterbodies and watercourses within the County from inappropriate development, including rivers, streams, associated undeveloped riparian strips, wetlands and natural floodplains. This will include protection buffers in riverine, wetland and coastal areas as appropriate.

- **Objective FL 4 – Flood Risk Assessment for Planning Applications and CFRAMS**

Site-specific Flood Risk Assessment (FRA) is required for all planning applications in areas at risk of flooding, even for developments appropriate to the particular flood zone. The detail of these site-specific FRAs will depend on the level of risk and scale of development. A detailed site-specific FRA should quantify the risks, the effects of selected mitigation and the management of any residual risks. The Council shall have regard to the results of any CFRAM Studies in the assessment of planning applications.

#### Chapter 9: Heritage, Landscape & Environmental Management

- Section 9.7 relates to Archaeological Heritage Policies and Objectives
- Section 9.9 relates to Natural Heritage and Biodiversity Policies and Objectives
- Section 9.11 relations to Landscape Conservation and Management Policies and Objectives

#### **Bearna Plan – Variation 2(a) of the current Galway County Development Plan 2015-2021 (adopted on 23<sup>rd</sup> July 2018, to replace the Bearna Local Area Plan 2007-2017):**

- **Strategic Vision Statement:** ‘To promote Bearna as a sustainable and vibrant coastal village, which maintains its attractive character, capitalises on its existing and future accessibility strengths, while offering a pleasant environment for a growing community, for living, shopping, education, business, recreation and tourism, all balanced against the need to safeguard and enhance the environmental sensitivities of the area, for present and future generations to come’.

- **Land Use Zoning Map for Bearna** - The site is governed by the following zoning objectives:

#### **R - Residential (Phase 1):**

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.

#### **OS - Open Space / Recreation & Amenity**

Objective LU4 – Open Spaces/Recreation & Amenity (OS) - Promote the development of open spaces and recreational activities in accordance with best practice and on suitable lands with adequate access to the local community and retain existing open space and recreational facilities, unless it can be demonstrated to the satisfaction of Galway County Council that these uses are no longer required by the community. Ensure that any flood risk areas within the OS zone are appropriately managed to avoid, reduce and/or mitigate, as appropriate, the risk and potential impact of flooding.

#### **TI - Transport Infrastructure**

Objective LU6 – Transport Infrastructure (TI) - Facilitate the provision and maintenance of essential transportation infrastructure, including public roads, footpaths, cycle ways, bus stops and landscaping, together with any necessary associated works, as appropriate. New roads shall be subject to needs assessment and detailed corridor and route selection processes taking into account, inter alia, environmental constraints and opportunities.

The Land Use Zoning Map identifies a number of areas with the subject site as **CL- Constrained Land Use**

Objective LU8 – Constrained Land Use (CL) - To facilitate the appropriate management and sustainable use of flood risk areas.

This zoning limits new development, while recognising that existing development uses within these zones may require small scale development, as outlined below, over the life of the Bearna Plan, which would contribute towards the compact and sustainable urban development of the village. The underlying zoning or the existing permitted uses are deemed to be acceptable in principle for minor developments to existing buildings (such as small extensions to houses, most changes of use of existing buildings), which are unlikely to raise significant flooding issues, provided they do not obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. Development proposals within this zone shall be accompanied by a detailed Flood Risk Assessment, carried out in accordance with The Planning System and Flood Risk Assessment Guidelines & Circular PL 2/2014 (or as updated), which shall assess the risks of flooding associated with the proposed development. Proposals shall only be considered where it is demonstrated to the satisfaction of the Planning Authority that they would not have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities, or increase the risk of flooding to other locations. The nature and design of structural and non-structural flood risk management measures required for development in such areas will also be required to be demonstrated, so as to ensure that flood hazard and risk will not be increased. Measures proposed shall follow best practice in the management of health and safety for users and residents of the development. Specifications for developments in flood vulnerable areas set out in this plan shall be complied with, as appropriate (Please also refer to DM Guidelines FL 1 of this plan).

The Land Use Zoning Map also identifies areas to which the following objective applies - Objective CCF6- Inappropriate Development on Flood Zones (see below).

#### Section 1.4.3 Urban Design Objectives

- **Objective UD1 Public Spaces and Streets** Promote the development of high-quality public spaces consisting of streets, squares, parks and amenities connected by a network of pedestrian and cycling routes. Public spaces should have a high standard of design and street furniture that will create a coherent character for the area. This would include appropriately designed and located park benches, bus shelters, cycle storage facilities, refuse bins, signage, street sculpture, etc. but avoid the over-proliferation of different elements and/or cluttering of public spaces.
- **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.

#### Section 1.4.5 Residential Development

- **Objective RD1 - Residential Development Phasing** supports the development of lands designated as Residential (Phase 1) within the lifetime of the plan, subject to normal planning, access and servicing requirements, with Residential (Phase 2) zoned lands reserved for the longer term growth needs of the village.
- **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** - 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).

#### Section 1.4.6 Community Facilities

- **Objective CF1 - National School**

Support the upgrading of Scoil Sheamus Naofa or its relocation to a more appropriate site within the plan boundary to facilitate increased pupil capacity, more expansive recreational facilities with improved and safer access.

- **Objective CF2 - Playground Facilities**

Support the provision of playground facilities for children in appropriate locations that are accessible and have a suitable design and adequate surveillance, in particular, in the Village Centre and Community Facilities zoned lands in the plan.

- **Objective CF3 - Community, Recreation and Amenity Facilities**

Retain existing facilities and lands zoned for such uses, and prevent their change of use or redevelopment, unless it can be clearly demonstrated that the facility/lands are no longer required and that the new use or development contributes to the overall community needs and recreation and amenity needs of the Bearna area (This includes the existing tennis courts, school, church, handball alley, and local beaches).

#### Section 1.4.7 Built and Natural Heritage

- **Objective BNH4 - Local Streams**

Protect the riparian zones of watercourse systems throughout the plan area, recognising the benefits they provide in relation to flood risk management and in relation to the ecological integrity of watercourse systems. This will include a general 10 metre protection buffer from rivers within the plan area as measured from the near river bank (this distance may be increased and decreased on a site by site basis, as appropriate).

#### Section 1.4.8 Cultural Heritage

- **Objective CH2 - Irish Language**

Protect and promote the Irish language as the first community language of the Bearna area, including:

- Ensuring that the naming of developments are in Irish only and reflect the character of the area.
- Encouraging the development of educational, recreational, tourism and business facilities that operate through the medium of the Irish language.
- Signage shall be principally through the medium of Irish with internationally recognised symbols.

- **Objective CH3 - Language Enurement Clause**

A Language Enurement Clause will be applied on a portion of residential units in development of two or more units in Bearna. The proportion of homes to which a language enurement clause will be a minimum of 20% or to the proportion of persons using Irish Language on a daily basis, in accordance with the latest published Census, whichever is greater.

#### Section 1.4.9 Transportation and Movement

- **Objective RT3 - Public Footpath & Lighting Network**

a) Support improvements to the existing public footpaths network within the plan area.

b) New development shall be required to connect to the footpath and public lighting network that currently serves the village centre.

c) Support the provision of footpaths and-public lighting from the existing residential development to the village centre. In order to protect light sensitive species such as bats, lighting fixtures should provide only the amount of light

necessary for personal safety and should be designed so as to avoid creating glare or emitting light above a horizontal plane.

d) Facilitate the provision of pedestrian crossings adjacent to the national school, residential areas and at other appropriate locations within the plan area, as required.

- **Objective RT2 - New Village Street**

Support the completion of the proposed new Village Street (Inner Relief Road) north of the existing R336 and prohibit any development that would affect the future construction of the approved route.

#### Section 1.4.10 Climate Change and Flooding

- **Objective CCF1 - Flood Zones and Appropriate Land Uses**

Protect Flood Zone A and Flood Zone B from inappropriate development and direct developments/land uses into the appropriate Flood Zone in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 (or any superseding document) and the guidance contained in the Flood Risk Management Guidelines (DM Guidelines DM 2). Where a development/land use is proposed that is inappropriate within the Flood Zone, then the development proposal will need to be accompanied by a Development Management Justification Test and Site Specific Flood Risk Assessment, in accordance with the criteria set out under with The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 & Circular PL2/2014 (as Bearna Plan Page 13 updated/superseded). In Flood Zone C, where the probability of flooding is low (less than 0.1%, Flood Zone C), the developer should satisfy him or herself that the probability of flooding is appropriate to the development being proposed.

- **Objective CCF2 - Specific Flood Risk Locations**

Planning applications on lands in Bearna identified within pluvial PFRA areas outside of Indicative Flood Zone A on Flood Maps for Bearna shall be accompanied by a Site Specific Flood Risk Assessment that corresponds with that outlined under Chapter 5 'Flooding and Development Management' of The Planning System and Flood Risk Management Guidelines for Planning

Authorities 2009). Such assessments shall be prepared by suitably qualified experts with hydrological experience and shall quantify the risks and effects of any necessary mitigation, together with the measures needed or proposed to manage residual risks.

- **Objective CCF6- Inappropriate Development on Flood Zones**

Where a development/land use is proposed within any area subject to this objective the development proposal will need to be accompanied by a detailed hydrological assessment and robust SUDS design which demonstrates the capacity to withstand potential flood events to maintain water quality and avoid potential effects to ecological features.

- Any development proposals should be considered with caution and will be required to comply with The Planning System and Flood Risk Management Guidelines for Planning Authorities/Circular PL2/2014 & the associated Development Management Justification Test.
- Climate Change should be duly considered in any development proposal.
- Protect the riparian zones of watercourse systems throughout the plan area through a general 10 metre protection buffer from rivers within the plan area as measured from the near river bank, (this distance may be increased and decreased on a site by site basis, as appropriate).
- Any development proposals submitted for this site will require a detailed ecological report (s), carried out by suitably qualified personnel for the purposes of informing Appropriate Assessment Screening by Galway County Council, the competent authority (in accordance with Objective DS 6 of the Galway CDP 2015-21).
- The relevant lands will be outlined and flagged with a symbol on the land use zoning map and on the GIS system of Galway County Council so that staff and the public are aware of the special conditions/constraints attached.
- A briefing will be provided to relevant staff within Galway County Council on the special conditions and constraints on relevant lands.

### Chapter 3 Development Management Guidelines

#### Section 3.1 – Development Densities Guidelines:

- **DM Guideline DM1 – Development Densities** – The development of higher densities will need to be appropriate to the context and will be assessed based on the merits of the proposal and subject to good quality design, compliance with both qualitative and quantitative standards, location, capacity of the site and infrastructure to absorb development, existing character of the area, established densities on adjoining sites, protection of residential amenities, proximity to public transport, etc. The Planning Authority may use its discretion in varying these density standards. The development density guidance in the tables below indicate the range of densities generally considered appropriate in the various land use zones and in different residential locations within the plan area.
  - DM1 specifies for Zone R a plot area ratio of 0.1 - 0.5, maximum site coverage of 50% and minimum public open space provision of 15% for residentially zoned lands

The following standards are also set out:

<b>Residential Density</b>	<b>Units/ha</b>	<b>Possible Appropriate Locations</b>
Medium to high	35-50	Village centre or immediately adjacent to public transport hubs.
Low to medium	15-35	Neighbourhood centres (typically within 400m walking distance of centre point), inner urban suburbs.
Low	5-15	Urban periphery, outlying lands, areas with capacity / environmental constraints.

### Section 3.2 Flood Risk Management Guidelines:

- **DM Guideline FL1**

Flood Zones and Appropriate Land Uses: ‘The table below indicates the types of land uses that are appropriate in each of the Flood Zones identified within the plan area, in accordance with The Planning System and Flood Risk Management Guidelines 2009 (and as updated). Where developments/land

uses are proposed that are considered inappropriate to the Flood Zone, then a Development Management Justification Test and Site-Specific Flood Risk Assessment will be required in accordance with The Planning System and Flood Risk Management Guidelines 2009 (and as updated)'.

#### 6.3.2. **Gaeltacht Local Area Plan 2008-2018**

Bearna is within District F, Imeach Na Cathrach / An Eachreidh. A Language Inurement Clause is applicable to 20% of the units in residential developments of 2 or more units which is of 15 years' duration. County Development Plan objectives UHO 12 & UHO 13 also apply.

#### 6.4. **Designated sites**

6.4.1. The site is not located within or adjoining a Natura 2000 site. The Trusky Stream traverses the site north-south along its eastern edge. The nearest European Sites are Galway Bay Complex SAC and Inner Galway Bay SPA which are located 0.9km and 1.3 km respectively in a straight line by land from the proposed development (Hydrological distance between the mouth of the Trusky Stream and the SPA is 1.5 km).

#### 6.5. **Applicant's Statement of Consistency and Material Contravention Statement**

##### Statement of Consistency

6.5.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of section 28 guidelines and the Development Plan. This statement is summarised as follows:

- The proposed development provides for 121 no. residential units and provides a significant response to Galway's housing needs in accordance with the population targets set out in the NPF.
- The proposed development provides for a high level of accessibility and permeability ensuring ease of circulation throughout the scheme, as per DMURS.
- The proposal is in accordance with the Apartment Guidelines.

- The proposal complies with the Sustainable Residential Development in Urban Areas Guidelines 2009 and the associated Urban Design Manual 2009, as demonstrated in Appendix 1 of the submitted Statement of Consistency.
- As per The Planning System and Flood Risk Management Guidelines, a Flood Study of the Trusky Stream and a Site Specific Flood Risk Assessment have been prepared. The SSFRA concludes that: tidal/coastal flooding risk is not present at the subject site; the provision of a robust drainage network and the design of roads to provide overland flow routes away from existing and proposed buildings, will mitigate the risk of pluvial flooding; the flood risks arising from the proposed drainage infrastructure will be negligible and no further mitigation is required; and the flood risk represented by ground water is negligible and no further mitigation is required.
- The proposed scheme includes a childcare facility which extends to 224.8 sqm that can cater for 38 no. children. The childcare facility is designed to comply with the Childcare Facilities – Guidelines for Planning Authorities.
- In accordance with SPPR4, the site has a density in accordance with guidelines Residential Development in Urban Areas (2007) for a greenfield site of 35 units per hectare; provides a mix of building heights, units and sizes; and avoids mono-type building typologies.
- The proposed development will provide 121 no. residential units, acting as a key compact growth settlement, supporting the role of Bearna as a strategic location to facilitate targeted growth in the Galway Metropolitan Area and contribute towards the aim to grow the population of the Galway MASP as per the RSES.
- The proposed development will contribute to the realisation of a number of policies and objectives in the Galway County Development Plan, inter alia, in meeting commitments to provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods.

#### Material Contravention Statement

6.5.2. A Material Contravention Statement has been submitted in respect of the Galway County Development Plan 2015-2021, specifically addressing Core Strategy, Density, Building Height and Car parking and is summarised as follows:

- Core Strategy – The proposal is for 121 units. Planning permissions delivered and extant under the current development plan equate to 104 units. The core strategy allocates 130 units to Bearna. The proposed development, when combined with the existing/extant 104 units would exceed the core strategy by 95 units/73%. The population figure would also be exceeded by an estimated 165 people/39%.
- Density - The proposed density is 35 units per hectare. The core strategy identifies an indicative density utilised in Bearna of 16 units per hectare. While indicative, it could be considered in breach of the indicative density specification in the Core Strategy table.
- Building Height - Objective UD2 identifies a maximum building height of two and a half storeys which should generally be applied. It states increased building heights may be considered. The applicant considers the proposed development is compliant with UD2, however, should the Board determine otherwise, it is considered that permission should be granted. It is considered that the increased building height is provided in exceptional circumstances, contributes positively to the village character, is of a high standard urban design and the increased building height will have no adverse impacts on amenity. The proposal will provide 121 no. units and constitutes a significant delivery of new residential development in line with the principles of the Rebuilding Ireland to accelerate housing supply. The proposed development contributes to the village character, is of a high standard and complies with the Department of Environment, Housing and Local Government (“DoEHLG”) ‘Urban Design Manual: A Best Practice Guide (2009)’.
- Parking: DM Standard 22 of the GCDP, outlines car parking standards and states ‘...a flexible approach to these standards may be applied where such a case is substantiated, there is no traffic safety issue, and it is clearly demonstrated to the Planning Authority in the interest of proper planning and development, that the standard should be adjusted to facilitate the site



specific context'. The GCDP requires 14 spaces for the creche, however, the applicant is proposing 4 set down spaces and 4 spaces for staff. The applicant states that based on the fact that a set down area is provided for the creche, as opposed to the required number of spaces, the proposal may constitute a material contravention of DM Standard 22 in this regard. The parking proposed is stated to be in accordance with national guidance and flexibility is permitted in the GCDP. The applicant indicates that a Stage 1 & 2 Road Safety Audit has been submitted and states that 'the reduced number of car spaces will avoid a car dominated environment and encourage sustainable transport', in accordance with the Galway Transport Strategy.

- Justification for Material Contravention is set out by the applicant:
- The development is considered of strategic and national importance, in accordance with the Rebuilding Ireland programme. The development is stated to accord with the NPF and RSES.
- It is contended that there are conflicting objectives in the development plan. It is considered that Objective RD3 and DM Guidelines DM1 in the Bearna Plan conflict with the core strategy allocations, which comprises an indicative density of 16 units per hectare for Bearna. It is submitted that in order to provide for a development on Residential (Phase 1) zoned lands at an appropriate density (35-50 dwellings per ha), which supports the role of Bearna at the top of the settlement hierarchy, the core strategy allocations of 420 people and 130 units, and the indicative density specification of 16 units per hectare for Bearna in the Core strategy table must be exceeded. In relation to parking it is stated that Objective TI 9 seeks to provide parking facilities in towns and villages as development and traffic demand, which suggests that parking should respond to and facilitate car dependency; while it is stated that in contrast Objective TI 11 requires the Design Manual for Urban Roads and Streets to be applied to new development. DMURS aims to end the practice of designing streets as traffic corridors, and instead focus on the needs of pedestrians, cyclists, and public transport users.
- It is stated that the development is in compliance with the National Planning Framework, specifically NPO 35, 4, 13 and the development provides for a

significant response to Galway's housing need, in accordance with the NPF. It is submitted that permission for the proposed development should be granted, notwithstanding the material contravention of the Core Strategy (and, in the event that the Board so concludes, there is a material contravention of Objective UD2 in relation to height), having regard to the NPF on the grounds that the proposed development provides a significant response to Galway's housing needs in accordance the NPF.

- The RSES identifies Bearna as a strategic location, which presents the opportunity and capacity to deliver the necessary quantum of housing to facilitate targeted growth in the GMA. It is submitted that permission for the proposed development should be granted, notwithstanding the material contravention of the Core Strategy having regard to the RSES, on the grounds that the proposed development provides for 121 no. residential units and provides a significant response to Galway's housing needs in accordance with the population targets set out in the RSES.
- It is submitted that permission for the proposed development should be granted at this location, notwithstanding the material contravention of the Core Strategy, having regard to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas which encourage a density of between 35 and 50 units per hectare at this location.
- It is submitted that, should the Board consider that the proposed development materially contravenes Objective UD2 in relation to height, permission for the proposed development should nevertheless be granted having regard to the Urban Development and Building Heights Guidelines, specifically SPPR4.
- It is submitted that permission for the proposed development should be granted at this location, notwithstanding the material contravention of the Core Strategy, having regard to the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities.

## 7.0 Third Party Submissions

- 7.1. In total 23 submissions were received, of which three are from prescribed bodies (see section 9 hereunder). The submissions were primarily made by or on behalf of local residents.
- 7.2. The submissions received may be broadly summarised as follows, with reference made to more pertinent issues within the main assessment:

### Principle of Development: Material Contravention

- The development in conjunction with residential development already delivered in Bearna and extant permissions exceeds the County Development Plan Core Strategy allocation.
- The planning authority has over zoned land for development in Bearna village. The application is not strategic or of national importance. The proposed development is non-sequential and will result in increased car dependency. There are no conflicting objectives in the development plan.
- The development is in breach of core strategy population allocations and the population target of 420 can be accommodated in already permitted development and other zoned lands at Bearna. Extant permissions should be factored into considerations in relation to core strategy exceedance.
- The proposed development contravenes the Bearna Plan and County Development Plan.
- The development would accommodate well in excess of the 420 target and almost a third of the existing population of Bearna and would result in inadequate provision of school places, play areas, etc.
- The proposed development represents an exceedance of the statutory target for Bearna when considered alongside other permitted development within the settlement. The application is a material contravention of the County Development Plan.
- Bearna does not have adequate infrastructure to cater for the development, i.e. roads, footpaths, lighting, schools and public transport.

### Density, Design and Layout

- Development is excessive in scale and massing and out of character with Bearna village.
- The development will be much denser than the existing Cnoc Fraoigh estate and it is not in keeping with surrounding residential development. Density of development should be consistent with surrounding development.
- The site is being used as a test case for higher densities but due to site constraints the developer is forced to design incongruous apartment blocks totally out of keeping with the character of the area.
- Density of development contravenes development plan objectives 'UHO10 – Sequential Development' and 'UHO11 – Development Densities'.
- Excessive height of 3 storey apartment blocks, contravention of Objective UD2 of the Bearna Plan.
- Planning Permission was refused for a development under 19 1983 for reasons relating to conflict with Objective UD2 on a site closer to the town centre.

#### Impact on Residential Amenity

- Concerns about overshadowing and overlooking of the rear of houses within Cnoc Fraoigh.
- Discrepancy in levels between the proposed development and existing houses within Cnoc Fraoigh will result in overlooking.
- The FFL difference and height difference of the houses behind houses 1-8 Cnoc Fraoigh will cause significant overlooking and loss of amenity.
- Overshadowing from House 1M on no.8 Cnoc Fraoigh.
- Overlooking of Apartment Block A1 on rear gardens of houses in Cnoc Fraoigh – no.s 20-22 and 1-8.
- Height and density is out of character with the existing area and will have a negative impact on the character of the area.
- Insufficient information has been submitted in terms of levels, retaining walls and party walls.

- The proposed development would lead to a devaluation of property in the vicinity.
- Development will have an adverse impact on property values in Cnoc Fraoigh due to increased flood risk, increased traffic and road safety issues.
- Damage to properties from rock breaking and noise disturbance.
- Damage to no. 8 through construction adjoining it.

#### Environmental Impacts: EIAR; NIS

- A tributary of the Trusky Stream runs along the L-1321 and the site for the footpath, road realignment and sewer connection. The environmental impacts and impacts on Galway Bay SAC, of the construction of the footpath has not been assessed.
- The EIAR and NIS do not adequately address the location of the pumping station on lands prone to flood, the impacts of rock breaking on birds, EIAR assessment of alternatives.
- Concerns about structural impacts of ground works and rock excavation on surrounding properties. Permission should be subject to a condition that blasting does not take place without the agreement of local residents.
- Bats have been seen flying at the back of houses 1 to 8 and this has not been included in bat survey results.

#### Traffic and Transportation

- Access is via a private road which has never been taken in charge and is under the Heather Hill Management Company.
- Development will result in a substantial increase in the amount of vehicular traffic, including construction traffic, in the area, particularly travelling through Cnoc Fraoigh. There is already significant traffic congestion in Bearna.
- Development would generate a 700%+ increase in traffic movements per day, adverse effects due to noise and disturbance.
- The L1321 is narrow, poorly aligned and lacks a footpath or public lighting. It is inadequate to cater for the traffic generated by the development.

- The submission made on behalf of the residents of 4 Cnoc Fraoigh includes a traffic count / speed survey of traffic on the L1321. It is submitted that existing traffic speeds are much higher than the speed limit. The survey shows that a northbound 85th percentile of 72.5 kph and southbound 85th percentile of 69.9 kph.
- Inadequate sightlines at the entrance to Cnoc Fraoigh from the L1321. The 50 kph speed limit was moved to north of Cnoc Fraoigh in 2003, however speed has not reduced, as demonstrated in a 2017 speed survey undertaken.
- The Council never enforced the sightlines for 03/4315 and the existing sightlines are substandard. The 4m setbacks outlined in the letters of consent were never implemented. The application is premature until the sightlines required by 03/4315 are implemented.
- Road Safety Audit does not address the works to the L1321.
- The realigned L1321 conflicts with the permitted Part VIII Bearnna Inner Relief Road (ref LA2706) – the proposed footpath does not take account of the roundabout junction proposed but is shown going through it. The development ignores the plan for a proposed footpath on the western side of the L1321 (permitted under Part VIII and included in permitted reg ref 19/1983) – the road isn't wide enough for both to be provisioned.
- Lack of pedestrian / cycle connections and public lighting between the site and the centre of Bearnna. The developer will not be able to secure third party agreements required to construct the footpath and the footpath will never be built. The road is too narrow to accommodate a 1.8m wide footpath without the purchase of additional lands. The footpath should be a pre-condition of development.
- The footpath was meant to be delivered under 03/4135 as part of the permission relating to the existing estate but the council has never constructed the footpath and 151,000 euro in contributions paid. It would be premature for the current application to proceed under the council fulfils its existing obligations.

- Part 8 planning permission should be required for the road realignment/footpath works.
- Existing traffic will increase significantly on the L1321 when the Bearna Inner Relief Road is complete as it will act as a 'feeder route' between the centre of Bearna and the ring road.
- Development should be delayed until the Bearna Inner Relief Road and Galway City Bypass are complete.
- Traffic hazard in Cnoc Fraoigh and safety concerns relating to the use of green areas by children living in the estate.
- Speed of traffic travelling along straight access road will result in a traffic hazard.
- The proposed development is much larger than that envisaged as Phase 2 of Cnoc Fraoigh when that scheme was granted.
- The TTA drastically underestimates number of traffic movements which will be generated by the proposed development.
- Traffic hazard from construction traffic using the existing estate.
- Construction traffic should not be allowed to park in the existing Heather Hill estate.
- The development phase will not be short lived and will probably last longer than the estimated 2.5 years.
- Development should have a separate access from the L1321.
- Development should be accessed from the new Bearna Inner Relief Road.
- Need for adequate construction management and monitoring to ensure traffic safety and protection of residential amenities. Concerns about noise, dust, security, traffic safety, disruption etc. during the construction period.

#### Surface Water and Flood Risk

- It is submitted that there is incontrovertible evidence that the site floods and that this is known by the applicant's representatives, some members and officers of the local authority and the OPW, and the applicant - video footage,

drone footage, and photographs are included in the submission dated 2015 and 2017.

- It cannot be accepted that the site does not flood and the application should be invalidated as it is claims that the site does not flood. The Board is invited to view the video evidence and decide whether the site floods repeatedly.
- The site suffers from pluvial and fluvial flooding and development at the site would contravene The Planning System and Flood Risk Management Guidelines as it does not meet the justification test as there is zoned land available elsewhere.
- While the current application does not include for residential development within the indicative flood areas identified in Variation 2(a) of the GCDP, the submitted SSFRA and the Trusky East Stream Flood Study submitted is deficient for the following reasons:
  - The SSFRA attributed the flooding of the site in the past to pluvial flooding within Cnoc Fraoigh and 'ponding' within the proposed development site. The SSFRA refers to photos within Appendix G which are not included.
  - This assertion is incorrect. The Cnoc Fraoigh has a properly designed surface water collection system, which discharges to the Trusky Stream at the southern end of the proposed development site following attenuation. There have been no incidences of pluvial flooding within the Cnoc Fraoigh site since its construction. The 2015 and 2017 flood events were fluvial in nature caused by the overtopping of the Trusky Stream at a number of locations upstream of the flooding location which resulted in bank flows conveying flood waters towards the lower end of the site as show in submitted photo 2. During the 2015 flood event this resulted in flooding of the south east corner of the Cnoc Fraoigh estate, seen in photo 3. Photos 4 and 5 show no flooding within the existing Cnoc Fraoigh estate.
  - Trusky Stream Flood Study: The hydraulic model and flood maps included drastically underestimate the design flood levels for the 1% and 0.1% AEP events. Calibration of the model by comparison of the model with details of actual flood events has not been done and is an important step in the modelling process. The Flood Study, based on the photos submitted and



other submissions, makes it clear that it does not accurately reflect the flood risk at the site.

- The Annual Exceedance Probability of the 2015 and 2017 flood events are not known. It is likely that they are more frequent than a 1% AEP and that flood events of 1% or 0.1% AEP will result in flooding of more areas of the site.
- The inaccuracies in the hydraulic model raise questions about the compensatory measures proposed in the SSFRA, with the possibility that the development will increase flood risk downstream.
- A significant tributary of the Trusky Stream runs along the L1321 and the site for the footpath, road alignment, and sewer connection. It crosses the L1321 underground from west to east just north of the B&B and east to west south of the B&B. The tributary is connected to Galway Bay SAC. The application does not assess the impact the construction of the footpath (or sewer connection) will have on the Galway Bay SAC. Undeniable evidence of flooding has been provided to permitted reg ref 19/1983.
- A greater area of the site is flood prone than that indicated in the Trusky Stream Flood Study and the apparent inaccuracies of the hydraulic model raise questions about the compensatory measures proposed in the SSFRA.
- A SSFRA was carried out to accompany the new Bearna Plan. This highlighted incontrovertible evidence of flooding at the development site, as per several third party submissions. The area shown as the existing flood zone should be regarded as the smallest area at elevated risk of flooding. Refer to the SEA, Chief Executive's Report and meeting minutes from the Bearna Plan process. It is submitted that the Department of Housing, Planning and Local Government wrote to the planning authority with regard to the issue of flooding at the development site during the review of the Bearna LAP.
- The engineering services report refers to proposed surface water infrastructure being offered to be taken in charge by Galway County Council however there are references elsewhere to a management company taking charge of this infrastructure.

- The location of the pumping station fails the justification test. The pumping station should be moved to an area less vulnerable to flooding.
- The construction of foul sewers within Cnoc Fraoigh will result in significant disruption and safety risks to existing homeowners. Existing foul connections within Cnoc Fraoigh estate could be used by the developer.
- The decommissioning of the existing WWTP in Cnoc Fraoigh should take place before the proposed development is commenced. Sufficient capacity to facilitate a gravity feed to the public foul sewer has been available since 2010.
- The Mutton Island discharge license agglomeration boundary (as per discharge license) does not extend to the site of the proposed development and the proposals would mean Irish Water would be in breach of their license.
- There are capacity issues at the Bearna Wastewater Pumping Station, with tankering of wastewater from the pumping station undertaken on a regular basis due to apparent overloading of the pumping station. The development will exacerbate these issues and the existing pumping station is clearly not working properly and Trusky Stream is seriously polluted. The Board is requested to ascertain via Irish Water and other interested parties questions over the operation of the existing pumping station and suspected leak into the Trusky Stream and Galway Bay.
- An Irish Water correspondence requires that permission from third party owners of private services networks be secured. Heather Hill Management Company will not provide any such permission.
- It is submitted that the Board ignored the submissions and observations of residents in its consideration of previous SHD cases, particularly with regard to concerns about flooding issues. The Board should provide explicit reasons for rejecting specific submissions so that residents will have sufficient information for determining if a Judicial Review is appropriate in each case.

#### Taking in Charge

- The Cnoc Fraoigh Estate has never been taken in charge and is under active management by the Heather Hill Management Company. The residents have initiated Circuit Court proceedings to have the common areas transferred to

the management company. It is stated that the Heather Hill Management Company will not be providing permission to the applicant to access the watermain on the L1321 through Cnoc Fraoigh. The PA cannot take in charge the proposed development as Cnoc Fraoigh is not taken in charge and the residents have determined that they will not be taken in charge, with the common areas to be transferred to the management company from the developer. There cannot be access to 'public space' through the private estates of Cnoc Fraoigh. Should the Board and Chief Executive choose to ignore this issue, it will be clear grounds for Judicial Review.

- Condition 23 of the previous permission cannot be implemented as Cnoc Fraoigh is not taken in charge. Condition 11 is also questioned as it states that no part of the development other than the internal common areas of the apartments shall be maintained by a private management company.
- The residents of Heather Hill request that the Board condition that (1) the footpath is provided prior to any other development; (2) rock breaking must be prevented while government is recommending that people work from home; (3) no development can start until agreement with IW has been reached and this is dependent on MUD Act proceedings currently before the Circuit Court; (4) The junction with the L-1321 be upgraded; (5) an independent entity undertakes structural monitoring, noise monitoring, and water quality/level monitoring; (6) an updated bat study be undertaken for the whole site.

## **8.0 Planning Authority Submission**

### **8.1. Overview**

- 8.1.1 In compliance with section 8(5)(a) of the 2016 Act, Galway County Council submitted a report of its Chief Executive Officer in relation to the proposal. This was received by An Bord Pleanála on 10<sup>th</sup> December 2020. The report notes the planning history in the area, policy context, site description, proposal, planning history, summary of third party submissions, and summary of views of the relevant elected members. The submission includes one technical report from the Infrastructure and Operations Department of Galway County Council. The Chief Executive's Report concludes that

it is recommended that permission be granted. The CE Report from Galway County Council is summarised hereunder.

#### 8.1.1. **Summary of Inter-Departmental Reports**

The report from the Infrastructure and Operations Department/Roads Authority of Galway County Council has concerns regarding the following:

- The impact that the realignment of the L1321 would have on third party boundary walls/boundaries. As part of the road realignment the applicant has opted for a minimum carriageway width of 5.5m as per “Technical Note L1321 footpath works”, referring to the road as a local street. The Roads Authority considers this road to be a link street as it provides the direct link between the R336 (Arterial route) from Bearna to the N59 (Arterial Route) and will provide a link between all future development on adjoining lands within the boundary of the Bearna LAP and the Bearna core. While DMURS (2019) provides for a range between 5.5m-6.5m, when considering the speed limit and the overall current and future function of the road, the Roads Authority’s preference is that a 6m carriageway width is provided in this case.
- In order to provide the proposed footpath connection, the applicant proposes to realign the L-1321 road to the west without making any alterations to the existing boundaries. This will reduce clear distances between the pavement edge and physical boundaries to circa 200mm (or less) at some locations (see chainages 30-70m, 130–170m, 260-280m). The existing boundaries comprise largely of loose stone walls and blockwork walls. This reduction in clear distance gives rise to the risk of walls being struck by wing mirrors or becoming dislodged by vibrations from passing traffic and falling on to the carriageway, posing a road safety hazard. Excavation for pavement construction during the realignment works also poses a risk of undermining these boundary structures. This has not been addressed in the documentation submitted.
- The road level is significantly higher than the adjoining lands in some locations (see chainages 80-110m). Realigning the road closer to the boundary at these locations could cause the road to be undermined. The applicant has not proposed any retaining structure at this location.

- The realignment of the carriageway will negatively impact on sightline visibility splays for entrances on the western side of the road. This has not been addressed in the application; therefore it is unclear to what extent the impact would be.
- There are a number of structures such as telecom poles and traffic signs located in the grass verge where it is proposed to provide the footpath. In some instances these may cause pinch points for pedestrians. The applicant has not addressed this in the application.
- As part of the road widening, the applicant proposes to retain the existing road surface and transition to the new widened section. The Roads Authority considers that the extent of the works proposed are of such significance that it would necessitate full width road reinstatement.
- Based on the cross-sections provided, there is no raised kerb proposed on the western side of the L-1321 road. This will impact on the collection of surface water and may potentially lead to degradation of the carriageway edge and the ground beneath the loose stone walls. A raised kerb should be provided here to protect the road surface, adjoining boundaries and aid motorists in identifying the carriageway end.
- The applicant has not provided for any street lighting along the new footpath on the L-1321 road. It is imperative that street lighting be provided along this road to ensure pedestrians can safely use the footpath during darkness.

#### Road Safety Audit

- Problem 2.5 of the road safety audit has not been accepted and rectified in the design by the applicant on the basis that the road is an existing road. However, the proposed development will create a clear pedestrian desire line along this route and, as such, the design should take cognisance of this by providing a suitable footpath along this route.
- As highlighted in Problem 2.6, speed control measures, such as raised tables, should be provided at selected pedestrian crossing points.
- Problem 2.8 of the road safety audit relating to accessibility for large vehicles should be rectified in the design. The omission of turning facilities will result in

excessively long reversing movements for large vehicles making the roads cumbersome to travel and posing a road safety hazard.

#### Foul Drainage

- The proposed foul drainage along the existing Cnoc Fraoigh access road criss-crosses existing buried utilities such as foul and surface water sewers. This does not comply with the Irish Water Code of Practice and would make the maintenance of these utilities difficult should excavation be required. This sewer should be re-designed to comply with best practice.

In the event that permission is granted for this development, it is recommended in the submitted report that:

- A condition is attached requiring that: All works on the L-1321 road are to be fully completed prior to any works commencing on the residential development. This is to ensure that the proposed residential development can be fully accommodated by public infrastructure. It will also reduce the impact on the local community arising from construction traffic to/from the main site.
- A condition is attached requiring the developer to undertake all works required on the L-1321 road. No works shall commence without the prior agreement of the Roads Authority. This will require detailed drawings/specifications to be submitted and agreed to the satisfaction of the Roads Authority.

The Roads Authority has concerns regarding deficiencies in the design of the works to the L1321 road which are fundamental to its successful delivery and completion. This would pose undue risk on Galway County Council if conditioned with a special contribution and, as such, this risk should be retained by the developer.

Notwithstanding this, in the event of a decision to apply a special contribution condition, it is recommended that it should take account of a number of items (listed in the submitted report) in the determination of a cost. It is stated that the full extent of the works and associated costs cannot be ascertained by Galway County Council at this point.

#### 8.1.2. Summary of View of Elected Members:

The CE Report states that the Members of the Connemara Municipal District were briefed on the Strategic Housing Development application by the Planning Section of Galway County Council on 6th December 2020. No comments were received in relation to the proposed strategic housing development.

### 8.1.3. Planning Analysis

#### Zoning:

- Development appears compatible with LU Residential zoning.
- Development on R zoning where CCF6 applies - a site-specific flood risk assessment has been submitted for the proposed strategic housing development which addresses justification testing. The principle of the nature of the development proposed on this portion of the site does not appear to create incompatibility with the CCF6 Zoning Objective of the current Bearna Area Plan subject to compliance with the provisions of The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)/Circular PL2/2014 & the associated Development Management Justification Test, detailed hydrological assessment, robust SUDS design, protection of riparian zones, consideration of climate change and appropriate assessment.
- Development on LU4 Open spaces/Recreation and Amenity (OS) - It appears that proposals within the OS/RA zone include open space referred to a 'linear park' with references within submissions received to a 'strong focus on biodiversity' in the design of these recreational spaces. In addition, 2 no. surface water drainage pipes are proposed in this zone. This zone, contained within Flood Zones A and B as identified in the Bearna Plan, is also within a constrained Land use Zone (Objective LU8 refers). Utilities infrastructure and recreational activities are identified as 'open to consideration' in the zoning matrix of the Bearna Plan however the nature of the said uses appears, in general to be compatible with the OS/RA land use zone. The principle of the development proposed on this portion of the site (open spaces, surface water pipes and ancillary works) does not appear to create incompatibility with the provisions of the current Bearna Area Plan provided the applicant can

demonstrate compliance with The Planning System & Flood Risk Guidelines (2009).

- Objective LU6 – Transport Infrastructure (TI) & ‘Proposed Bearna Inner Relief Road’ (Objective RT2) – The pedestrian footway and ancillary works) does not appear to create incompatibility with the provisions of the current Bearna Area Plan provided the said works do not affect the future construction of the approved inner relief road route.

### Density

- Were the consent authority to take the view that the site be considered an ‘edge of centre’ site within Bearna (classified as a small town by reason of population) it is considered appropriate to target the upper density ranges for this category of site/settlement (ideally over 30 units per hectare) in the interests of efficiency in phase 1 land use and due to proximity to Galway City. Should the consent authority form the view that the site should be classified as being an ‘Outer Suburban/Greenfield’ site (a view which An Bord Pleanála has taken in relation to previous proposals in relation to this site) associated with cities and larger towns, as contained in the National Guidelines for Planning Authorities on *Sustainable Residential Development in Urban Areas* (2009) the appropriate density range appears to be 35 to 50u/ha. Overall it is considered that the proposed development with a net density of approximately 35 units per hectare is within the appropriate density parameters contained within Guidelines for Planning Authorities on *Sustainable Residential Development in Urban Areas* (2009) and in addition consistent with the provisions of the RSES Galway Metropolitan Area Strategic Plan.
- Apartment Provision – It is stated that the provision of apartments at this location should be considered in the context of Objective RD2 of the Bearna Plan. The zoning matrix of the Bearna Plan sets out that ‘apartments’ are open to consideration on the ‘Residential’ landuse zone and an attached note on the matrix indicates that this use on residential land will be considered subject to Objective RD3 or as appropriate. Objective RD3 relates to qualitative criteria. It is stated that apartment use does not therefore, appear to be strategically unacceptable by itself under the provisions of the Bearna



Plan of lands zoned for residential use however the acceptability of such use is linked to qualitative issues such as placemaking, building design, layout and sustainable mobility.

### Layout and Configuration

- It is considered in the submitted CE Report that the layout is sub optimum, having regard to objectives UD1 and RD3 in terms of amenity and placemaking with below optimum public open space areas within and towards the west of the development, irrespective that overall the scheme exceeds public open space metrics contained within Section 3.1 of the Bearna Plan. It is stated that the omission of units 38 to 45 inclusive is recommended in favour of a central urban space, with the rear elevational treatment and private open space of units 46 to 57 inclusive redesigned to provide a more dual aspect feel. A planning condition is recommended to give effect to the foregoing.

### Building Typology

- It is stated in the CE Report that there is a potential conflict between the proposed design of the apartments and the provisions of Bearna Plan Objective UD2. In order for the above units to satisfy the provisions of the above objective they would have to met 'exceptional circumstances' criteria and otherwise 'contribute positively to the village character and design, subject to a high standard of urban design and have no adverse impacts on amenity'. It is stated that a redesign of the apartments to a flat roofed rather than hipped roof typology as a minimum measure may satisfactorily mitigate the scale and massing concerns discussed given the immediate context. A planning condition is recommended to give effect to the foregoing. There are four falls in level over the plan of Terrace Type 5 and it could be argued that it would be more appropriate to mark the fall in levels with a commensurate fall in eaves and ridge height rather than to increase the height of the end unit to three storeys.

### Flooding and Drainage

- The applicant has submitted a Trusky Stream Flood Study and Site Specific Flood Risk Assessment prepared by O'Connor, Sutton, Cronin Consultant

Engineers with the SHD application. It is stated in the submitted CE Report that there is a question as to whether the proposed development fully satisfies Item 2 (iv) of the justification test in terms of the urban design considerations referred to in Box 5.1 of the Flood Risk Management Guidelines however in terms of residual risk compensatory measures it is considered that the proposed development does not appear to conflict unduly with the provisions of Objective CCF6 of the current Bearna Plan.

#### EIA

- The proposers have identified possible risks to the environment associated with this project and have formulated a detailed and considered response to these risks. If the proposals were to be granted permission, conditions should be included to ensure the implementation of the mitigation measures set out in Section 16, Table 16.1 of the EIR and associated documentation.

#### AA

- Should the consent authority/competent authority consider it appropriate to grant planning permission a condition is recommended requiring that the development be carried out in accordance with the mitigation measures set out in Section 5 of the Natura Impact Statement and mitigation measures set out in Section 5, Table 5.1 of the Construction Environmental Management Plan and monitored in accordance with Table 6.1 of the Construction Environmental Management Plan.

#### Roads and Transportation

- Should the consent authority decide to grant planning permission it is stated in the CE Report that it is considered appropriate that a condition be included for the purposes of levying the shortfall of 32.5 no spaces for the creche use in line with the provisions of Part 3 of Galway County Council's current Development Contribution Scheme.
- It is noted in the CE Report that plans and sections through the proposed road and footway have been provided. There is a question in relation to the potential for the provision of the footway to necessitate a complete realignment and therefore redesign and re-camber of the existing public road.

Any such redesign must be of a standard which is satisfactory to the local roads authority who would be responsible for the operation and maintenance of this route going forward. Representatives of GCC infrastructure and operations department have previously expressed concerns (as reported below) in relation to the width of the traffic lanes and accommodation works as also reported below.

- It is stated in the CE Report that the proposed footpath and road works directly adjoin a number of private properties which it appears may require third party consent for accommodation works. A letter has been included from the Roads and Transportation Unit of Galway County Council to confirm their consent to the applicant to make the application subject to conditions. The consent issued by Galway County Council refers to the requirement for the developer to resolve issues surrounding third party consents for accommodation works associated with the provision of the circa 330m public footway to connect to existing pedestrian facilities in Bearna village Core which now forms part of the proposals. There is a question as to whether the failure to secure said consent could impinge on the applicant's ability to secure this necessary infrastructure.
- The local Planning Authority views the provision of a public footpath to serve the proposed development, as an essential facilitator/precondition of the development of this site and it is considered appropriate that should the consent authority consider it appropriate to grant planning permission for the proposed development, the footpath and associated works to the L-1321 be sequenced in the planning permission to be carried out prior to any other development.

#### Water Supply

- In relation to connection via a private network, it is stated that there does not appear to be any letter of consent to make connection to this infrastructure accompanying letters of consent received with the application documentation.

#### Wastewater Collection and Treatment

- It is stated that there does not appear to be any letter of consent to make connection to this infrastructure accompanying letters of consent received with the application documentation.

#### Linguistic Requirements

- It is stated that the reservation of 24 no. residential units as proposed, for Irish speaking members of the community would appear to satisfy the requirements of Objective CH3 – ‘Language Enurement Clause’ of the Bearna Plan (Variation No.2(a) Galway County Development Plan) 2015-2021. A language enurement clause is recommended to give effect to the proposals.

#### Childcare Provision

- It is stated that the proposed development does not appear to conflict unduly with the provisions of Policy CF3 and Objective CF3 of the Galway County Development Plan 2015-2021.

#### Built and Cultural Heritage

- It is stated that the proposed development, subject to the mitigation described in Section 12.6 of the EIR does not appear to conflict unduly with the built and cultural heritage provisions of the Bearna Plan -Variation No.2(a) to the Galway County Development Plan 2015-2021).

#### Development Phasing

- It is stated in the submitted CE Report that the sequencing of landscaping delivery in line with development phasing (and completed with development phase 3) should be regulated in the event that planning permission is granted for the proposed strategic housing development. In the event that planning permission is granted it is stated that the provision of the footpath connection to the village core should also be sequenced to be included as phase 1 of the development.

### **8.2. Statement in accordance with 8 (3) (B) (II)**

Galway County Council Chief Executive’s Report states that the Planning Authority notes the submission of the statement of consistency and generally concurs with its contents. It is stated in the CE Report that in principle, the planning authority is

favourably disposed to a grant of permission on this site, subject to the comments made under the different sections of this report and should the Board see fit to grant permission, the following conditions could be considered to attach to any grant of permission:

- C3: The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to and agreed in writing with the planning authority prior to commencement of any development. In particular, the pedestrian connection on the L-1321 road and all associated works shall be completed prior to any other development. No other development shall be carried out on foot of this permission until the proposed public footpath and associated along the public road associated with the proposal has been constructed to the satisfaction of the Planning Authority. No development shall commence on any subsequent phase of the development authorised by this permission until the planning authority has certified in writing that the works in the previous phase have been completed to a satisfactory extent. The developer shall undertake all works required on the L-1321 road. No works shall commence without the prior agreement of the Roads Authority. This will require detailed drawings/specifications to be submitted and agreed to the satisfaction of the Roads Authority.
- C4: The design of the scheme shall be amended in the following respects:-
  - (a) proposed units 38 to 45 inclusive shall be omitted in favour of a central urban space in the form of either an enclosed public square or green. The rear elevational treatment and private open space of units 46 to 57 inclusive shall be redesigned to provide a more active aspect to this space.
  - (b) the roofscape of proposed apartment blocks A1 and A2 shall be redesigned as a flat rather than hipped roofscape.

- and, before development commences, revised drawings making provision for the above requirements shall be submitted to and agreed with the Planning Authority.
- C6: Archaeology

- C10: No development shall commence until such time as the developer has obtained a Connection Agreement from Irish Water for the provision of water services (public mains & public sewer) necessary to enable the proposed development.
- C11: Surface water drainage and management shall be design, sized, located and operated in accordance with the design details and calculations, as submitted with the SHD application.
- C25: Landscaping
- C29: A minimum of 20% of the houses hereby permitted shall be restricted to use as a house by those who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht, unless otherwise agreed in writing with the planning authority, for a period of 15 years.

## 9.0 Prescribed Bodies

The applicant was required to notify the following prescribed bodies prior to making the application:

- The Minister for Culture, Heritage and the Gaeltacht
- The Heritage Council
- An Taisce
- Udaras na Gaeltachta
- Inland Fisheries Ireland
- Irish Water
- National Transport Authority
- Galway County Childcare Committee

Three of the bodies have responded and the following is a summary of the points raised.

### An Taisce

- The proposed development should be properly phased with regard to existing services and infrastructure, particularly sustainable transportation and provision of drainage services.
- There are no cycle lanes and no footpath between the site and the village centre.
- Bearna has experienced a significant amount of residential development in recent years with no commensurate increase in public transport. Bus services are infrequent and overcrowded. The proposed development will increase dependence on private cars and further exacerbate traffic in the area.
- Schools in Bearna are already at capacity.
- Impacts on the Galway Bay Complex SAC and Inner Galway Bay SPA should be fully assessed given proximity to the Trusky Stream, which is a noted trout stream.
- Impact of linear park along Trusky Stream on SAC.
- Despite upgrades to Mutton Island WWTP in 2014/15, there has been evidence of an increase in discharge of unquantifiable amounts of untreated sewage effluent from Mutton Island WWTP, despite upgrades in 2014/15 and Galway Bay SAC is ecological sensitive to such increase in discharges. Pending the construction of the long planned Galway East WWTP, or without provision of a suitable alternative sewerage treatment plant covering the Bearna area, the proposed development would be contrary to the proper planning and sustainable development of the area.
- There are increased incidences of unquantifiable amounts of untreated waste water entering the River Corrib which may/may not be within the limits permitted by the EPA for the Mutton Island Wastewater Treatment Plant and evidence should be sought to ascertain the extra waste water load to be generated by this development.

Department of Culture, Heritage and the Gaeltacht:

- Archaeology: Condition recommended.

- Nature Conservation: The Department notes the mitigation measures as set out in the Natura Impact Statement (NIS) to prevent deterioration of water quality and to prevent disturbance to Otter and accepts the conclusion of the NIS that once these mitigation measures are implemented the proposed project will not adversely affect the qualifying interests / special conservation interests associated with Galway Bay Complex SAC and Inner Galway Bay SPA. In addition to this the Department sets out the following ecological points that should be considered by the Board:
  - The development includes the installation of two precast headwalls within the banks of the stream at the location of the two surface water outfall. From here, surface water from the proposed development, will discharge into the Trusky Stream. This is part of the SUDS management of the development which includes the use of Silt traps, attenuation tanks, Hydro-Brake flow restrictors and petrol interceptors to manage the conduit of pollutants. The Board should be satisfied that the SUDS proposal can be maintained and operated successfully for the life-time of the development.
  - The Board should consider any potential adverse effects of the proposed development on Annex IV (Habitats Directive) species, and their key habitats, which are strictly protected wherever they occur, whether inside or outside the above sites. Otters and Bats are recorded using the site and so the Board should be satisfied that there will be no loss of suitable foraging and commuting areas for Otter along the Trusky Stream. The Department would also like to highlight the EUROBATS and Dark Sky lighting recommendations which provide information on reducing the impact of lighting on wildlife, noting that the correct LEDs and lighting fittings can ensure that these impacts are avoided or minimised and can also reduce carbon emissions.
  - The Department notes that the shrub *Cotoneaster Franchetii* is included in the Landscape Plan as hedging in the development. It should be noted that this plant has the potential to be invasive and to



spread to the surrounding environs, particularly from garden cuttings / waste. It is recommended that it is not included in the Landscape plan.

- The Department also notes that regular use of herbicides (Glyphosate) is proposed as part of weed control methods in the maintenance of the site. The Board should be satisfied that the proposal is in line with the European Communities (Sustainable Use of Pesticides) Regulations 2012 and the Irish National Action Plan for the Sustainable Use of Pesticides – notably part 4.c ‘Reduction of risk in Sensitive Areas’.
- The Department also suggests that the final CEMP audit and report should be submitted to the Board in order to ensure that the effectiveness of the construction measures are recorded and that the monitoring protocol was implemented.

#### Irish Water

- A connection to the existing Irish Water main water network can be facilitated. The water main network serving the existing Cnoc Fraoigh Housing estate is privately owned, it ultimately connects to the Irish Water network which runs along the public road. The feasibility analysis undertaken by Irish Water as part of the pre-connection enquiry process relates only to the capacity of the Irish Water owned infrastructure to cater for the demand of the proposed development. Should the applicant connect via this private network the applicant must secure appropriate permissions from the third party owners and is required to confirm that the private water main infrastructure has capacity, is structurally adequate and provides an adequate service to facilitate the proposed developments demands and that of the existing housing estate. All required consents and permissions required must be in place before progressing to connection application stage.
- A connection to the Irish Water Foul Sewer, approx. 340m south of the entrance to the housing estate can be facilitated. In order to facilitate this connection to the wastewater network a section must be extended via private land. The applicant is required to obtain the appropriate permission from the landowners. In addition, the applicant is required to obtain a wayleave from the landowner in favour of Irish Water over this infrastructure ensuring

unrestricted access for future maintenance is available. The remaining extension works would be completed by Irish Water in the public domain to the nearest point on the public wastewater network. All consents and permissions required must be in place before progressing to connection application stage.

- Statement of Design Acceptance issued.
- Conditions recommended.

## 10.0 **Assessment**

### 10.1. **Introduction**

10.1.1. Having examined the application details and all other documentation on file, including the C.E. Report from the Planning Authority and all of the submissions received in relation to the application, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this application are as follows:

- Zoning / Principle of Development
- Core Strategy
- Density and Housing Mix
- Layout and Design
- Impacts on Amenity
- Traffic, Transportation and Access
- Infrastructural Services including Flooding
- Other Matters
- Material Contravention

These matters are considered separately hereunder.

10.1.2. I have carried out an Environmental Impact Assessment and Appropriate Assessment in respect of the proposed development, as detailed later in this report.

10.1.3. Each section of the report is structured to guide the Board to the relevant section of the EIAR, AA, relevant policy, substantive issues raised in the submissions / observations and the applicant's response as appropriate.

## 10.2. Zoning / Principle of Development

10.2.1. Under the Land Use Zoning Map for Bearna (incorporated under Variation 2(a) to the Galway County Development Plan 2015-2021, Bearna Plan), the site is governed by land use zoning objectives R – Residential (Phase 1), OS – Open Space/Recreation & Amenity, and TI – Transport Infrastructure. The map also identifies areas within the site as CL- Constrained Land Use. A hatched area on the Land Use Zoning Map is identified in the legend as 'Mitigation Measures Apply', in addition to four number triangle symbols identified as 'Objective CCF6 – Inappropriate Development on Flood Zones'. The OS area (through which the Trusky Stream traverses) is overlaid with the symbol for 'CL - Constrained Land Use'. There are two areas identified on the R zoning (adjoining the OS area) where the symbol 'Objective CCF6- Inappropriate Development on Flood Zones' and 'Mitigation Measures Apply'. The road network into the which the development is proposed to connect is identified as TI – Transport Infrastructure, the objective of which is facilitate the provision and maintenance of essential transportation infrastructure, including public roads, footpaths etc. Part of the road network where improvements are proposed coincides with the area identified on the Land Use Zoning Map as relating to the Proposed Bearna Inner Relief Road.

10.2.2. In accordance with the land use zoning matrix, under R, residential units (excluding apartments) are permitted in principle; apartments are open for consideration subject to Objective RD3; and childcare facilities are open for consideration. Under OS, car park is not permitted; recreational/cultural activities are open for consideration subject to demonstration of compliance with The Planning System & Flood Risk Guidelines and a Justification Test may be required as set out in the guidelines; utilities infrastructure & public service installations are open for consideration, subject to demonstration of compliance with The Planning System & Flood Risk Guidelines and a Justification Test may be required as set out in the guidelines. Zoning Objective CL is not listed in the zoning matrix, however, I note the plan states that Objective LU8 – Constrained Land Use (CL) is 'To facilitate the appropriate

management and sustainable use of flood risk areas'. Under TI, utilities infrastructure and public service installations are open for consideration.

10.2.3. In the submitted 'Architectural Design Statement' and the 'Planning Report & Statement of Consistency', the development layout is overlaid with the zoning map objectives. The residential units, creche and community room (within one of the apartment blocks) are located entirely within the R zoning and are therefore in compliance in principle with the zoning objective, subject to a detailed design assessment (as set out later in this report), as per RD3. No buildings are proposed on the areas of R zoning that are overlaid with Objective CCF6. The OS lands, which are overlaid with CL, are being retained entirely as open space with pedestrian paths traversing the area, provision for surface water pipes, and two discharge points to the Trusky Stream. The use as open space is in compliance with the zoning objective as is the provision of utilities, subject to compliance with Objective CCF6. I note in this regard the applicant has submitted information in relation to the hydrology of the site, including a Site Specific Flood Risk Assessment, Trusky East Stream Flood Study, SUDS strategy, an ecological report and provides for a 10m riparian buffer along the Trusky Stream, all of which are required to demonstrate compliance with the requirements of Objective CCF6. In principle, the proposal on OS lands is in compliance with the zoning objective OS and Objective CCF6, subject to detailed analysis in relation to Objective CCF6 (which is set out later in this report). Of the two areas zoned R and overlaid with Objective CCF6 and Mitigation Measures Apply, the area to the north is being retained as open space, and the area to the south is being utilised for open space, car parking for the apartments, part of the street/cul-de-sac serving the apartments, and a pumping station. The uses proposed are compatible with the R zoning objective, subject to Objective CCF6 being applied. As noted above, the application is accompanied by documentation in accordance with the requirements of Objective CCF6 and this will be assessed in detail later in this report.

10.2.4. General concerns about the demand for services that would arise from more people in the area, including schools, public transport, footpaths etc would not justify a conclusion that the site should not be developed in accordance with its zoning. These and other planning issues are considered separately hereunder.

10.2.5. Having regard to the nature and scale of development proposed, namely an application for 121 residential units located on residentially zoned lands, with open space proposed on OS zoned lands, I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Overall, I consider the principle of development is acceptable and in accordance with the zoning objectives, subject to detailed considerations below.

### 10.3. **Core Strategy**

10.3.1. The Galway County Development Plan 2015-2021 identifies Bearna as a thriving satellite settlement within the Galway Metropolitan Area (GMA), which includes Galway City. The GMA, including Bearna, is identified as Tier 1 of the settlement strategy for the county. In terms of the policy context, I note the Regional Spatial and Economic Strategy (RSES) for the Northern and Western Regional Assembly (January 2020) reiterates within the MASP for the GMA significant population growth targets established by the National Planning Framework, which are that the population of Galway MASP is targeted to grow by 27,500 to 2026 and by a further 14,500 to 2031 with the population of the city and suburbs accommodating 23,000 to 2026 and a further 12,000 to 2031. Bearna is identified in the development plan, alongside a number of other areas, as a location which has ‘the opportunity and capacity to deliver the necessary quantum of housing to facilitate targeted growth, subject to the adequate provision of services’ in the GMA. Bearna, in addition to other settlements, is stated in the development plan to be inextricable linked to, and functions as part of, a greater Galway City.

10.3.2. The Galway County Development Plan 2015-2021 core strategy, as varied by Variation No. 1 (adopted April 2017, incorporating RPG population targets) and reflected in Variation 2(a) Bearna Plan (adopted July 2018), allocates a population of 420 to Bearna and 130 no. housing units, based on an indicative density of 16 units per hectare, with a zoned land allocation of 12.2 ha. I note the development plan has not been reviewed since the adoption of the Regional Spatial and Economic Strategy for the Northern and Western Regional Assembly (January 2020).

10.3.3. Submissions from observers state that the proposal is a material contravention of the development plan given the development in conjunction with residential

developments already delivered and extant permissions exceeds the County Development Plan Core Strategy allocation for Bearna and should therefore not be permitted. Observers submit that the proposal is not strategic or of national importance, is non-sequential and will result in increased car dependency.

10.3.4. The submitted CE Report quotes the policy context, stating that Bearna is within the GMA, with a population allocation of 420 persons, and indicative housing yield of 130 housing units and zoned land allocation of 12.2ha. Objective SS1-Galway Metropolitan Area, quoted as follows, is stated to apply: “Galway County Council shall support the important role of Galway City and the Galway Metropolitan Area (which includes the City area and the Electoral Divisions of Oranmore, Bearna, Galway Rural and Ballintemple which are inextricably linked to and function as part of a greater Galway City), as key drivers of social and economic growth in the County and in the wider Western Region and will support the sustainable growth of the strategic settlements, including the future development of Ardaun and Garraun, within the Galway Metropolitan Area.”

10.3.5. The proposed development comprises a scheme for 121 no. residential units. The applicant in the submitted Material Contravention Statement indicates that residential development already delivered in Bearna during the current development plan together with extant permissions account for 104 residential units, which with the proposed 121 units subject of this application would exceed the 130 units identified in the Core Strategy for Bearna by 95 units or by 73%. I note since the submission of this application, a permission has been granted by An Bord Pleanála for 40 units (ABP-308037-20), which results in a constructed/extant figure of 144 units, therefore this application in addition to the 144 units, would amount to 265 units, which would result in 135 units more than the assigned number. In terms of population, the Material Contravention Statement calculates the permitted and extant permissions in combination with this application would result in a potential population of 585 people, which would exceed the core strategy figure of 420 people by 165 people or by 39%. The recently permitted 40 units would also increase this population figure. It is therefore clear to me that the proposed development would materially contravene the core strategy of the Galway County Development Plan 2015-2021.

10.3.6. Section 37(2)(b) of the Act of 2000 (as amended) states that where a proposed development materially contravenes the development plan, the Board may grant

permission in certain circumstances (see section 10.10 hereunder). The site is a greenfield site within the urban area of Bearna, sequentially located to the town centre on zoned and serviceable lands, adjoining an existing residential development, within an area identified for phase 1 residential development in the development plan. The development is laid out in a reasonably compact form, at a sustainable density, connected to the village centre via a proposed footpath connection and provides for recreational facilities. While the proposed development materially contravenes the Core Strategy as set out within the Galway County Development Plan 2015-2021, the development in all other regards accords with the principles of proper planning and sustainable development, and is of a scale and nature, that in my opinion, does not significantly undermine the county's settlement hierarchy, notwithstanding the breach of the housing target, or proposed pattern of growth and does not undermine the principles of compact growth and sustainable development for the county or town.

10.3.7. I have reviewed and considered the National Planning Framework, Regional Spatial and Economic Strategy and MASP, and Galway County Development Plan Core Strategy relating to Bearna and am satisfied that, notwithstanding the overarching principles and high level population targets in the National Planning Framework and Regional Spatial and Economic Strategy (which supercede the RPGs), there are no specific objectives or population targets within these plans that the development plan is required to meet at a micro level for Bearna. The development is in accordance with the broad principles and objectives of the national and regional planning framework documents. The proposal would contribute to the objectives of the adopted RSES and the Galway Metropolitan Area Strategic Plan (MASP) contained therein, where Bearna is identified as a residential opportunity site in the MASP and the primary strategy is for consolidation and higher density development on zoned lands, with a default density of 35 units per hectare applicable to the MASP. The proposed development would be in keeping with the sustainable development of Bearna and overall of the Galway Metropolitan Area in a reasonably compact and coherent form and would be consistent with the provisions of the National Planning Framework in this regard. Overall, having regard to the provisions of Section 37(2)(b)(iii), which I elaborate further on under section 10.10 of this report hereunder, it is justified in my opinion to contravene the Galway County Development Plan

2015-2021 in relation to core strategy. It is further considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework, specifically NPO 27, 33 and 35; the RSES and associated Galway Metropolitan Area Strategic Plan; and the 'Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas May 2009' (in particular Chapter 5).

#### 10.4. Density and Housing Mix

##### Density

- 10.4.1. Submissions from observers raise concerns in relation to the density of development which is considered excessive and out of scale with the character of the adjoining Cnoc Fraoigh and with Bearna. It is considered that the density should be consistent with the surrounding development and is in contravention of development objectives UHO10 Sequential Development and UHO11 Development Densities, and also Objective UD2.
- 10.4.2. The submitted CE Report states that overall it is considered that the proposed development with a net density of approximately 35 units per hectare is within the appropriate density parameters contained within Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and in addition consistent with the provisions of the RSES Galway Metropolitan Area Strategic Plan.
- 10.4.3. Chapter 6 of the guidelines on Sustainable Residential Development in Urban Areas (SRDUA) relates to Smaller Towns and Villages, with such towns defined as having populations ranging from 400 to 5000. Chapter 5 of the guidelines on Sustainable Residential Development in Urban Areas (SRDUA) relates to Cities and Larger Towns, being defined as towns with a population over 5000. Given that Bearna forms part of the Galway Metropolitan Area and has a strategic role to play in the region, I consider Chapter 5 of the guidelines to be relevant. In this regard, I consider the site to be an outer suburban greenfield site whereby net densities of between 35 and 50 dph are encouraged and those below 30 dph are discouraged. I further note RPO 3.6.3(a), as set out in the RSES for the region, relates to the MASP for Galway (which includes Bearna) and states '....In developing [a Building Heights] strategy, areas of high density will target residential density of 50 units/ha. The default rate for other areas will generally be 35 units/ha...'. Should the Board wish to consider



Bearna as a town in its own right, I would note that under chapter 6 of the SRDUA guidelines, which applies to smaller towns and villages, it is stated that edge of centre sites at the edge of smaller towns or villages are encouraged to have a density in the range of 20-35 dwellings per hectare and should include a variety of housing types. However, I consider Bearna should be considered as a part of the Galway Metropolitan Area, as per SS1 of the settlement hierarchy.

- 10.4.4. The total site area is a stated 5.38 ha gross, of which 3.47 ha is the net area, which I consider in accordance with national guidance for determining net areas for development. The proposal for 121 units therefore results in a net density of 35 units/ha.
- 10.4.5. This density is appropriate within the national policy context as per the SRDUA guidelines and development plan context, as per Objective UHO 11. However, I note DM Guideline DM1 of the Bearna Plan relates to development densities, indicating a range of guidance densities of 5-15 u/p/h, 15-35 u/p/h and 35-50 u/p/h, stating 'The Planning Authority may use its discretion in varying these density standards' subject to assessment of other planning criteria. Section 1.2 of the Bearna Plan and the Core Strategy table as set out in chapter 2 of the GCDP states that an indicative net density of 16 units per hectare has been applied to Bearna in calculating land requirements. While the density figures under DM Guideline DM1 are stated to be indicative and discretion may be applied and I am as a result not convinced that the development would be a material contravention of density, I nonetheless consider there to be a lack of clarity between objectives on the issue of density arising from identification of a 16 unit per hectare density being applied to the core strategy table. Therefore, having regard to the precautionary approach, I consider the development a material contravention of the development plan in relation to density given a lack of clarity around application of objectives DM Guideline DM1 and CS8. This is considered further in section 10.11 of this report hereunder.
- 10.4.6. I note that the site is zoned for residential development directly adjoining an existing residential development, is serviceable, is sequentially located to the town, is identified as being within Phase 1 lands, and is within the Galway Metropolitan Area, 6km from Galway city centre, with plans for a greenway and improved bus connection to Bearna as part of the Galway Transport Strategy. I note observers concerns in relation to the proposal being too dense, however, I consider the scale of

the development proposed is appropriate for this outer suburban/greenfield site given the site's locational context and the density proposed is in accordance with national policy. I do not consider the density proposed, which is at the lower end of that identified for greenfield sites, would result in a density or character of development which is out of context with the adjoining residential development, but would rather support and connect into existing development and services providing for a development of character which would contribute positively to the public realm, both existing and proposed, as well as improve connectivity to the town centre with provision for a public footpath along the L1321, where none at present exists. I consider the development to be in compliance with quantitative and qualitative standards for residential development and the site is of a size capable of absorbing the scale of development proposed, with issues in relation to flood risk and constraints addressed and considered further in the report hereunder.

#### Dwelling Mix

10.4.7. The dwelling mix caters for a range of 1, 2, 3 and 4 bed units, with a mix of typologies including semi-detached, detached, terraced dwellings, duplexes and apartments. I consider this mix to be reasonable and will enhance the housing mix and unit typologies in the area, as supported by SPPR4 of the Urban Development and Building Height Guidelines 2018.

### 10.5. **Layout and Design**

#### Overall Development Strategy

10.5.1. The layout of the scheme has been informed by the existing site context, with the site contiguous to an existing suburban residential development to the west, and bounded to the east by the Trusky Stream, which is zoned along its length to the centre of Bearna as an open space area, along which Flood Zones A and B have been identified. Vehicular access to the site is proposed via an existing east-west street serving the Cnoc Fraoigh development, which itself connects onto the L1321 at an existing priority junction.

10.5.2. I note there is currently no footpath along the L1321 to the centre of Bearna, apart from a short section at the entrance to Cnoc Fraoigh and a section before the R336/Main Street. This application proposes to develop a footpath from the access

at Cnoc Fraoigh to the centre of Bearna, covering a distance of 330m south along the eastern side of the L1321.

- 10.5.3. The proposed internal street serving the site is 5.5m wide and connects from the Cnoc Fraoigh main street at the western boundary and runs in a curved north-south direction through the site, with two short home zone sections in the northern half of the scheme.
- 10.5.4. The development comprises a mix of apartments and houses. The proposed houses, mainly located in the centre of the site, are two storeys in height and comprise a mix of semi-detached and terraced units, with a limited number of detached units at specific locations. The end of terrace units proposed as part of T5 at the northern end of the scheme comprise duplex units which are three storey in height. Two storey dwellings on sites labelled 2-16 are proposed to back onto the existing eight dwellings in Cnoc Fraoigh at this boundary. The back to back distance between these dwellings ranges from 23.8m to 29.6m.
- 10.5.5. With regard to the higher/denser three storey blocks proposed, these are distributed throughout the site from north-south along the main street and/or addressing the linear open space. Four apartment buildings are proposed at the entrance to the scheme, two of these blocks (A3 and A4) are two storey in height and are located on the southern side of the entrance street, orientated east-west; two blocks are three storey in height (A1 and A2), orientated north-south, overlooking the street/entrance to the west and the river/linear park to the east. A1 and A2 are approx. 45m from the most eastern dwelling in Cnoc Fraoigh (no. 8), with a detached two storey dwelling proposed east of no. 8 in this scheme, extending the main street from Cnoc Fraoigh, with the street curving north at this new detached dwelling. There is an area of open space and some parking between the street and Blocks A1 and A2. Block A4 is approx. 15.4m from the boundary with the three detached dwellings in Cnoc Fraoigh. Block A4 and A3 front onto the proposed internal street with the parking for all four block to the side and rear of Blocks A4. In between Block A4 and the shared boundary with the dwellings is of a c. 2.5m green verge along this shared boundary, bin/bike store, communal perpendicular parking, and a cul- de-sac street with footpath. A pedestrian path is indicated connecting into the existing path in Cnoc Fraoigh at this point back to the main street.

- 10.5.6. A single storey detached childcare building is located north of Block A1, with an aspect to the main street to the west and the linear park/open space to the east. Duplex units are positioned adjoining the linear park north of the creche (D1 and D2) and at the northern edge of the site (D3 and D4).
- 10.5.7. The main open space proposed is linear in nature following the alignment of the Trusky Stream, widening out at the northern and southern end of the site, where flood zones are identified as part of the Bearna Plan. Additional pocket parks to the front of the apartment units at the entrance, to the northwest, and additional space to the east for active play, adjoining the zoned open space lands, is proposed. The landscape plan proposes to maintain the biodiversity value of the 10m riparian area adjoining the stream with a 'biodiverse parkland' and natural planting and fence, while accommodating paths and active play spaces on additional open space areas proposed as part of the development. It is proposed to reuse stone walls on the site as feature low walls within open space around the site.
- 10.5.8. Having reviewed the layout, I consider the buildings proposed are orientated positively towards the linear park and open spaces as well as providing for active frontages to the internal streets. Boundary treatment to dwellings and within the open space area are considered acceptable. I am satisfied that, overall, both the apartments and the houses have been adequately designed to address the street, turn corners, and ensure a positive public realm is delivered. I am also satisfied that the proposed open spaces are appropriately located and overlooked, with the active open space proposed adjoining and contributing to the existing zoned open space lands and this wider amenity. I further consider the landscape plan with its biodiversity focus and protection of the 10m riparian corridor will be of benefit to the existing environment.
- 10.5.9. While concerns have been raised in submissions in relation to the design and scale being out of character with the area, I consider the design, with a mix of two storey and three storey buildings will not be out of character with what exists in the adjoining estate or in the wider area, but will provide for variety and legibility while also providing for a two storey style of dwelling, reflective of those in the area. The layout has had regard to the context of existing dwellings in Cnoc Fraoigh with houses backing onto houses at the northwest and the three storey elements located

away from existing boundaries. I consider further the potential impacts on residential amenity in section 10.6 hereunder.

10.5.10. I note the CE Report considers that the layout as proposed is 'sub-optimum, having regard to objectives UD1 and RD3 in terms of amenity and placemaking with below optimum public open space areas within and towards the west of the development...'. It is recommended in the CE Report that units 38 to 45 inclusive be omitted in favour of a central urban space. I note the proposed open space on this site exceeds development plan requirements. There is an existing pocket green area opposite house 45, and the street referenced in the CE Report at its northern and southern end is a distance of approx. 70m/75m from the linear open space, with permeable pedestrian and visual connections across the site west to east connecting to the linear open space. In accordance with Objective UD1 I consider the streets and pedestrian routes are well connected to parks and amenities, which are of a high quality with provision for active as well as passive uses and a positive focus on biodiversity and maintaining the natural landscape along the protected riparian corridor. I do not consider the omission of units for additional open space is warranted in this instance.

10.5.11. In accordance with RD3, I consider there is a high level of connectivity and permeability within the site and with the site to the west, for both vehicles and pedestrians, with pedestrian paths connecting into existing paths and provision for a pedestrian path along the L1321 to the town centre to be constructed as part of this development. The observer submissions received have raised serious objections and concerns in relation to the development using the street serving the existing Cnoc Fraoigh houses to gain access off the L1321 and the impact of this on existing residents. In terms of capacity, I consider the street as designed within Cnoc Fraoigh can safely accommodate traffic and pedestrians generated by the development proposed on this site and given its curved alignment will not give rise to speeding issues. The level of traffic generated will not be so great as to result in a capacity issue or give rise to a significant traffic hazard at the existing junction with the L1321, or additional hazards within the estate above that which would be experienced in any housing development. I consider that utilising the vehicular and pedestrian connectivity through Cnoc Fraoigh is good planning practice, supports connected communities, connecting into the existing infrastructure, and provides for access to

wider open space infrastructure. Please refer to section 10.6 where impacts on existing residential amenity and ownership are discussed in more detail and section 10.7 where traffic is discussed in more detail.

10.5.12. While I note submissions state that the footpath proposed along the L1321 should have been and should be still provided by the original developer/the Council as part of the application permitted to develop Cnoc Fraoigh (03/4315), this footpath has not been built to date. It is not for the Board to pursue enforcement action in relation to a previous permission. The applicant is proposing to construct this footpath as part of this application, and it is therefore being assessed as part of this application. While Galway County Council has raised issues in relation to design aspects of the proposed footpath and associated works, they have raised no objection to the applicant delivering these works as part of this development, subject to detailed design issues being agreed, and they have submitted a letter of consent to allow the red line include works to the L1321, which is a public road. The provision of a new footpath on the L1321 would be in accordance with Objective RT3 of the Bearna Plan, is required for this development to proceed, and will provide for a safe and sustainable walking option to the benefit of existing as well as future residents. Should the Board be minded to grant permission, I consider the delivery of the footpath should be undertaken as part of phase 1 of development and no dwellings should be occupied until the footpath is in place. This route to the village centre for pedestrians is at present hazardous, therefore its delivery is imperative in the interests of supporting sustainable development and sustainable communities. Issues raised in relation to the design of the L1321 and footpath are discussed in more detail hereunder in Section 10.7.

10.5.13. Overall, having regard to the hierarchy and permeability of streets proposed, the manner in which buildings address and provide activity to the street, connectivity for pedestrians and provision of open space, I am overall satisfied with the general design and layout of the scheme as proposed and I am satisfied that the development would provide for a positive public realm and a legible and permeable urban environment.

#### Building Height and Visual Impact

10.5.14. The Urban Development and Building Height Guidelines (2018) require that the principle of building heights of at least three to four storeys in suburban areas must be supported and SPPR4 requires that on greenfield or edge of city/town locations, that a greater mix of building heights and typologies in planning for the future development of suburban locations is secured and avoidance of mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.

10.5.15. The Galway County Development Plan, as varied by Variation 2(a), Bearna Plan, specifically Objective UD2 - New Buildings, which states

‘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’.

I have had regard also to the submitted Visual Impact Assessment (VIA) submitted and addressed in section 10 of the EIAR (see section 12 of this report hereunder) and the submitted Architectural Design Statement. I have visited the site and the surrounds.

10.5.16. I note that a number of concerns have been raised by third parties regarding the proposed apartments and that the proposed heights (ranging from 9.6m for Blocks A3 and A4; 14.6m for Blocks A1 and A2; and 11.9m for the duplex units) are considered to be incongruous with the existing pattern and scale of development in the vicinity, as well as being a material contravention of the development plan. The CE Report raises issue with the provision of apartments at this location and compliance with Objective UD2. It is recommended in the CE Report that a redesign of the apartments to a flat roofed rather than hipped roof typology as a minimum measure may satisfactorily mitigate the scale and massing concerns discussed and it is also questioned as to whether the provision of two three storey dwellings at

either end of a proposed terrace is an appropriate manner to address the fall in levels, with preference for a fall in eaves and ridge height rather than increase.

10.5.17. The proposal complies with SPPR 4 of the Urban Development and Building Height Guidelines through the provision of a mix of two and three storey buildings. In my opinion the proposed development will not be overbearing on the adjoining residential development or other developments in the area or have an adverse impact on the character or visual amenity of the area due to scale, massing and location of the three storey elements of the development. While the three storey apartment blocks are larger in scale than the existing two storey dwellings to the west, I do not consider the difference to be so significant as to be overly dominant in terms of their design or height and the proposed development by virtue of the layout and design would not detract from the character and scale of existing development in the area or affect adjoining amenities. I note the three storey elements are positioned away from shared boundaries and I consider the height strategy adopted with the placement of the three storey units primarily along a north-south axis proximate to the park, will add to legibility and place making within the development itself and within the immediate area. I consider the design proposed will contribute to the public realm, as well as contributing to the achievement of a satisfactory residential density of 35 units per hectare. I do not consider the replacement of the roof profiles with a flat roof to the apartment blocks is warranted. I consider the bookending of the proposed terrace with three storey dwellings with the variation in roof height alongside the stepped height of the lands will add to variety in the built form and legibility. The proposal for buildings of three storeys in height is not in my opinion a significant departure from the standard of two and a half indicated in Objective UD2, and having further regard to the wording of objective UD2, I consider that exceptional circumstances are applicable, in that the proposal will contribute positively to the village character and design, achieves a high standard of urban design, and will have no adverse impacts on amenity. I do not consider the development to be a material contravention of Objective UD2 as increased building heights may be considered under this objective. I examine the issue of material contravention further under section 10.10 hereunder.

10.5.18. I have reviewed the visual impact assessment submitted under section 10 of the EIAR (see section 12 of this report hereunder). I note the proposal will be visible



from a limited number of areas, with the greatest impact being on the adjoining development, however, I am overall satisfied that the site can accommodate the scale of development proposed and the proposal will not have a significant negative visual impact on the area. I discuss the issue of the impact of the development on residential amenity (overshadowing / sunlight/ daylight/ overlooking) further in section 10.6 of this report hereunder.

### Open Space

10.5.19. With regard to open space, the development plan under section 3 of the Bearna Plan states that the minimum area of open space that is acceptable within the R zoning is 15% of the total site area. The net site area is 3.47ha (excluding the OS zoning, L1321 and Cnoc Fraoigh road), of which 15% equates to 5205sqm and comprises a proposed playground, kickabout area, and other green amenity areas. The proposed development comprises a proposed open space area of 6711sqm, which equates to 19% of the site area. The zoned open space area provides for an additional 13,670sqm of green area. The CE Report raises issue with the lack of a pocket park in the northwest. As discussed previously, and as noted in the submitted Architectural Design Statement, all units are within 100m of public open space. I am satisfied with the level of open space provision, its location, the accessibility of all units within the development to the proposed open space and the proposed design of the different areas. I do not consider, given the layout and proximity of all units to public open space, that additional open space is required to the northwest as raised in the CE Report.

### Social Infrastructure Assessment / Childcare Analysis

10.5.20. The Childcare Facilities Guidelines for Planning Authorities recommends a minimum provision of 20 childcare places per 75 no. dwellings, which results in a requirement for 30 childcare spaces (excluding 1 bed units from the calculation, as per the apartment guidelines). The application proposes a childcare facility 224.8sqm in area, capable of accommodating 38 children. I consider that the proposed childcare facility is of a scale to meet projected demand, is well located within the site, and is in accordance with national guidelines.

10.5.21. With regard to school places, which is raised as a concern in submissions, I note that the Barna Plan/development plan states under Objective CF1 that it is an

objective to 'Support the upgrading of Scoil Sheamus Naofa or its relocation to a more appropriate site within the plan boundary to facilitate increased pupil capacity, more expansive recreational facilities with improved and safer access'. The application site is not identified as a potential location for a new school. It is within the remit of the Department of Education to deliver on additional school places in conjunction with the planning authority. Having inspected the site and its environs, I consider that the subject site is well placed and well served in terms of social infrastructure facilities, being within walking distance to the village centre, which has a range of shops and services, with higher order shopping facilities available in Galway city.

#### Conclusion – Layout and Design

10.5.22. Overall, I am satisfied that the development is reflective of good contemporary architecture, would provide for a positive public realm, and a highly legible and permeable urban environment. There is a high level of connectivity and permeability within the site and into the surrounding street network, with provision for a footpath connection to Bearna and additional open space provision of benefit to the existing and proposed population.

#### 10.6. **Impacts on Amenity**

##### Impact on the Amenities of Existing Properties

10.6.1. Concerns are raised by neighbouring residents in relation to overlooking, loss of light, privacy and amenity, and health and safety concerns. Concerns are raised in relation to the impact of the level difference and height of dwellings to the rear of houses 1-8 Cnoc Fraoigh and overlooking of apartment Block A1 on the rear gardens of 1-8 as well as over 20-22 Cnoc Fraoigh. No. 8 Cnoc Fraoigh also raises concerns in relation to overlooking and overshadowing from proposed detached dwelling no. 1 to be positioned to the east of No. 8 Cnoc Fraoigh. Concerns are raised in relation to lack of information on levels, retaining walls and party walls. Damage to existing properties from construction, rock blasting and disruption from construction traffic are also raised as concerns.

10.6.2. I have examined the layout proposed and have had regard to potential impacts which may arise with neighbouring properties. The potential for negative impact on established amenity is assessed particularly with regard to impact of overshadowing,

overlooking and overbearing of the adjacent properties. The application is accompanied by a Daylighting Report and an Overshadowing Analysis Report.

- 10.6.3. The Daylight Report submitted seeks to verify the daylight factors in the proposed apartment blocks A1-A4. The report finds that the average daylight factor in the Living Rooms/Kitchens and Bedrooms comply with BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' by achieving or exceeding the minimum daylight requirements in all cases. I accept the findings of this report.
- 10.6.4. The Overshadowing Analysis Report evaluates the potential overshadowing impact of the proposed development on Cnoc Fraoigh. The report makes reference to the impact of proposed dwelling no. 1 on no. 8 Cnoc Fraoigh, where it states that in accordance with BRE guidance, '...for existing buildings obstruction of sunlight may be an issue if some part of a new development is situated within 90o due South of a main window wall. From the shading images in Section 5 it was shown that for the house located directly West of the apartment blocks near the site boundary, which falls into the above category, some shading may occur between 7am and 9am on March 21st which is the day taken into account as average conditions between the Summer and Winter Equinoxes'. The shading diagrams in the documents are referenced. The vertical sky component was also assessed in relation to the southern/front aspect of no. 8 and it is stated that the proposed development will not impact unduly on the adjacent building.
- 10.6.5. I have reviewed the documentation and drawings submitted, having regard to the existing context of the neighbouring dwellings in Cnoc Fraoigh. The proposed dwellings to the rear of 1-8 Cnoc Fraoigh, which back onto this shared boundary, are 8.6m-8.8m in overall height and FFLs plans show a difference in finished floor level of approx. 0.5m to the rear of no. 8 Cnoc Fraoigh, with the level difference increasing to 1.84m to the rear no. 1, as the lands to the rear rise from east to west. Site section 1-1 illustrates the difference in height. A separation distance of 23.8m to 29.6m is proposed between the existing dwellings no.1-8 and those proposed to the north. The garden depths of the proposed dwellings range from 11m to 14.5m. While the dwellings to the north (no.s 2-16) are at a higher level, given the separation distances involved, and the positioning of the new dwellings to the north of the existing dwellings, I do not consider significant negative impacts on existing

residential amenity in terms of overlooking, overshadowing or loss of privacy will arise. While the outlook of the existing dwellings will change, this is not greater than what one would expect on zoned residential land in an urban area.

- 10.6.6. With regard to proposed dwelling no. 1 to the east of no. 8, I note the dwelling is slightly staggered sitting approx. 2.5-4.5 behind the rear building line of no.8. There is a separation distance of approx. 4m between the dwellings, with proposed dwelling no. 1 located at the side boundary of no. 8. While the outlook of no. 8 will be altered, the proposed dwelling given its positioning on the site to the east of the dwelling with a slightly staggered building line will not result in a significant negative impact in terms of overlooking or overshadowing. I consider proposed dwelling no. 1 will sit unobtrusively alongside the existing dwellings. I note the land in questioned is zoned residential and it is not unexpected that residential development of a similar scale would be located at the existing shared boundaries in such an instance.
- 10.6.7. Blocks A1 and A2 are orientated north-south, overlooking the street to the west and are approx. 45m from the most eastern dwelling in Cnoc Fraoigh (no. 8) and the adjoining rear gardens from no. 8 to no.1. As noted above, between the boundary with no. 8 and the apartments blocks is a detached two storey dwelling labelled no.1, the proposed north-south street and open space. Given the separation distances involved, I do not consider the proposed apartment blocks will result in a significant loss of privacy or overlooking of the rear gardens in Cnoc Fraoigh.
- 10.6.8. The two storey apartment Block A4 is approx. 15.4m from the boundary with the three detached dwellings in Cnoc Fraoigh with the space between the shared boundary and this block comprising a c. 2.5m green verge along this shared boundary, a bin/cycle store, communal perpendicular parking, and a cul- de-sac street with footpath. I do not consider proposed Blocks A4 and A3 will impact on the visual or residential amenity of dwellings in Cnoc Fraoigh.
- 10.6.9. I note the concerns raised in respect of the devaluation of neighbouring property. However, having regard to the assessment set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

Vehicular/Pedestrian Access via Cnoc Fraoigh Housing Development

10.6.10. A number of concerns have been raised in relation to the impact of the proposed access via Cnoc Fraoigh on the residential amenity of the residents of that estate and issues relating to traffic hazard and noise given the increase in number of vehicles using the estate. It is further contended that as the estate is in private ownership, managed by the Heather Hill Management Company CLG, the applicant does not have permission to connect into the existing street network and it is stated that permission will not be forthcoming from the residents of the estate. Issues are also raised in relation to impacts of construction work, impacts from vibration, and proposed laying of pipes for a gravity sewer along the main access route into Cnoc Fraoigh, as well as maintenance of access to properties during any permitted construction works.

10.6.11. Cnoc Fraoigh was originally designed as part of a larger residential scheme with plans indicating that Cnoc Fraoigh was intended as a first phase of development, as shown on Reg. Ref. ref. 03/4315 and 04/4249. I have considered the issue of access in the context of the design of the existing street, pedestrian connectivity, and volume of traffic. The existing street is 6m wide, with footpaths on both sides. The street is curved in layout with no long straight stretches. The street and paths have been constructed up to the boundary of the site, with the path on the southern side traversing through existing open space and the path to the north at the street edge. The proposed development connects into these existing path connections, as well as into the path network from the cul-de-sac to the south of the main street. I note the submitted Road Safety Audit considers an additional footpath may be required along the edge of the southern open space rather than through it, however, I do not consider this is warranted and the provision for continued path infrastructure is desirable. The increase in pedestrians and cyclists using the street can be accommodated within the existing Cnoc Fraoigh layout, as can additional vehicles without giving rise to a traffic hazard or significant increase in noise. While the development will increase the volume of traffic through the estate, which comprises at present 21 houses, this increase in overall terms is not so significant as to affect access/egress from the existing development onto the L1321 or to negatively affect the capacity of the existing junction or road network, or result in a traffic hazard.

10.6.12. I am satisfied that the existing streets in Cnoc Fraoigh are of adequate design and width to accommodate the scale of development proposed, including pedestrian movement, and the connection into the L1321, which is in existence, will not result in a traffic hazard. The entrance to the development was permitted previously and while it is raised in observations that this entrance was not constructed as permitted, I see no evidence on file in relation to enforcement action on this issue and the roads section of the planning authority has not raised any issue in relation to the existing access being a traffic hazard. This is also not raised as an issue in the submitted Road Safety Audit. I have visited the site and had regard to the existing entrance, and I do not consider the intensified use of this entrance would result in a traffic hazard and DMURS standards are complied with. I consider the proposed development in conjunction with a footpath on the L1321 will ultimately result in a shift toward more sustainable modes of travel in the area, which is important for the sustainable development of Bearna and development of a sustainable community.

10.6.13. While the proposed development will undoubtedly result in a change for existing residents, this change is not unexpected in an urban context. The adjoining land is zoned for residential development and this was always intended as an access street to serve the adjoining lands, albeit previously at an indicative lower scale of development. It would be unsustainable to support development of zoned residential land, which is a finite resource, at this location at a density below 35 units per hectare, given the proximity of the site to the village centre, and given the village's overall location within the Galway Metropolitan Area, 6km from Galway City Centre and its associated employment centres. I note the Galway Transport Strategy has plans for a greenway between Bearna and Galway City and includes a bus service to Bearna, with a focus on supporting more sustainable transport modes and connectivity to/from this settlement.

#### Construction Impacts

10.6.14. I note the concerns raised by some observers regarding construction stage impacts, including from noise, dust and vibration. A Construction and Environmental Management Plan and Design/Traffic Management Plan is submitted with the application. The EIAR has addressed construction phase impacts of the development in terms of traffic and noise, with no significant vibration noise anticipated. Construction impacts will give rise to some disturbance, however, this

will be relatively short term and temporary in nature. The proposed foul sewerage works will also cause some disturbance, however, this too will be relatively short term and must be considered in the context of the benefits associated with the upgrade and connection to the Irish Water foul network. I am satisfied that issues raised, including concerns in relation to access to individual properties, can be appropriately mitigated through good construction management and practice, including in relation to construction traffic management, noise and vibration, air quality, dust control, and construction working hours. The implementation of these mitigation measures will reduce any adverse amenity impacts during the construction phase.

#### Ownership

- 10.6.15. The issue of site ownership and right of way through Cnoc Fraoigh has been raised in a number of the submissions received, including from the Heather Hill Management Company CLG who manage the estate. This matter also arose in relation to ABP-300009-17 and ABP-302216-18. I note the submission from the Heather Management Company CLG states the applicant does not have permission to access the site via Cnoc Fraoigh and this access is the subject of circuit court proceedings to have the ownership transferred to the existing management company. Any disputes relating to such matters as ownership and rights of way are a legal matter, outside the remit of this planning application. The Board generally does not arbitrate on matters of dispute in relation to private property as they are not strictly planning matters. It should be noted that the granting of planning permission does not entitle the applicant to carry out works, if the consent of third parties is required. As per section 34(13) of the Planning and Development Act 2000 (as amended), "A person shall not be entitled solely by reason of a permission under this section to carry out any development".

#### Conclusion – Impact on Amenity of Existing Properties

- 10.6.16. Having regard to all of the information before me, including the layout, design and separation distances involved, I consider that impacts on the residential amenity of the wider area would not be so great as to warrant a refusal of permission. I have discussed the issue of the scale of the development in terms of impact on the character of the area in section 10.5 above. I discuss the issue of impacts from water

services infrastructure and flooding in section 10.8 hereunder. I do not consider the proposal will seriously injure the residential amenities of the existing neighbouring properties or of the area in terms of overlooking, overshadowing, loss of privacy or loss of outlook.

Amenity of Future Occupants – Design Standards for New Apartments 2020

- 10.6.17. The proposed development provides for a range of house types, semi-detached dwellings, terraced and a limited number of detached dwellings, in addition to apartments within two to three storey blocks. Apartment Blocks A1 and A2 comprise 14 and 13 units respectively in three storey blocks, with Block A2 comprising a multipurpose room at ground level for residents' amenity. Bicycle storage is provided for at ground level within the blocks. Blocks A3 and A4 (two storey in height) comprise 6 no. duplex units. Four additional two storey duplex blocks are proposed on the northern portion of the site, with the end units of Terrace 5 also comprising duplex units.
- 10.6.18. The Guidelines for Planning Authorities on Design Standards for New Apartments issued by the minister in 2020 contain several Specific Planning Policy Requirements (SPPRs) with which the proposed apartments must comply. Schedules were submitted to demonstrate compliance with the standards.
- 10.6.19. The apartments have been designed to comply with the floor areas as per SPPR3 and appendix 1.
- 10.6.20. SPPR4 relates to dual aspect ratios and states that in suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme. The development achieves this, with a stated 14% of duplex units and apartments being single aspect. Where single aspect units occur, they have an eastern outlook. I note that the dual aspect nature of the units facing each other between Blocks A1 and A2 will gain limited light from their side aspect given opposing distances of 4m, nonetheless the overall arrangement is considered acceptable in this instance.
- 10.6.21. SPPR 5 requires a minimum of 2.7m ground level apartment floor to ceiling heights. This requirement is complied with. SPPR 6 specifies a maximum of 12 apartments per floor per core. This requirement is met with 5 number apartments the maximum to a core.



- 10.6.22. A Building Lifecycle Report has been submitted.
- 10.6.23. Car Parking for apartments/duplexes is provided in accordance with the Design Standards for Apartments 2020, with one space provided per unit together with one visitor space per 3/4 apartments. I note the location of the parking for Blocks A1-A4 are located to the southwest of the blocks, to the side and rear of A3 and A4. A parking management strategy will be required to assign spaces to the units.
- 10.6.24. I note that a landscape privacy strip has not been provided along some of the ground floor apartments where they interact with the public realm, in particular to the northeastern boundary of Block A3, and between Blocks A1 and A2. Furthermore the blank elevation to Block A3 facing east provides for no passive surveillance of the open space adjoining it. In this regard I consider the eastern elevation of Block 3 could be enlivened with additional windows. These issues could be addressed by way of condition should the Board be minded to grant permission.
- 10.6.25. I consider the proposed development overall would provide an acceptable standard of amenity for the occupants of the proposed apartments.

#### House Designs

- 10.6.26. In relation to housing, best practice guidelines have been produced by the Department of the Environment, entitled 'Quality Housing for Sustainable Communities'. Table 5.1 of these guidelines sets out the target space provision for family dwellings.
- 10.6.27. I am satisfied that the internal accommodation meets or exceeds the specifications of Table 5.1. The private open space associated with dwellings vary in shape and area, providing a satisfactory amount of private amenity space and achieve adequate separation distances to adjacent dwellings. Generally back to back distances of 22m are achieved where windows are directly opposing. Two parking spaces are proposed per dwelling.
- 10.6.28. I note that Terrace 4 is served by a rear alley as is Terrace 5 and a bin store is located at the corner proximate to the end of the terrace 4 and 5. I consider this an unsatisfactory arrangement in terms of safety and security and such spaces can be problematic in terms of management and maintenance. Should the Board be minded

to grant permission I consider the rear laneways should be omitted and bin storage designed into the front area of each house within the terrace.

## **10.7. Traffic, Transportation and Access**

- 10.7.1. The relevant section of the EIAR which addresses Traffic and Transport is Chapter 13. This chapter details the methodology in relation to the Traffic and Transport Assessment undertaken, assessment of the existing road network, public transport routes and pedestrian/cycle facilities, and existing traffic flow, which was established through traffic surveys of specified junctions. Future transport proposals are also considered in the EIAR, including the County Development Plan proposal for a coastal walkway/cycleway from Bearna to Oranmore in conjunction with Galway City Council, and the proposed N6 Galway City Ring Road (see section 12.11 of this report).
- 10.7.2. The submitted Traffic and Transport Assessment states there are public transport options available to potential Galway City commuters, with Galway City also accessible via bicycle with an expected journey time of approximately 25mins. I note there is no dedicated cycle way between Galway City and Bearna at present. A Galway City to Bearna Greenway Route for pedestrians and cyclists is proposed as part of the Galway Transport Strategy, as supported by RPO 3.6.7, which would support this mode of commuting into the future. The TTA states this greenway scheme is being developed by the National Transport Authority, Galway City Council and their consultants and is currently at preliminary design stage.
- 10.7.3. The submitted TTA (see section 12.11 hereunder) indicates all junctions will operate within capacity with the development in place.
- 10.7.4. In terms of the wider road network, I note the Bearna Plan (as adopted by Variation 2(a) of the Galway County Development Plan) proposes an east-west inner relief road, approx. 260m south of the existing access to Cnoc Fraoigh, with improvements to the L1321 proposed along a section at the connection of the L1321 into it. A part of this east-west inner relief road has been constructed and serves a relatively new development of houses known as Thornberry. An additional element was included in a recent permission for 40 dwellings to the southwest. In terms of the wider infrastructural context, I note an application is currently before the Board for the proposed N6 Galway Outer Ring Road which has two roundabout connection points

from it serving Bearna. One of the access points is a roundabout junction approx. 1km north of the application site, which will connect into the L1321 with provision of a footpath and some minor widening works on the arm connecting from the roundabout onto the L1321. The second roundabout is proposed at the western edge of Bearna, which would serve traffic travelling from west of Bearna to Galway City.

#### Works to the L1321 and Pedestrian Connection to Bearna

10.7.5. The L1321 at present is 5.5-6m wide, with a green verge on either side. A footpath exists for a section of 180m north of the main street, on the western side of the L1321, and terminates just prior to the Thornberry Road (Bearna Inner Relief Road). A short section of footpath exists on the eastern side of the L1321 just outside the entrance to Cnoc Fraoigh and leads into this estate, terminating onto a gravel verge on the L1321. The existing pedestrian infrastructure serving the site is clearly deficient with no footpath in existence along a 330m section of road from the permitted Cnoc Fraoigh estate to Bearna village. I note that two new dwellings have been permitted by Galway County Council and constructed in recent years – one south of the entrance to Cnoc Fraoigh is conditioned as part of its permission to have its boundary set back by 3m along its frontage with the L1321 to allow for a future footpath to be provided. The second dwelling, which is at the southern end of the proposed footpath, was also conditioned to be set back 3m from the road edge. A speed limit of 50kph applies to the L1321. A letter of consent has been submitted by Galway County Council stating that the L1321 is in their charge and is a public road.

10.7.6. Works proposed to the L1321 are summarised as follows:

- provision of a footpath on the eastern side of the L1321 from the entrance at Cnoc Fraoigh southwards, for a distance of 330m toward Bearna village,
- a slight realignment of L1321 and new longitudinal construction to maintain the 5.5m carriageway width (this involves sections of the western side of the road to be altered/green verge removed) up to existing boundaries,
- overlay of the existing road,
- laying of a 125mm kerb transitioning down to 25mm for vehicles, and

- provision for tying in of new footpath on eastern side with the 13 access points onto this stretch of the L1321.
- An uncontrolled crossing is proposed proximate to the village centre to facilitate pedestrian progression to the footpath in existence on the western side of the L1321 that links directly with the footpath network in the village centre.

10.7.7. I note the details of a design for this footpath and associated road improvements, with carriageway of 5.5m wide and 1.8m footpath on the eastern site, was agreed to by Galway County Council, as per the submitted documentation with the previous application relating to this site (ref ABP-302216-18). I note Galway County Council has submitted a letter of consent which states the L1321 is in charge of Galway County Council and is a public road, and they give consent to the applicant to apply for permission. I have no reason to question this statement of ownership. Issues arising in relation to ownership at the boundaries as raised in submissions, is a civil issue and I refer to Section 34(13) of the Planning and Development Act 2000 (as amended) which states that “a person shall not be entitled solely by reason of a permission under this section to carry out any development”.

10.7.8. I note the CE Report relating to this application is accompanied by a report from the Infrastructure & Operations section of the planning authority, which considers the L1321 to be a link street (as per DMURS) and not a local street as indicated in the application documentation. It is considered that given the speed limit and overall current and future function of the road with its connection to the proposed N6 Galway City Ring Road (N6GCRR), the preference is that a 6m carriageway is provided (and not 5.5m as proposed). In addition, it is stated that in order to accommodate the footpath that the L1321 is to be realigned to the west without any alterations to existing boundaries, however, concern is raised that the proposals will reduce clear distances between the road edge and physical boundaries to c. 200mm with resultant increased potential for boundary walls to be struck and also reduction in sightline visibility splays for entrances on the western side of the road, with the extent of the impact unclear. Concern is also raised that excavation work to construct the pavement could undermine boundary structures, which has not been addressed in the documentation. It is also noted that the road level is higher than adjoining lands in certain locations (reference is made to chainages 80-110m) with no retaining

structures proposed at any location. Issue is also raised with existing telecom poles and traffic signs in the grass verge where the footpath is proposed and lack of consideration in relation to these items in the application. It is stated that the applicant proposes to retain the existing road surface and transition to a new widened section, however full width reinstatement is required by the roads section. No raised kerb is indicated on the western side of the L1321 which is stated in the report is required for collection of surface water. It is further stated that no street lighting is indicated and will be required. Conditions are recommended.

10.7.9. Appendix E of the Engineering Report submitted with the application comprises a technical note relating to the road width associated with the new footpath along the L1321. The L1321 is stated to be categorised currently as a local street as per DMURS and it is contended that this classification is in-line with Galway County Council's classification of the road as an L designation road. It is stated that it is the opinion of the consultant engineers that the 5.5m width of the carriageway is appropriate and will accommodate occasional use by large road and agricultural vehicles. It is stated that the narrow width will encourage slow speeds along the local road thereby making the road attractive to cyclists in terms of safety and comfort.

10.7.10. A Stage 1 & 2 Road Safety Audit (RSA) has been submitted in relation to the layout of the proposed development and the L1321. With regard to comments relating to the L1321, item 1 of the RSA relates to requirement for appropriate tie-in gradients between the proposed footpath and existing driveways along the L1321; item 2 raises the issue of impact of removing the grass verge, new footpath and kerbs on existing drainage and need to ensure adequate drainage interventions; item 3 relates to footpath connectivity and ensuring connection with existing at the entrance off L1321; item 4 relates to crossing facilities and requirement for tactile paving at the entrance off L1321. The remaining comments are internal to the scheme/Cnoc Fraoigh - item 5 relates to provision of footpaths along existing open space in Cnoc Fraoigh; item 6 relates to crossing points within the proposed development; item 7 relates to recommendation for speed control measures within the development; item 8 relates to turning facilities for refuse trucks; and item 7 relates to requirement for a Construction Traffic Management Plan. The Appendix A feedback form responds to the items raised. Items 1, 2, and 4, which relate to the L1321 are to be addressed in detail design; in relation to item 3 it is stated that

pedestrian connections at the entrance to Cnoc Fraoigh will be provided. In relation to item 5, it is noted this relates to an existing footpath and no works are intended. In relation to item 6, this will be addressed at detail design. In relation to item 7, it is stated that speed control measures are not required as there are no straight long stretches in the development; for item 8, autotrack has been utilised; and for item 9, this will be addressed through the preliminary health and safety plan.

- 10.7.11. I have reviewed the information submitted and I have considered the existing and proposed strategic road network in the area and hierarchy of routes as set out within the DMURS document. The L1321 approx. 1km north of the site is proposed to connect into the proposed N6 Galway City Ring Road (GCRR), which is a concurrent application before the Board. This is one of two roundabout connections from the proposed N6GCRR to Bearna and is termed the eastern Bearna roundabout. The L1321 would therefore provide for a direct link between the two regional routes of the R336 and the proposed N6GCRR eastern Bearna roundabout, should the N6GCRR be permitted. The second roundabout access to the N6GCRR is proposed on the western edge of Bearna. I note the documentation submitted with the application for the N6GCRR states that the average daily traffic on the main street in Bearna is 13,222 and is anticipated to drop to 3,102 should the N6GCRR be constructed.
- 10.7.12. The Galway County Development Plan proposes an inner east-west ring road for Bearna, which is south of the application site and part of which has been constructed and serves a relatively new housing development. While the application site shows potential links east to residential zoned land, these are indicative and subject to a future assessment as part of any application relating to those lands and are not being assessed as part of this application.
- 10.7.13. In my opinion the L1321 is appropriately assigned the function of a local street as per the applicant's submission. Should the proposed N6GCRR be permitted, it would alter the function and level of traffic on this road. There is no proposal to upgrade the L1321 as part of the application for the N6GCRR, with the exception of a short arm at the roundabout junction. As it exists, I consider the L1321 without a footpath from its urban edge to the centre of Bearna is hazardous. I consider the upgrading and maintenance of the existing carriageway width at 5.5m with provision for an additional footpath along the eastern side, which should have been provided

as part of the Cnoc Fraoigh development, is appropriate to serve the additional housing envisaged for this development. While not the optimal width of 6m should this become reclassified as a link street with increased traffic, the proposed widening to facilitate a footpath would be a significant improvement to what exists, would allow for the continued efficient movement of traffic along this local road, and would be a positive addition to the local footpath network, promoting connectivity and sustainable safe movement for existing residents as well as future residents. I note that the official speed limit on this section of road is 50kph, however, the actual speed limit as recorded via a survey submitted with observations has been recorded as being above the 50kph speed limit. The proposed footpath will highlight the more urban character of this street as one enters Bearna from the north and assist in slowing traffic down and I note the applicant proposes a traffic calming measure north of the entrance with Cnoc Fraoigh (OSCS 924-MDO-XX-XX-DR-1102). The referenced drawing in relation to the details of the traffic calming measure appears to be missing from the planning application, but I am satisfied that the detail of the traffic calming measures can be subject to written agreement with the planning authority, subject to compliance with their construction standards, and I have no reason to believe the local authority would not support such a measure to reduce speed on the public road. I consider additional signage in the area of the traffic calming would also be beneficial, which could be agreed by way of condition. Should any additional traffic calming measures/signs be deemed necessary to support wider compliance with the existing urban speed limit of 50kph along the L1321, above what is proposed as part of this application, this is with the remit of the local authority to survey and address. The issue of breach of speed limits is an enforcement issue which is a matter for the Local Authority and An Garda Síochána. The proposed works to the L1321 do not preclude the future upgrade of this road to a 6m width should the Local Authority consider this appropriate as part of the potential change to the strategic road network.

10.7.14. I note that detailed consultation between the applicant and the local authority was undertaken as part of the previous application and it was determined between the parties that a road width of a minimum 5.5m, with footpath, could be provided for without third party consents. While the background detail from the previous application has not been submitted as part of this application, nothing has changed

in the interim that would cast doubt over the previous agreement and memorandum of understanding in this regard. The applicant has submitted a topographical survey and design drawings, which I have reviewed, indicating the width of the road with the footpath in place along the length in question, which involves removing the grass/gravel verges on both sides. I note that there are a mix of boundary types along this road. Some traditional stone field boundaries exist to small field enclosures, with seven boundaries relating to entrances to dwellings on the east side of the road (two of which have had their boundaries set back 3m from the roadside edge by condition of their permissions). I do not consider the reduction in verge width on the western side, which affects three dwelling entrances (in addition to other field entrances) and insertion of a footpath on the eastern side will result in a significant traffic hazard to the existing dwellings, along what is a straight stretch of road, with good visibility, and a 50kph speed limit. In relation to concerns in relation to undermining boundaries, I consider that it would be possible from an engineering perspective to carry out the works without undermining existing structures, subject to a detailed construction management plan, to be agreed with the planning authority.

10.7.15. I note concerns raised in the internal GCC Infrastructure & Operations report that the applicant proposes to retain the existing road surface and transition to a new widened section, however it is stated in the submitted Engineering Report from the applicant and on the submitted drawings that an overlay of the existing road is proposed. I note the Stage 1/2 Road Safety Audit under item 2 highlights that the existing L1321 uses an 'over the edge' drainage system, which will be impacted upon by the provision of raised kerbs and a new footway. It is recommended in the Road Safety Audit report that the design should ensure that adequate drainage interventions are provided to minimise the risk of surface water being retained within the carriageway, which the applicant states in the appendix will be applied at detailed design stage. I consider the addressing of surface water could be addressed by way of condition at detailed construction drawing stage to the satisfaction of the planning authority without additional road take being required and the incorporation of surface water drainage is a standard design element incorporated as best practice in all such works. I note that the submitted drawings indicate the presence of a culvert under the existing road, which it is stated will be confirmed prior to commencement of any works to verify surface water drainage design. While the presence of culverts is



raised in submissions as a concern, I am satisfied the applicant is aware of the presence of the culvert/s. I am also satisfied that the applicant is aware of other planned works to the L1321 south of the site, which form part of the east-west inner relief road and permitted application to the west, which have not to date been undertaken and I do not consider the proposed works to facilitate the proposed footpath would compromise said plans from an examination of documentation available to me. I agree that lighting along this street is required and this too can be adequately addressed by way of condition to the satisfaction of the planning authority. Should permission be granted, I recommend a condition be applied requiring the detailed design and construction of the footpath and associated drainage and road improvements be undertaken as part of phase 1, in advance of the occupation of any development and subject to agreement with the planning authority and compliance with their detailed construction standards.

#### Connection through Cnoc Fraoigh and Access onto L1321

10.7.16. I have considered the impact of the proposed vehicular connection of the site through the existing residential of Cnoc Fraoigh in section 10.6 above and addressed the issues raised in relation to ownership. As noted previously and as assessed within the submitted TTA, while the existing access street into the development will experience an increase in traffic, the street network as designed in Cnoc Fraoigh can accommodate the scale of development proposed and will not have a significant negative impact in terms of traffic movement or safety. While some submissions have requested that other access points to the site be considered, I can only consider the access point as proposed as part of this application. The submissions consider that as the access infrastructure is in private ownership, it cannot therefore be used to access the proposed open space (see section 10.6.15 above in relation to ownership). From a planning perspective, the streets of the proposed development, as well as the existing Cnoc Fraoigh, have been designed to be barrier free allowing for permeability and accessibility to services, such as the creche and the open space walk and playground area. The zoned open space along the linear stream will be available for public use, with the long term plan for the delivery of this linear stream to the town centre part of the development plan for the area.

10.7.17. In terms of the existing entrance to Cnoc Fraoigh, I am satisfied based on the drawings submitted that while the entrance as it exists will be intensified in use with

the proposed development, it will not give rise to a traffic hazard and it is in compliance with DMURS with regard to sightlines for a 50kph zone, which is the relevant guidance in this regard and not the NRA Guidelines as raised in submissions. I further note the submitted Road Safety Audit (RSA) does not raise any concerns in relation to safety of the existing entrance off the L1321 and the roads section of the planning authority has also raised no concerns in this regard. The submitted RSA recommends tactile paving be provided at the entrance to the estate at the L1321 to support visually impaired pedestrians and to ensure connectivity between the existing footpath at the entrance with the proposed footpath. The applicant in response has raised no issue with these measures. I note the applicant proposes a traffic calming entrance north of the entrance with Cnoc Fraoigh, which will assist in encouraging compliance with the 50kph speed limit at this location, as will the provision of the footpath. As noted under 10.6 above in relation to observers concerns that the entrance was not constructed as permitted, I see no evidence on file in relation to enforcement action on this issue and it is not within the remit of the Board to address issues of enforcement with other planning applications.

#### Internal Street Design and Parking

10.7.18. The internal streets are classified in accordance with DMURS as local streets. The main access street which traverses the site north to south in a meandering design is 5.5m wide and the remaining streets off this main street are 4.8m wide. Footpaths proposed generally have a width of 2m within the proposed development. I am satisfied that the internal streets have been designed in accordance with DMURS and the development in this regard will not give rise to a traffic hazard.

10.7.19. The development plan sets out under DM22 and table 13.5 requirements in relation to car parking provision. I note the development plan states 'It should be noted that a flexible approach to these standards may be applied where such a case is substantiated, there is no traffic safety issue, and it is clearly demonstrated to the Planning Authority in the interest of proper planning and development, that the standard should be adjusted to facilitate the site specific context is considered acceptable and in accordance with guidelines'. The Design Standards for New Apartments 2020, indicates parking standards for peripheral and/or less accessible urban locations should generally allow for one space per unit with an element of

visitor parking, such as one space for every 3-4 apartments. The applicant is proposing 1 space per apartment and 1 visitor space per 4 apartments. 2 spaces per house are proposed. The total number of residential spaces proposed equates to 190 spaces. A set down area of 4 spaces is proposed for the childcare space and 4 parking spaces for staff.

10.7.20. The applicant considers that parking provision may be deemed a material contravention of the development plan as the number of creche parking spaces does not meet development plan standards and the apartment guidelines standards have been applied. Having regard to the location of the development within walking distance of Bearna village centre and the provision for cycle parking for the apartments and the childcare facility, in addition to set down facility proposed for the childcare facility, I consider as per DM 22 the proposal will adequately address the parking needs of the development, will not give rise to a traffic issue and is in the interests of the proper planning and sustainable development of the area. I do not consider the proposed parking provisions gives rise to a material contravention of the development plan. This issue is considered further in section 10.10 hereunder.

#### Conclusion – Traffic

10.7.21. Having examined all the information before me, I acknowledge that there will be some increase in traffic movements as a result of the proposed development if permitted, however, I am overall satisfied that having regard to the existing context of the site, sequentially located within phase 1 lands, within walking distance of the town centre with a new footpath connection proposed, and provision of open space riparian corridor along the Trusky Stream, the proposed development would not lead to the creation of excess traffic or obstruction of road users and I consider the proposal to be generally acceptable in this regard, subject to conditions in relation to early delivery of the footpath proposal along the L1321. Furthermore, I note the site's location within the MASP and objectives of the Galway Transport Strategy in relation to provision of a greenway from Bearna to Galway City, in addition to Bearna being serviced by one of the public transport routes, which further supports the promotion of sustainable modes of travel between Galway City and Bearna, to the benefit of the application site.

### **10.8. Infrastructural Services including Flooding**

## Water and Wastewater

- 10.8.1. It is proposed to connect the development to the public water and wastewater network at the L1321. Irish Water in their submitted report states that connections can be facilitated as there is capacity, however, notes that as third party consents are required the applicant must secure appropriate permissions before progressing to connection application stage. A Statement of Design Acceptance has been issued.
- 10.8.2. Submissions from observers question the proposal that wastewater is to be treated at the Mutton Island Wastewater Treatment Plant which it is contended would result in Irish Water breaching their licence from the EPA. Concerns are also raised in relation to the capacity of the existing Bearna pumping station to accommodate additional development. Submissions also note that Irish Water has not commented on the creche in their report and questions whether they know it exists. It is also questioned whether permission can be granted for a wastewater connection under the street in Cnoc Fraoigh given lack of the residents' consent to allow for connection through Cnoc Fraoigh to connect to the public system. It is noted in some of the submissions that a wastewater pipe has already been laid under the main street in Cnoc Fraoigh during the construction of the development to allow for a future connection to the public system, requiring the on-site treatment system to be ultimately decommissioned when this became possible. Observers question the proposal to lay a new pipe when one exists, leading to unnecessary disruption to residents. An Taisce raise concerns in relation to Mutton Island Wastewater Treatment Plant and impact on Galway Bay SAC.
- 10.8.3. An existing onsite wastewater treatment plant and associated percolation area serving Cnoc Fraoigh is located on the south of the application lands, within the Open Space Zoning. It is proposed to decommission the existing wastewater treatment plant as part of this application by directing the existing wastewater network to a new wastewater pumping system and rising main, from where the existing and proposed development will be connected to the existing public sewer 320m south of the Cnoc Fraoigh entrance. A new wastewater line is proposed to be installed under the Cnoc Fraoigh street, extending along the L-1321 to the existing connection point. I note the on-site treatment system was intended to be a temporary arrangement when permitted under 03/4315 and it was conditioned that when a

connection to the public sewer becomes available the private treatment system shall be decommissioned and the applicant shall connect to the public system. It was also conditioned that a storm sewer be laid with discharge to soakaways until the Bearna Drainage Scheme is commissioned and provision also for a foul sewer connection to the junction with Moycullen/L1321 Road, with details of a future connection to the Bearna Drainage Scheme to be agreed with the water services section of GCC.

10.8.4. I note the proposed application in its entirety, including all drawings, was circulated to Irish Water, as the body responsible for water and wastewater, for comment and the applicant engaged with Irish Water as part of the pre-application stage, as required by legislation, with a statement of design acceptance issued by Irish Water in relation to this application. I do not have any concerns in relation to Irish Water's ability to assess an application of this scale or to determine whether the water and wastewater treatment options set out are valid or workable. I note Irish Water has issued a statement of design acceptance in relation to the proposed development, and subject to third party consents being in place, considers the network connections can be accommodated. No concerns have been raised by Irish Water in relation to capacity of the public water or wastewater networks or the proposal for the wastewater to be treated at Mutton Island Wastewater Treatment Plant. The potential impacts raised in relation to wastewater treatment and European Sites is considered further in section 11 of this report hereunder. The issue raised in relation to third party consents to connect via Cnoc Fraoigh is a legal matter which I nor the Board have the remit to resolve by way of this application and I note the submission from the Cnoc Fraoigh residents states that this is a matter which is currently progressing through the courts. I 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". Irish Water has stated in their report that a connection agreement will be required to be in place prior to commencement of development and I consider this satisfactory. I recommend a condition apply to any grant of permission, should the Board be minded to grant permission.

10.8.5. This application removes the need for the onsite wastewater treatment plant and associated percolation area on the zoned open space lands in Flood Zone A & B currently serving Cnoc Fraoigh. The wastewater drainage infrastructure includes a new pumping station in an area of the site zoned 'R' where the Objective CCF6

applies, as per the Bearna Plan (Variation 2(a) of the development plan). This area is also within Flood Zone A & B, as per map 4 of the Bearna Plan. The applicant has addressed this issue in the submitted SSFRA and Justification Test. The Trusky East Stream Study has been undertaken as part of this application and indicates that the location of the pumping station is outside of the detailed predicted flood extent, ie Flood Zone A and B. It is considered that the location of the pumping system is not considered susceptible to flooding and has no impact on the floodplain. The design of the pumping station has been considered in terms of the FFL of the above ground elements and I note the pumping station has been designed with an emergency storage tank providing 24-hour capacity, in accordance with Irish Water requirements and that these measures will mitigate the risk of flooding from the pumping station arising from a potential interruption of service. I note the nature and scale of the works relating to the pumping station and I consider the works are not so significant as to give rise to displacement of flood waters and the below ground element would be sealed. I consider the location and scale of the pumping station, as set out in the submitted reports, to be acceptable at the location proposed. Irish Water has raised no concerns in relation to design and location of the proposed pumping station and has issued a statement of design acceptance in relation to this application. All elements of the development will be required to be carried out in compliance with Irish Water Standards codes and practices. Decommissioning methodology and works relating to the existing on-site wastewater treatment plant is addressed within the EIAR (see section 12 hereunder).

10.8.6. I note concerns raised in submissions that the connection to the public system should be undertaken by the previous owner of the site as part of legal agreements relating to the parent permission for Cnoc Fraoigh. It is not within the remit of the Board to determine enforcement action on the permission relating to Cnoc Fraoigh, which was permitted in 2003. I note the removal of the treatment plant as proposed and connection to the public system as per the submitted drawings is acceptable from a design perspective and would be of environmental benefit. The provision of a wastewater pipe along the L1321 to the Irish Water connection point will also be of benefit to wider area. I note that a recently permitted dwelling on the L1321 south of Cnoc Fraoigh (recently constructed) required an on-site wastewater treatment system due to this missing length of pipe along the L1321. As noted in some of the

submissions a wastewater pipe has already been laid under the main street in Cnoc Fraoigh, which was intended to be utilised to facilitate connection to the public system when the on site WWTP was decommissioned. It is not stated in the submitted documentation why the applicant is not proposing to utilise the existing pipe. I note that the pipe was designed in 2003 when a smaller scale development was being proposed on the adjoining site and it may be the case that the pipe is not designed to current standards/correct capacity. In any event, the applicant has to comply with Irish Water Standards codes and practices in the design of its wastewater network.

#### Surface Water Management and Flooding Issues

- 10.8.7. The Trusky Stream traverses the site from north to south and discharges to Galway Bay near Bearna Pier. The OPW flood maps database does not indicate any history of flood events in the area, however, photographic and video evidence of flooding in 2015 and 2017 has been submitted within the submissions received. This evidence also formed part of council meetings and discussions on flooding which took place as part of the work on the draft Variation 2(a) Bearna Plan of the county development, which was adopted on 23<sup>rd</sup> July 2018, copies of which are included in the submission from the Heather Hill Management Company CLG. Submissions raise concerns that this evidence was not considered as part of the previous application on this site by the Board and should be considered as part of this application.
- 10.8.8. To confirm, I have reviewed all submissions made in relation to the issue of flooding, as well as all other issues, all documentation submitted by the applicant, and by the planning authority, and I have visited the site and the surrounds.
- 10.8.9. The Strategic Flood Risk Assessment undertaken as part of the Bearna Plan/Variation 2(a) includes a Flood Risk Management Map, figure 4, which identifies indicative flood zones. Flood Zone A & B covers part of the application site, along the Trusky River and widening out at the southern end of the site, extending up to the boundary of dwellings 20 and 21 in Cnoc Froigh and to the cul-de-sac south of dwelling 20. The portion of the site east of dwelling 8, along the access road, and north of dwellings 1-4 is identified as being within indicative Flood Zone C. The Strategic Flood Risk Assessment for the Bearna Plan resulted in site specific

objectives relating to uses/studies required as part of any development of the land. Some of the lands zoned 'R', as per the Bearna Plan, are subject to Objective CCF6, which requires that the development proposal 'will need to be accompanied by a detailed hydrological assessment and robust SUDS design which demonstrates the capacity to withstand potential flood events to maintain water quality and avoid potential effects to ecological features'. All the lands zoned 'OS' are within Flood Zone A&B and are subject to Objective LU8 – Constrained Land Use Zone ('CL'). DM Guideline FL1 – Flood Zones and Appropriate Land Uses (as set out in the Bearna Plan, Variation 2(a)), applies to lands zoned CL.

- 10.8.10. An Engineering Report has been submitted with the application. A Site-Specific Flood Risk Assessment (SSFRA) was undertaken by Tobin Consulting Engineers, a Trusky East Stream Flood Study has been undertaken by O'Connor Sutton Cronin as part of the SSFRA, and an Assimilative Capacity Modelling Study of Galway Bay by MSN Hydro has been undertaken.

#### Surface Water Management

- 10.8.11. With regard to surface water management and SUDS, as set out in the submitted Engineering Report, surface water is proposed to be discharged into the Trusky Stream, with two new outfalls to be constructed. The surface management system will consist of a gravity sewer network that will convey runoff from the roofs and paved areas of the development to outfall manholes, which will discharge at controlled flow rates to the Trusky Stream, at the pre-development greenfield runoff rate, using a Hydro-Brake flow restrictor prior to discharging to the Trusky Stream, which will reduce volumetric runoff from the site. Underground attenuation will be provided at two separate locations in the form of underground cellular storage units, designed to temporarily store the surface water run-off for design rainfall events up to, and including, the 1% AEP rainfall event with a 20% increase in rainfall intensity. The surface water drainage system provides a minimum freeboard of 500mm to finished floor levels from the 1% AEP design top water level in the attenuation facilities. Silt traps are provided for upstream of the attenuation tanks and surface water will pass through petrol interceptors prior to discharging from the site. Pervious paving with drainage stone underneath will also be utilised to attenuate rainfall runoff from each property. The architectural drawings for the proposed development show the proposed ground floor Finished Floor Levels, which provide at least 500mm



freeboard over the adjacent 1.0%AEP flood water levels, in accordance with GSDSDS recommendations.

### Flooding Issues

10.8.12. The submitted SSFRA sets out the methodology applied, references the requirements of The Planning System and Flood Risk Management Guidelines for Planning Authorities, Circular PL2/2014 & the associated Development Management Justification Test, background documents are referenced, and surveys undertaken outlined. The SSFRA states that it accepts and applies the Indicative Flood Zones identified in the Development Plan, however, in order to ensure the most robust assessment, it was considered necessary to quantify the fluvial flood risk by detailed hydrological assessment and hydraulic modelling in order to inform scheme design and flood risk management measures. The Trusky East Stream Flood Study provides a detailed quantitative appraisal of potential flood risk. It is noted in the flood study that the existing flood maps, which formed the basis of the flood extents for Variation 2(a) of the development plan, did not include detailed flood modelling to determine the Indicative Flood Zones at the subject site. The submitted flood study 'quantifies the fluvial flood risk by detailed and robust hydrological assessment and hydraulic modelling in order to inform scheme design and flood risk management measures'. The analysis identifies the predicted flood extents for the 100-year and 1000-year return period flood events, ie Flood Zones A and B, based on a computational modelling. The methodology is set out in the submitted report. The predicted extent of Flood Zones identified by way of this report is mapped against Flood Zones A and B identified on map 4 of the Bearna Plan, with the development layout overlapping both these layers on figure 8 and in Appendix E in the submitted report (page 16).

10.8.13. I note a number of submissions question the validity of the baseline information utilised in the modelling within the Flood Study submitted. It is contended that the video and photographic information submitted of flood events in 2015 and 2017 was not fully considered in the model and the assumption in relation to the cause of that flood event is inaccurately identified as being pluvial in nature. I have reviewed observer submissions in this regard, the detail within the Trusky East Flood Study, the Site Specific Flood Risk Assessment and the Engineering Report. I am satisfied that within the reports submitted in relation to flooding, that there is an

awareness of the history of flooding on the site and while the photographs referenced in the SSFRA are missing from appendix g, where it is stated they are attached, I am satisfied that the report writer was aware of the previous flood events and, as stated, has taken them into account. I have no issue with the methodology utilised in the submitted SSFRA and The Trusky East Stream Flood Study.

10.8.14. Section 4 of the SSFRA identified flood risks and mitigation measures. The Trusky East Stream Flood Study, includes a hydrological assessment and modelling of the subject site, considers and addresses the impact of climate change, and includes details of the proposed SUDS design. The Trusky East Stream Flood Study identifies the predicted flood extent for the 1% AEP and 0.1% AEP flood events, based on computational modelling. This updates the information contained in Figure 4 of the Bearna Plan. There are four locations within the subject site, governed by the R zoning, where the predicted flood extent extends into areas within Indicative Flood Zone C, with these locations subject to flooding in the 100-year and 1000-year return period events and, accordingly, appropriate mitigation measures will be required. These locations relate to a small area to the northeast (where open space is proposed); a small section at the entrance to the cul-de-sac street serving proposed Duplex Units D1, D2, Units 46, and the creche; a small section where the playground is proposed; and a small section of open space to the east of Block A2.

10.8.15. The SSFRA states all buildings will be located:

- exclusively within lands zoned 'R' (and not subject to Objective CCF6);
- within Indicative Flood Zone C (as identified in Variation No.2(a) Galway County Development Plan 2015-2021 Bearna Plan); and
- outside the predicted flood extent for the 0.1% AEP flood event.

The SSFRA states that uses proposed within Flood Zone A and B comprise (as confirmed by figure 7):

- open space/amenity as per OS zoning;
- open space, car parking, and a wastewater pumping station for the development on land zoned R with objective CCF6.

10.8.16. The applicant states that the uses on the lands subject to CCF6 and R zoned are ancillary to the residential development and are considered highly vulnerable, therefore a Justification Test has been undertaken.

10.8.17. In relation to the OS lands within Flood Zone A & B, it is stated that as some proposed trees, hedgerows and fence are located within the predicted flood extent, they will displace flood storage volume provided by the existing floodplain. Similarly works proposed within the open space area subject to CCF6, will also displace flood storage. The car parking and roadway on the CCF6 lands will require cut not exceeding 400mm and fill not exceeding 47mm. The submitted SSFRA states that the wastewater pumping station will be largely below ground, with associated kiosks above ground, and the ground level at the location of the wastewater pumping station is more than 500mm above the adjacent 1.0%AEP flood level. However, it is stated that none of this area is located within the predicted flood extent (ie the flood areas identified within the detailed Trusky East Stream Study) and so it is stated that the proposed works will result in no displacement of flood storage and no further measure is stated to be required to manage fluvial flood risk at the pumping station.

10.8.18. There are four locations where the predicted flood extent arising from the Trusky East Stream Study extends into the R zoning area and which weren't identified in the flood management map in the Bearna Plan. At three of these locations the proposals provide open space amenity development with no proposals to raise ground levels and provide items such as trees, park benches, etc. At the fourth location relating to the road, the proposals entail ground level raising, which will displace flood storage volume provided by the existing floodplain. It is proposed to provide for compensatory storage required (which is permitted as a mitigation measure in The Planning System and Flood Risk Management Guidelines) on a direct "level-for-level" basis, in accordance with CIRIA C624 and the Flood Risk Management Guidelines. Details of the proposed compensatory storage are shown on the drawings submitted. The finished floor levels of the proposed buildings will provide at least 500mm freeboard over the adjacent 1.0%AEP flood water levels, in accordance with GDSDS recommendations.

10.8.19. Tidal/coastal flooding risk has been assessed and found to be not present at the subject site.

10.8.20. Pluvial flooding has also been assessed. As per the Guidelines, pluvial flood risk is not taken into account in the delineation of flood zones but are a combination of fluvial and coastal risk areas. The area adjoining Cnoc Fraoigh where CCF6 applies was added to the flood zone area as a result of evidence of flooding submitted during the draft stage of Variation 2(a) and informed the flood risk management provisions. This area is subject to Objective CCF6. The SSFRA addresses issues raised by observers in relation to previously observed flooding on the site. The SSFRA considers the flooding in this area to be pluvial in nature. It is stated in the submitted SSFRA that topographical survey information for the existing Cnoc Fraoigh estate and the subject site shows that an area of high ground is located between the southeast corner of the existing Cnoc Fraoigh estate and the Trusky East Stream channel. It states that this high ground is visible in the photographs and would prevent water flowing from the Cnoc Fraoigh estate into the Trusky East Stream. It is proposed in the SSFRA to re-profile the southeast area of the site as part of the development and it is stated that through the design and layout of the new development road levels, this flooding adjoining the Cnoc Fraoigh estate will be relieved by provision of an overland flow route along new development roads and open space to the stream. I have reviewed all information in this regard, and while residents dispute the cause of past flooding, based on the evidence before me and having regard to the design and layout of the proposed development, I consider that overland flow routes will guide flows away from the existing and proposed buildings and will not result in flooding of Cnoc Fraoigh and I am satisfied based on the Justification Test and engineering reports submitted (see section below), in accordance with The Planning System and Flood Risk Management Guidelines, that mitigation of the risk of pluvial flooding, in addition to fluvial flooding, has been adequately considered and addressed in the layout and design of the development.

10.8.21. With regard to potential for groundwater flooding, it is stated that the probability of this is considered extremely low, however, in such an event water would follow overland flow routes and not collect at or near proposed buildings. I am satisfied that this issue has been adequately addressed.

#### The Justification Test

10.8.22. Section 5.2 of the submitted SSFRA reviews the proposal against box 5.1 of The Flood Risk Management Guidelines, which relates to The Justification Test and

is required to be submitted by an applicant as part of the development management process.

10.8.23. As per point 1 of the Justification Test, the lands are zoned R and OS, with various additional objectives relating to flood risk and management applicable to the lands and the lands were so zoned taking into account The Planning System and Flood Risk Guidelines, with Variation 2(a) of the development plan accompanied by a Strategic Flood Risk Assessment relating to Bearna.

10.8.24. I have assessed the proposed uses against the zonings in section 10.1 above. The residential development and the creche are classed as “highly vulnerable development” in accordance with Table 3.1 of the The Planning System and Flood Risk Management Guidelines, whereas the “open space amenity” aspect of the development falls under the definition of “water compatible development”. With regard to the area zoned R, with objective CCF6, where car parking/part of a road is proposed, observer submissions contend this area should never have been zoned due to being within Flood Zone A & B. The land is, nonetheless, zoned R in the development plan which was adopted by the elected members. I note that no buildings are proposed within the area and that in accordance with CCF6, a SSFRA, Justification Test and Trusky Stream East Flood Study have been undertaken to assess the implications for the location of open space, an access street, parking and a pumping station (which would all be considered highly vulnerable) in this area. The Justification Test also considers the predicted flood extent of the Trusky East Stream Study which identified part of a cul de sac in the north of the scheme within Flood Zone A & B and other small open space areas. An examination of these areas and mitigation measures proposed are set out in section 5.2 of the SSFRA and Justification Test.

10.8.25. The development layout and location of the buildings has been considered with regard to the flood zones, with all buildings located in Flood Zone C. Buildings has been designed with a FFL of 500mm freeboard over the adjacent 1.0% AEP flood water levels and all vehicular and pedestrian access/egress routes will be above the 0.1%AEP fluvial and tidal flood levels. Compensatory storage on a direct “level-for-level” basis, in accordance with CIRIA C624 and the Flood Risk Management Guidelines is designed into the scheme. In the zoned OS within Flood Zone A & B, compensatory storage is proposed in accordance with the guidelines,

where levels are affected due to trees, benches, fence line, and decommissioning of the wastewater treatment plant. In the zoned R area, within Flood Zone A & B, compensatory storage is proposed in accordance with the guidelines, where levels are affected due to trees, benches, and playground equipment and part of a street. In the zoned R area to the south where car parking, part of a street and a pumping station is proposed, it is noted that the provision of the car park will entail some re-profiling of existing ground levels; the road alignment drawing for this car park indicates fill not exceeding 47mm and cut exceeding 400mm. The proposals also include tree planting. The wastewater pumping station will be largely below ground, with associated kiosks above ground. However, none of this area is located within the predicted flood extent and so the proposed works in this area will result in no displacement of flood storage. The ground level at the location of the wastewater pumping station is more than 500mm above the adjacent 1.0%AEP flood level and no further measure is required to manage fluvial flood risk at the pumping station. See also section 10.8.5 above.

10.8.26. The drainage infrastructure has been designed in accordance with SUDS principles, to accommodate the 100-year return period event, run off is calculated as pre development greenfield run off rates, and the design adheres to the hydraulic performance criteria set out in the Greater Dublin Strategic Drainage Study and in the Building Regulations Part H, in order to achieve self-cleansing velocity, minimising the potential for blockages leading to flooding. I accept that the recommended mitigation measures are contained within the development site and do not impact on the flood risk to adjacent properties. The mitigation measures as proposed have no adverse impact on the character of the proposed development.

10.8.27. Box 5.1 of the guidelines includes a note which references Section 5.27 in relation to major development on zoned lands where sequential approach has not been applied – the Variation to the development plan has considered the guidelines in its zoning and I consider a sequential approach has been adopted in the zoning of the lands in Bearna, with the proposed lands identified for Phase 1 development and their location, which adjoins existing residential development, within the development boundary of the town and proximate to/within walking distance of the village centre and all its services, with this connection to be improved through provision of a

footpath. Various objectives relating to flood risk are included in the zoned areas and these have been fully considered in the submitted documentation.

10.8.28. I note the CE report considers there is a question as to whether the proposed development fully satisfies Item 2 (iv) of the justification test in terms of urban design considerations. I note that the CE Report has raised concerns in relation to the apartment design, design of the three storey end of terrace houses, and layout to the northwest where it is considered dwellings should be omitted to allow for additional open space. I have addressed these issues in section 10.5 above and I have no concerns in relation to the layout and design of the scheme. I consider the proposed development proposes a high standard of urban design, with the layout designed to support vibrant and active streetscapes and creation of additional open space areas adjoining sections of the zoned open space lands to provide for active play spaces and open space which is overlooked and has a high level of passive surveillance, adequately catering for the recreational needs of future residents.

10.8.29. Overall, having considered all of the information before me, I am satisfied the applicant has adequately addressed the issue of flood risk in the submitted Site Specific Flood Risk Assessment and Justification Test, whereby it has been demonstrated that the proposed development will not increase flood risk to other others, through the site design and mitigation measures. All proposed buildings will be located exclusively within (a) lands zoned 'R' (and not subject to Objective CCF6) and (b) Indicative Flood Zone C (as identified in Variation No.2(a) Galway County Development Plan 2015- 2021 Bearna Plan); and outside (c) the predicted flood extent for the 0.1% AEP flood event. The proposed ground floor Finished Floor Levels have been selected to provide at least 500mm freeboard over the adjacent 1.0%AEP flood water levels, in accordance with GDSDS recommendations. Some compensatory storage on a direct "level-for-level" basis, in accordance with CIRIA C624 and the Flood Risk Management Guidelines is proposed. The drainage infrastructure has been so designed to accommodate and rainfall run-off up to and inclusive of the 100-year return period event. To mitigate the potential possible flood risk in the receiving watercourse, the surface water runoff will be reduced to pre-development green-field run-off rates. There are no flood defences (i.e. walls and embankments) proposed and therefore there are no residual risks associated with flood defences. All proposed finished floor levels and all vehicular and pedestrian

access/egress routes will be above the 0.1%AEP fluvial and tidal flood levels. Therefore, access for emergency services will not be impeded as a result of fluvial or tidal flooding.

## 10.9. **Other Matters**

### Procedural Issues

- 10.9.1. The residents of Cnoc Fraoigh raise procedural issues in relation to the implementation of 03/4315 (parent permission relating to Cnoc Fraoigh) and the undertaking of works on the public road. If this application is permitted it is clear that the applicant may need additional consents from the local authority to carry out works within the public road network such as a road opening licence 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. With regard to ownership issue, I 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”. I note that the Development Management Guidelines for Planning Authorities advise that the planning system is not designed as a mechanism for resolving disputes about title to land or rights over land and these are ultimately matters for resolution in the Courts.
- 10.9.2. Observer submissions raise concerns in relation to identification of areas in the application which are indicated to be taken in charge, which is not considered possible given the existing estate in Cnoc Fraoigh is not taken in charge. I 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”. Should the Board be minded to grant permission, I recommend a condition is required to the effect that the management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development, in order to ensure the satisfactory completion and maintenance of this development.

## 10.10. **Material Contravention**



- 10.10.1. The applicant has submitted a document titled 'Material Contravention Statement', which has been advertised in accordance with Section 8(1)(a)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act 2016. The applicant considers the development may materially contravene the development plan with regard to core strategy, density, building height and parking (see section 6.5.2 above, where the applicant's submission is summarised).
- 10.10.2. While a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plan for the area, a grant of permission could materially contravene provisions of Galway County Development Plan 2015-2021.
- 10.10.3. I consider the proposed development would result in a material contravention of the core strategy relating to Bearna as the proposed development would result in the total number of dwellings (permitted and extant) within Bearna of 265, which is above the assigned housing yield of 130 units, as per table 5 of the county development plan (see section 10.3 above).
- 10.10.4. With regard to density provisions, the specific objective within the Bearna Plan of DM Guidelines DM1 relates to densities. I note the wording relating to DM Guidelines DM1 states 'The Planning Authority may use its discretion in varying these density standards...', having regard to the specifics of the development. While I am not convinced that the development is a material contravention of the development plan in relation to density, there is lack of clarity in relation to the appropriate density applicable to Bearna, in terms of DM Guidelines DM1 and the core strategy table of the development plan (Variation 1) which indicates that a 16 unit per hectare density has been applied to Bearna, and I note Objective CS8 in this regard. I would therefore advise the Board that, having regard to the precautionary approach, the application is a material contravention of the development plan in relation to density.
- 10.10.5. With regard to building heights, I note Objective UD2, states '... 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'. While the proposed development is in part above the two and a half storeys with proposals for buildings three storeys in height, I do not consider the proposal is a material contravention of the development plan as the objective allows for increased building heights under certain exceptional circumstances, which I consider are met in this case (see section 10.5 above). Notwithstanding my assessment, it is open to Board to invoke Section 37(2)(b) of the Act in relation to height, should they consider it appropriate.

10.10.6. With regard to parking provision, I note DM Standard 22 of the GCDP, outlines car parking standards and states '...a flexible approach to these standards may be applied where such a case is substantiated, there is no traffic safety issue, and it is clearly demonstrated to the Planning Authority in the interest of proper planning and development, that the standard should be adjusted to facilitate the site specific context'. Having regard to the level of parking proposed which is in accordance with the apartment guidelines, and having regard to the provision made for the childcare facility, in addition to cycle parking, in my opinion the level of parking proposed is appropriate and is not a material contravention of the development plan in this regard (see section 10.7.19 above). Notwithstanding my assessment, it is open to Board to invoke Section 37(2)(b) of the Act in relation to parking, should they consider it appropriate.

10.10.7. To summarise, I consider the proposed development a material contravention of the development plan in relation to core strategy and density and I address these issues hereunder.

10.10.8. Section 37(2)(b) of the Act of 2000 (as amended) states that where a proposed development materially contravenes the development plan, the Board may grant permission where it considers that:

- (i) the proposed development is of strategic or national importance,
  - (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned,
- or

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,

or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

10.10.9. Having regard to the provisions of section 37(2)(b)(i), the proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended); and having regard to its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016.

10.10.10. In relation to section 37(2)(b)(ii), I consider the objectives within the Galway County Development Plan 2015-2021 are not clearly stated in so far as the development is concerned with regard to density. DM Guidelines DM1 indicates densities ranging from 5-15 units per hectare to 35-50 units per hectare, while the core strategy table states a density of 16 units per hectare has been applied to Bearna and the plan under CS8. The objectives are in my opinion not clearly stated in relation to the achievement of CS8 and application of DM Guideline DM1.

10.10.11. In relation to section 37(2)(b)(iii), the proposed development materially contravenes the Core Strategy as set out Galway County Development Plan 2015-2021, however, the development in all other regards accords with the principles of proper planning and sustainable development, and is of a scale and nature, that does not significantly undermine the county's settlement hierarchy, notwithstanding the breach of the housing target, or proposed pattern of growth and does not undermine the principles of compact growth and sustainable development for the county or town. In this regard I note the lands are zoned, serviceable, and spatially

sequential to the settlement, will provide for a development of a reasonable density with a range of house types, will enhance and improve pedestrian connectivity within Bearna, as well as provide for and open up amenity lands. I have reviewed and considered the National Planning Framework, Regional Spatial and Economic Strategy and MASP, and Galway County Development Plan Core Strategy relating to Bearna and am satisfied, that notwithstanding the overarching principles and high level population targets in the National Planning Framework and Regional Spatial and Economic Strategy, there are no specific objectives or population targets in the national plans that the development plan is required to meet at a micro level relating to Bearna. The development is in accordance with the broad principles and objectives of the national and regional planning framework documents. The proposal would contribute to the objectives of the adopted RSES and the Galway Metropolitan Area Strategic Plan (MASP) contained therein, where Bearna is identified as a residential opportunity site in the MASP and the primary strategy is for consolidation and higher density development on zoned lands. The proposed development would be in keeping with the sustainable development of Bearna and overall of the Galway Metropolitan Area in a reasonably compact and coherent form and would be consistent with the provisions of the National Planning Framework in this regard, specifically NPO 27, 33 and 35. Having regard to the provisions of Section 37(2)(b)(iii), it is justified, in my opinion, to contravene the Galway County Development Plan 2015-2021 in relation to core strategy.

10.10.12. With regard to S.37(2)(b)(iii), and the issue of Density, I consider the proposed development is in accordance with the National Policy Framework, specifically NPO 27, 33 and 35; the Urban Development and Building Height Guidelines, in particular SPPR4; and the Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas May 2009. The proposal is of a high-quality urban design, which will in my opinion successfully integrate into the character of the area and successfully connect into the adjoining public realm. The form, massing and height of the proposed development has been adequately considered to ensure any impacts on existing development is mitigated. Having regard to the provisions of Section 37(2)(b)(iii), it is justified, in my opinion, to contravene the Galway County Development Plan 2015-2021 in relation to density.

10.10.13. Overall, I consider the grant of permission in material contravention of the Galway County Development Plan 2015-2021 in relation to core strategy and density would be justified for the reasons and considerations discussed above.

#### **10.11. Planning Assessment - Conclusion**

10.11.1. I am of the view that, overall, the proposed development has had adequate regard to the context of the site and will provide for a sufficiently consolidated and connected development, with a variety of dwellings types, to support the sustainable development of Bearna. The site will be adequately connected with the proposed footpath to the surrounding area, and existing services and amenities. I consider the layout and design of the scheme supports a high level of permeability and connectivity and will contribute positively to the visual and residential amenity of the area. I consider the development as proposed is in accordance with the proper planning and sustainable development of the area.

### **11.0 Appropriate Assessment**

11.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity of each European site

#### **11.2. Compliance with Article 6(3) of the EU Habitats Directive**

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to

appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The proposed development at Bearna, a residential development which comprises the Trusky Stream within the site boundary, is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

### **11.3. Screening the need for Appropriate Assessment**

- 11.3.1. The first test of Article 6(3) is to establish if the proposed development could result in likely significant effects to a European site. This is considered stage 1 of the appropriate assessment process i.e. screening. The screening stage is intended to be a preliminary examination. If the possibility of significant effects cannot be excluded on the basis of objective information, without extensive investigation or the application of mitigation, a plan or project should be considered to have a likely significant effect and Appropriate Assessment carried out.
- 11.3.2. The applicant has submitted a screening report for Appropriate Assessment and Natura Impact Statement as part of the planning application (Appropriate Assessment Screening Report by MKO dated October 2020 and Natura Impact Statement by MKO dated October 2020).
- 11.3.3. The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. The screening is supported by associated reports, including ecological field surveys, kick sampling within the Trusky Stream, otter survey, EPA water quality data, an Assimilative Capacity Study of Galway Bay by MSN Hydro Environmental Engineering Consultants, Site Specific Flood Risk Assessment, Trusky East Stream Flood Study, Engineering Services Report, Construction and Environmental Management Plan, and Design Stage/Construction Traffic Management Plan. Regard was also had for the Galway County Development Plan 2015-2021 and all associated Environmental Reports; Variation 2(a) of the Galway County Development Plan 2015-2021 and all associated Environmental Reports; Natura

Impact Statement that was prepared for the N6 Galway City Ring Road (Arup 2018)]; and the Galway Transport Strategy (2016).

11.3.4. The applicants AA Screening Report concluded that:

‘It cannot be excluded beyond reasonable scientific doubt, in view of best scientific knowledge, on the basis of objective information and in light of the conservation objectives of the relevant European sites, that the proposed development, individually or in combination with other plans and projects, would be likely to have a significant effect on the Galway Bay Complex cSAC and the Inner Galway Bay SPA.

It can be excluded beyond reasonable scientific doubt, in view of best scientific knowledge, on the basis of objective information and in light of the conservation objectives of the relevant European sites, that the proposed development, individually or in combination with other plans and projects, would be likely to have a significant effect on all other European sites.

As a result, an Appropriate Assessment is required, and a Natura Impact Statement has been prepared in respect of the Galway Bay Complex cSAC and the Inner Galway Bay SPA, and submitted with the planning application for, the proposed development’.

11.3.5. Having reviewed the documents and submissions and consultations with the DAU of the Department of Culture Heritage and the Gaeltacht, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

#### Screening for Appropriate Assessment - Test of Likely Significant Effects

11.3.6. The proposed development is examined in relation to any possible interaction with European sites, designated Special Conservation Areas (SAC) and Special Protection Areas (SPA), to assess whether it may give rise to significant effects on any European Site.

#### Brief Description of the Development

11.3.7. The proposed development is for 121 residential units on a 5.38ha greenfield site, which includes Trusky Stream and its associated floodplain. Trusky Stream

discharges to Galway Bay at Bearna Pier, approx. 690m south of the application site, approx. 1.5km to the west of Galway Bay SAC and Inner Galway Bay SPA. A SUDS strategy is proposed, with surface water from the development will discharge to the Trusky Stream, via two outfalls and associated headwalls which are to be constructed in the banks of the stream. Construction of a fence and planting will take place proximate to the stream. A 10m riparian corridor is indicated and no altering of ground levels in this area is proposed.

11.3.8. The applicant provides a description of the project on page 3-4 of the AA screening report and elsewhere in Chapter 4 of the EIAR. In summary, the development comprises:

- Demolition of existing outbuildings.
- Construction of 121 no. residential units.
- Development of a crèche facility (224.80 sqm), associated outdoor play areas and parking.
- Provision of shared communal and private open space, car and bicycle parking, site landscaping and public lighting.
- Access from the L-1321 via the Cnoc Fraoigh development.
- Provision of a footpath link along the L-1321 for a distance of 300m.
- Decommissioning of the existing private wastewater treatment plant serving 21 existing dwellings in Cnoc Fraoigh and provision of all services and connection to the public foul network for the existing and the proposed development.
- Wastewater from the operational phase of the proposed development will discharge to the existing gravity wastewater network at the existing adjacent Cnoc Fraoigh residential estate prior to it exiting the estate and connecting into the existing public network via a new pipeline to be constructed along the L1321. The foul loadings for the sewers have been evaluated in accordance with the Irish Water Code of Practice for Wastewater Supply.
- SUDS strategy, with surface water discharging to the Trusky Stream.



- Construction Environmental Management Plan - outlines additional measures and standard best practice construction site management measures in relation to works at Trusky Stream.

11.3.9. The habitats on part of the site to be developed are described as Spoil and Bare Ground, Dry Humid Acid Grassland, Scrub and Dense Bracken, in addition to recolonising bare ground. There are two sheds and stones wall and other stonework identified throughout the site. At the southern end of the proposed site is an existing waste water treatment plant area and associated percolation area, with a small area of wet grassland and non-native tree line in this area.

11.3.10. The Trusky Stream is within the site boundary, located at a minimum 10m from the main construction footprint. The stream is 1-2m wide with some areas of marsh in small patches along its floodplain. The stream discharges to Galway Bay approximately 690m downstream of the proposed development, approximately 1.5km to the west of Galway Bay Complex SAC and Inner Galway Bay SPA boundary. No Annex I habitats or Annex II plant species associated with any nearby European Sites were recorded within or adjacent to the proposed development site. No botanical species listed under the Flora (Protection) Order, 2015, listed in the EU Habitats Directive (92/43/EEC) or the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011, as amended were recorded on the site. With regard to bird species, it is stated that those recorded during site surveys were typical of the grassland and scrub habitats of the area. The site does not provide significant habitat for protected bird species such as those listed on Annex I of the EU Birds Directive or those species that are among the qualifying interests of SPAs in the vicinity. No requirement for further dedicated bird surveys was identified following the ecological multi-disciplinary walkover surveys. I accept the findings in this regard. No bat roosts were recorded on the site and bat activity was low during all surveys. A dedicated search for otter was undertaken along the length of the Trusky Stream within the site. No otter breeding or resting sites were recorded within the development boundary. Otter spraint was recorded within the stream and the stream is likely to be used to some extent by foraging and commuting otter. The Trusky stream was assigned a value of Q3-4 (moderate) as a result of the kick sampling survey.

#### Submissions and Observations

11.3.11. I have summarised hereunder points made in relation to European Sites from submissions and observations made in relation to this application. The following comments from observers are noted:

- Potential impact from flood risk and pumping station on downstream designated sites has not been adequately assessed.
- Impacts on birds.
- Impact of the construction of the footpath and sewer connection on L1321 on the Galway Bay SAC.
- Impact of development on Lesser Horseshoe Bat.
- WWTP and potential impacts on Galway Bay SPA should untreated waste flow from the pumping station into the SPA.
- Surface water runoff from works to L1321 and potential impacts on Galway Bay.
- Impact of linear park along Trusky Stream on SAC.
- Otters and Bats are recorded using the site and so the Board should be satisfied that there will be no loss of suitable foraging and commuting areas for Otter along the Trusky Stream. The Department would also like to highlight the EUROBATS and Dark Sky lighting recommendations which provide information on reducing the impact of lighting on wildlife, noting that the correct LEDs and lighting fittings can ensure that these impacts are avoided or minimised and can also reduce carbon emissions.

#### European Sites

11.3.12. A summary of European Sites that occur proximate to the proposed development, including their conservation objectives and QIs/SCIs has been examined by the applicant. These sites have been considered as potentially within the zone of influence of the development site. I note there is no direct hydrological pathway between the European Sites and the application site whereby the proposed housing development would have the potential to have likely significant effects upon them. Having examined the assessment submitted and further to my own examination, there is no requirement to further consider all the sites listed, other than

those related to Galway Bay SAC and Inner Galway Bay SPA, where a potential indirect pathway has been identified. I have also considered Lough Corrib SPA and the QI of the Lesser Horseshoe Bat, however, the application site is located outside the 2.5km core foraging range for lesser horseshoe bat and no potential for indirect effects on this species, through disturbance or displacement, exists.

11.3.13. Further assessment regarding potential for significant impacts on Galway Bay SAC and Inner Galway Bay SPA is required given potential for an indirect hydrological link. In relation to the other sites listed, having regard to their geographical distance removed from the site (indicated in table 1 hereunder), lack of a direct hydrological link and the qualifying interests related to those sites, no likely significant effects upon them are anticipated.

11.3.14. The following indirect effects in the form of surface water in relation to the following aquatic QIs associated with Galway Bay Complex SAC and Inner Galway Bay SPA have been identified:

- Galway Bay Complex SAC: [1140] Mudflats and sandflats not covered by seawater at low tide; [1150] Coastal lagoons\*; [1160] Large shallow inlets and bays; [1170] Reefs; [1310] Salicornia and other annuals colonising mud and sand; [1330] Atlantic salt meadows (*Glauco-Puccinellietalia maritima*); [1410] Mediterranean salt meadows (*Juncetalia maritimi*) [1355] Otter (*Lutra lutra*); [1365] Harbour seal (*Phoca vitulina*).
- Inner Galway Bay SPA [A999]; Wetlands and Waterbirds.

Table 1 Screening Summary Matrix and possibility of significant effects

<b>European Site (code) &amp; Distance from Dev</b>	<b>Conservation Objectives and List of Qualifying Interests/Special Conservation Interest</b>	<b>Possible Effect</b>	<b>Screening Conclusion</b>
Galway Bay Complex SAC - Site Code: 000268	To maintain or restore the favourable conservation status of habitats and species of community	No direct effects as the site is entirely outside and approximately 0.9km distant from the European site.	Effects cannot be ruled out without

<p><b>Distance:</b> 0.9km (Hydrological distance between the mouth of the Trusky Stream and the cSAC 1.5 km)</p>	<p>interest. Detailed conservation objectives are listed under <a href="http://www.npws.ie">www.npws.ie</a> and in the submitted Screening Report.</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>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi ) [1410]</p> <p>Turloughs [3180]</p> <p>Juniperus communis formations on heaths or calcareous grasslands [5130]</p> <p>Semi-natural dry grasslands and scrubland</p>	<p>Possible pollution during construction, which involves construction of headwalls for two surface water outfalls to Trusky Stream and landscaping/construction of fence proximate to the stream.</p> <p>Construction works could result in water quality issues and also potential exists for pollution during the operational phase.</p> <p>The Assimilative Capacity Modelling Study undertaken demonstrates that even in a highly unlikely pollution event, very low levels of pollutant have the potential to enter this designated site via Galway Bay. However, adopting an extremely precautionary approach, a potential pathway for indirect effects on a number of aquatic QIs has been identified via the Trusky Stream in the form of deterioration of surface water quality resulting from potential pollution associated with the construction and</p>	<p>further analysis and assessment</p>
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	<p>facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the Caricion <i>davallianae</i> [7210]</p> <p>Alkaline fens [7230]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Phoca vitulina</i> (Harbour Seal) [1365]</p>	<p>operational phases of the development:</p> <p>[1140] Mudflats and sandflats not covered by seawater at low tide [1150]</p> <p>Coastal lagoons* [1160]</p> <p>Large shallow inlets and bays [1170] Reefs [1310]</p> <p>Salicornia and other annuals colonising mud and sand [1330] Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1410]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1355] Otter (<i>Lutra lutra</i>) [1365] Harbour seal (<i>Phoca vitulina</i>)</p>	
<p>Inner Galway Bay SPA [004031]</p> <p><b>Distance:</b> 1.3km (Hydrological distance between the mouth of the Trusky Stream and the SPA 1.5 km)</p>	<p>The conservation objectives for SPA generally relate to the maintenance of the bird species listed as Special Conservation Interests for the SPA. Detailed conservation objectives for this site, (Version 1, May 2013) are available at <a href="http://www.npws.ie">www.npws.ie</a> and in the submitted Screening Report.</p> <p>[A003] Great Northern Diver (<i>Gavia immer</i>)</p> <p>[A017] Cormorant</p>	<p>The proposed development site does not provide suitable habitat for the species for which the SPA has been designated.</p> <p>Therefore no pathway for indirect effects as a result of disturbance or displacement have been identified.</p> <p>The Trusky Stream is located within the proposed development site boundary. The development involves the discharge of surface water from the proposed development, to the Trusky</p>	<p>Effects cannot be ruled out without further analysis and assessment</p>

	<p>(Phalacrocorax carbo) [A028] Grey Heron (Ardea cinereal) [A046] Brent Goose (Branta bernicla hrota) [A050] Wigeon (Anas penelope) [A052] Teal (Anas crecca) [A056] Shoveler (Anas clypeata) [A069] Red-breasted Merganser (Mergus serrator) [A137] Ringed Plover (Charadrius hiaticula) [A140] Golden Plover (Pluvialis apricaria) [A142] Lapwing (Vanellus vanellus) [A149] Dunlin (Calidris alpina alpina) [A157] Bar-tailed Godwit (Limosa lapponica) [A160] Curlew (Numenius arquata) [A162] Redshank (Tringa tetanus) [A169] Turnstone (Arenaria interpres) [A179] Black-headed Gull (Chroicocephalus ridibundus) [A182] Common Gull (Larus canus) [A191] Sandwich Tern (Sterna sandvicensis) [A193] Common Tern (Sterna hirundo) [A999] Wetlands and Waterbirds</p>	<p>Stream. This involves, the installation of two precast headwalls within the banks of the stream at the location of the two surface water outfalls. There will also be some minor landscaping works including the planting of native species and the construction of a boundary fence along the stream banks. The stream discharges to Galway Bay approximately 1.5km to the west of the SPA.</p> <p>The Assimilative Capacity Modelling Study undertaken demonstrates that even in a highly unlikely pollution event, very low levels of pollutant have the potential to enter this designated site via Galway Bay. However, adopting an extremely precautionary, a potential pathway for indirect effects on the supporting wetland habitat for SCI bird species was identified in the form of deterioration of water quality resulting from potential pollution associated with the construction and operational phases of the development. The SCI</p>	
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		[A999] Wetlands and Waterbirds is assessed in relation to the wetland habitat for all SCI species.	
Lough Corrib cSAC [000297] <b>Distance:</b> 5.9km	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]</p> <p>Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils</p>	<p>There will be no direct effects as the project site is located entirely outside and approximately 6km distant from the European site.</p> <p>No pathway for indirect effects on the terrestrial QIs for which the cSAC has been designated exists.</p> <p>There is no surface or ground water connectivity between the proposed development and the cSAC, which is located in a separate hydrological catchment. Therefore no potential for indirect effects on the aquatic QIs for which the cSAC has been designated exists. The development site is located outside the 2.5km core foraging range for lesser horseshoe bat as outlined in Map 11 of the Site-Specific Conservation Objectives document. No potential for indirect effects on this species, through disturbance or displacement, exists.</p>	Effects can be ruled out without further analysis and assessment

	<p>(Molinion caeruleae) [6410]</p> <p>Active raised bogs [7110]</p> <p>Degraded raised bogs still capable of natural regeneration [7120]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p> <p>Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7230]</p> <p>Limestone pavements [8240]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Bog woodland [91D0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p>		
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	<p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Najas flexilis (Slender Naiad) [1833]</p> <p>Hamatocaulis vernicosus (Slender Green Feather-moss) [6216]</p>		
Lough Corrib SPA	<p>Black-throated Diver (Gavia arctica) [A002]</p> <p>Great Northern Diver (Gavia immer) [A003]</p> <p>Cormorant (Phalacrocorax carbo) [A017]</p> <p>Grey Heron (Ardea cinerea) [A028]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p> <p>Red-breasted Merganser (Mergus serrator) [A069]</p>	<p>There will be no direct effects as the project site is located entirely outside and approximately 6km distant from the European site.</p> <p>As there is no hydrological connection to L. Corrib, there will be no possible impacts on QI wetland and waterbirds and due to distance, there is no possibility of direct or indirect effects on any of the bird species for which that SPA is designated.</p>	<p>Effects can be ruled out without further analysis and assessment</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> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Sandwich Tern (<i>Sterna sandvicensis</i>) [A191]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Wetland and Waterbirds [A999]</p>		
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#### 11.4. Screening Determination

- 11.4.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site No. 000268 (Galway Bay Complex SAC), European Site No. 004031 (Inner Galway Bay SPA) in view of the sites Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore required.
- 11.4.2. I confirm that the sites screened in for appropriate assessment are the sites included in the NIS prepared by the project proponent.
- 11.4.3. The possibility of significant effects on other European sites has been excluded on the basis of scale of the works proposed, separation distance and lack of substantive ecological linkages between the proposed works and the sites.
- 11.4.4. In reaching the conclusion of the screening assessment, no account was taken of measures intended to avoid or reduce the potentially harmful effects of the project on any European Site.

#### 11.5. **The Natura Impact Statement**

- 11.5.1. The application is accompanied by an NIS (Natura Impact Statement by MKO, dated October 2020), which examines and assesses the potential adverse effects of the proposed development on the following European Sites:
- Galway Bay Complex SAC [000268]
  - Inner Galway Bay SPA [004031]
- 11.5.2. The NIS was informed by the following studies, surveys and consultations:
- Ecological surveys - desk top study, EPA water quality data, N6 Galway City Ring Road Surveys, review of Galway Bay Complex SAC (conservation objectives, site specific pressures and threats, qualifying interests' specific information), Inner Galway Bay SPA (conservation objectives, site specific pressures and threats, special conservation interests specific information)
  - Aerial survey
  - Habitat survey

- Otter survey
- Survey for invasive species
- Construction and Environmental Management Plan

11.5.3. The applicant's NIS was prepared in line with current best practice guidance and provides a description of the development (see section 11.3.8 and 11.3.9 above). A Site Specific Flood Risk Assessment was undertaken which indicates all proposed buildings will be located exclusively within lands zoned 'R' (and not subject to Objective CCF6); within Indicative Flood Zone C (as identified in Variation No.2(a) Galway County Development Plan 2015-2021 Bearnna Plan); and outside the predicted flood extent for the 0.1% AEP flood event. The finished floor levels of the proposed buildings will provide at least 500mm freeboard over the adjacent 1.0%AEP flood water levels, in accordance with GDSDS recommendations. The provision of a robust drainage network and the design of roads to provide overland flow routes away from existing and proposed buildings, will mitigate the risk of pluvial flooding. An Assimilative Capacity Modelling Study (by MSN Hydro Environmental Engineering Consultants, dated September 2020) has been undertaken. The stated purpose of this study is to assess the capacity of Galway Bay to assimilate a potential pollutant discharge from the proposed development to the Trusky Stream, which drains the proposed SHD lands. The study is submitted as Appendix 1 of the Appropriate Assessment Screening Report. A model was constructed and a hypothetical oil spill from the site during a high rainfall event with no mitigation measures analysed to see what impact it would have on three European Sites (Inner Galway Bay SPA, Galway Bay Complex SAC, and Black Head-Poulsallagh Complex SAC). Based on the analysis arising from the model it is concluded that the study demonstrates that even in a highly unlikely pollution event, very low levels of pollutant have the potential to enter designated sites via Galway Bay.

11.5.4. The NIS identifies and assesses possible adverse effects of the proposed development on specific QIs of Galway Bay SAC and of Inner Galway Bay SPA. Details of mitigation measures, how, and when they will be implemented, are detailed in Section 5.2 of the NIS. An assessment of residual effects is set out in Section 6 and cumulative effects are considered in Section 7. Monitoring is also provided for which is in line with best practice. Mitigation and monitoring will be managed by the

appointed contractor and a detailed draft Construction and Environmental Management Plan (CEMP) has been submitted which incorporates mitigation measures detailed in the NIS.

11.5.5. The applicant's NIS concluded that:

'In view of best scientific knowledge, and on the basis of objective information, in circumstances where the measures which have been identified will be implemented to avoid potential water pollution events, the Project will not adversely affect surface or ground water during either the construction or operation phase. There will be no adverse effects on any QIs/SCIs of the Galway Bay Complex SAC, or Inner Galway Bay SPA and their associated targets and attributes, or on any European Site. In Burkeway Bearna Strategic Housing Development NIS F – 190450 – 2020.10.15 41 addition there will not be any adverse effects on the QI for Galway Bay Complex SAC – Otter – whether as a result of disturbance, or otherwise. No otter resting or breeding sites were identified within or adjacent to the development and the measures which have been identified will be implemented to avoid potential water pollution events, to ensure that there will be no impacts on this QI as a result of disturbance.

As is apposite in the context of a Stage Two Appropriate Assessment, the consideration of the measures which have been identified and which will be implemented to avoid potential water pollution events, results in no reasonable scientific doubt remaining as to the absence of impacts of the Project on any constitutive characteristic of any European site. Accordingly, it can be concluded in view of best scientific knowledge, on the basis of objective information that the Project will not adversely affect the Qualifying Interests/Special Conservation Interests associated with any European Sites, including the following: Galway Bay Complex SAC Inner Galway Bay SPA'.

11.5.6. Submissions were received from prescribed bodies of the Development Applications Unit of Department of Culture, Heritage and the Gaeltacht; Irish Water; and An Taisce; and also from a number of observers (see section 11.3.10 of this report above for comments relating to European Sites).

**11.6. Appropriate Assessment of implications of the proposed development**

11.6.1. The following is a summary of the assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field (as provided by the applicant). All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

11.6.2. I have relied on the following guidance: Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009); Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002); Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

11.6.3. The following sites are subject to appropriate assessment:

- Galway Bay Complex SAC [000268]
- Inner Galway Bay SPA [004031]

A description of these sites and their Conservation Objectives and Qualifying Interests, including any relevant attributes and targets for these sites, are set out in the NIS and outlined in table 1 of this report as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

#### Aspects of the Proposed Development

11.6.4. The main aspects of the proposed development that could adversely affect the conservation objectives of the European sites assessed include:

- Construction related pollution events and/or operational impacts on water quality of the Trusky Stream from surface water
- Construction and operation related noise and disturbance through increased human activity resulting in potential disturbance and or displacement of otters.

11.6.5. As noted in the screening report there is no direct hydrological pathway from the site to European Sites. The hydrological pathway to the nearest European Site involves travelling circa 690m down the Trusky Stream and a total distance of at least 1.5km

through the open waters of Galway Bay to the Galway Bay Complex SAC and Inner Galway Bay SPA. There are no Annex I habitats or Annex II plant species on site. No botanical species listed under the Flora (Protection) Order, 2015, listed in the EU Habitats Directive (92/43/EEC) or the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011, as amended were recorded on the site.

- 11.6.6. No otter breeding or resting sites were identified within or adjacent to the development site, however, otter are likely to use this watercourse to some extent for foraging and commuting. Otter is listed as a Qualifying Interest of Galway Bay Complex SAC.
- 11.6.7. No other Annex II species or SCI bird species associated with any nearby European Sites were recorded during the site ecological surveys undertaken. The site did not provide important habitat for any species listed on Annex II of the EU Habitats Directive or Annex I of the EU Birds Directive species or any other bird species that is among the SCIs of any nearby SPA.
- 11.6.8. No potential for direct effects on any European Site exists. A potential pathway for indirect has been identified for effects on the aquatic Qualifying Interests (QIs) and Special Conservation Interests (SCIs) of Galway Bay Complex SAC and Inner Galway Bay SPA, as a result of surface water pollution via the Trusky stream, associated with construction and operational activities. A potential for indirect effects on the QI for Galway Bay Complex SAC, otter, as a result of disturbance has been identified.

#### Potential Construction Phase Impacts

- 11.6.9. The construction of the development will involve excavations and earth moving which creates the potential for pollution such as the generation of suspended solids and the potential for spillage of fuels associated with the refueling of excavation machinery. There is also a risk of surface water runoff from bare soil and soil storage areas during construction works.
- 11.6.10. The Trusky stream is separated from the development by a natural vegetation buffer, with only the proposed outfall works occurring adjacent to the stream. The stream discharges to Galway Bay approximately 690m downstream of the

development, approximately 1.5km to the west of Galway Bay Complex SAC and Inner Galway Bay SPA.

- 11.6.11. Notwithstanding the result of the Assimilative Capacity Modelling Study (by MSN Hydro Environmental Engineering Consultants, dated September 2020), which was submitted with the screening report and demonstrated that even in a highly unlikely pollution event, very low levels of pollutant have the potential to enter designated sites via Galway Bay, an extremely precautionary approach has been adopted in relation to the potential for the release of suspended solids or spillage of fuels and other pollutants which could potentially affect the water quality of Galway Bay Complex SAC and Inner Galway Bay SPA. In the absence of mitigation, and following an extremely precautionary approach, there is potential for adverse effects on a number of QI features which may affect the overall integrity of the identified European Sites.

#### Potential Operational Phase Impacts

- 11.6.12. During the operational phase and in the absence of mitigation measures, there is potential for deterioration of water quality as a result of untreated surface water run-off from the proposed development. In addition, the proposed development will result in the production of foul sewage and wastewater, which could, if discharged untreated, result in the deterioration of water quality in the Trusky Stream, which following the precautionary principle, provides a link to the identified European sites of Galway Bay Complex SAC and Inner Galway Bay SPA. In the absence of mitigation, and following an extremely precautionary approach, there is potential for adverse effects on the integrity of the identified European sites.
- 11.6.13. With regard to Otters, no otter resting or breeding sites were identified within or adjacent to the development boundary, an otter spraint was recorded along the Trusky stream during the dedicated surveys, and the stream is utilised by commuting and foraging otter. While the NPWS Threat Response Plan for Otter and other referenced studies (as set out on page 24 of the submitted NIS) acknowledge that there is little evidence to suggest that disturbance by recreation/anthropogenic disturbance is a significant pressure and it is also notes that Otter are known to travel significant distances from streams and lakes in search of new territory and feeding area, however, adopting an extremely precautionary approach, the potential



for the disturbance of otter to result in adverse effects on the Galway Bay Complex SAC in the absence of any mitigation has been considered in this NIS.

### Mitigation

11.6.14. Section 5.2 of the NIS sets out mitigation and monitoring measures and these are further detailed in Appendix 5 of the submitted NIS.

11.6.15. With regard to construction phase mitigation and site set up, a solid boundary fence will be erected around the construction footprint, leaving a natural vegetation buffer between the construction footprint and the Trusky stream and its associated riparian habitat. A silt fence will be attached to this boundary fence to protect the stream further. A silt fence will be erected on all sites of the construction compound. Significant inundation of surface or ground water is not anticipated, however, any such water arisings that require pumping out during construction will be discharged to ground within the site through a silt bag at a distance of over 30m from the Trusky Stream. There will be no direct discharge of construction waters to any watercourse. General construction best practice measures area also set out. With regard to the construction of the stormwater outfalls to the Trusky Stream, a silt fence will be erected to form a solid barrier between the proposed pipe laying works and the stream. To construct the surface water outfalls, the installation of two small precast concrete headwalls will be required along the Trusky stream. Non-return valves will be positioned at the outfalls. No instream works will take place outside the period July 1st – September 31st in line with Inland Fisheries Ireland (2016) Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters. Short sections of the Trusky Stream will be temporarily dammed with sandbags at times of low water. One dam will be constructed immediately downstream of the outfall point and the other, immediately upstream. A submersible pump will be used to overpump any flow within the stream from upstream to downstream of the dammed area. Any remaining surface water within the dammed area will be pumped to a discharge point over 30m from the Trusky Stream and within the main construction site. It will pass through a silt bag before discharge to ground. Machinery will not enter the water, the construction of the outfall will only occur after the dry working area is created. The bankside will be excavated and a small pre-cast concrete headwall installed (with outfall pipe included). The banks and channel bed will be reinstated to avoid erosion or run off of silt. Following this the dams will be removed. Each surface water

discharge point is likely to take less than one day to install. Biosecurity measures will be strictly adhered to throughout the proposed works. Measures will be in accordance with IFI (2010) Biosecurity Protocol for Field Survey Work. Where staff are working instream, staff footwear and PPE will be inspected on daily completion of the works and vegetation or debris removed. Footwear will be dipped in or scrubbed with a disinfectant solution (e.g. 1% solution of Virkron Aquatic or another proprietary disinfection product) and thoroughly dried afterwards. Sand bags placed instream will not be re-used in other watercourses.

11.6.16. It is stated that monitoring will be undertaken throughout the construction work as prescribed in the CEMP submitted. An environmental officer with the responsibility for ensuring the environmental measures prescribed in this document are adhered to will be assigned to the project. The works will be supervised by a suitably qualified ecologist (ECoW) on a regular basis. Sondes will be put in place in the Trusky Stream upstream and downstream of the works area. These will continuously measure turbidity throughout the construction period. If there is a 10% or greater difference between upstream and downstream turbidity, an alarm will sound and a message will be sent to the site foreman and the ECoW. Works will be ceased until the cause of the difference is identified and (if it is associated with the works) rectified. Biosecurity measures are set out under section 5.2.1.6 and an Emergency Response Plan is set out under section 5.2.1.7.

11.6.17. With regard to the operational phase, surface water drainage system has been designed using Sustainable Drainage Systems (SuDS) principles. Wastewater from the development will discharge to the existing gravity wastewater network at the existing adjacent Cnoc Fraoigh residential estate prior to it exiting the estate and will ultimately be piped to the Mutton Island WWTP, which has capacity to deal with the wastewater from the proposed development.

11.6.18. With regard to otters, the Trusky Stream will be fenced off during construction (with the exception of short term works associated with the construction of the surface water outfalls) with no disturbance to the stream or the riparian area. The proposed development has been designed to maintain connectivity through the site and along the Trusky Stream with no works proposed within 10 metres of it (with the exception of the construction of two surface water outfalls and some minor landscaping works). A landscape plan has been prepared for the operational phase

of the development. A hedgerow consisting of a mix of native and naturalised species will be planted along the southern and eastern boundaries of the site, separating the development from the Trusky stream and providing a buffer between any human activity and the Trusky Stream, thereby avoiding the potential for disturbance to otter. I note concerns raised in a submission in relation to requirement to examine the impact of the linear park along the Trusky Stream on the SAC. I consider the mitigation measures as proposed will protect the habitat quality of the riparian corridor along the Trusky Stream and the adjoining linear park, which is fenced off from the riparian corridor, and will not negatively impact on this riparian corridor or on the otter population associated with the SAC.

11.6.19. Concern has been raised in an observer submission in relation to the extent of the Bat Survey undertaken as part of the EIAR given a portion of the site wasn't included. It is stated that evidence of the Lesser Horseshoe Bat was discovered within Bearna Woods as part of the survey work for the N6 Galway City Ring Road and Bearna Woods is stated to be within the 2.5km foraging range of the Lesser Horseshoe Bat. I have examined all documentation and submissions in this regard. I am satisfied with methodology adopted and extent of the survey work undertaken as set out within the submitted bat survey, contained within chapter 6 of the submitted EIAR. No roosting bats were identified, and these taxa are not recorded as using the site extensively for foraging or commuting. The results of the survey work did not indicate any evidence that the Lesser Horseshoe Bat utilise the site. There will be no disturbance of lesser horseshoe bat roosting or breeding sites and while they may occur in the wider area, the development will not affect this species. No potential for indirect effects on this species, through disturbance or displacement, exists. The biodiversity chapter of the EIAR has considered the impact on other bat species, as is appropriate.

11.6.20. Concern has been raised that the works proposed along the L1321, which include the construction of a footpath and sewer connection under the L1321 have not considered the potential impact on the Trusky Stream and consequential impact on the Galway Bay SAC. I note the Trusky Stream is located east of the L1321 traversing the application site, with a tributary also to the west of the L1321. From the EPA and information submitted relating to a permitted application southe and west of the L1321, it appears that the Trusky Stream traverses the L1321, which the

applicant also refers to on the submitted drawings, where it is stated that the presence of the culvert under the existing road will be confirmed prior to commencement of any works to verify surface water drainage design. The L1321 currently discharges surface water via what is described in the submitted RSA Report as 'over the edge' drainage into the existing verges, which will be removed with the proposed footpaths and associated works. Detailed surface water drainage design relating to the footpath and associated road works are proposed to be applied at detailed design stage, which will be subject to condition, should the Board be minded to grant permission. The proposed works to the road are relatively minor and given the contained nature of the work, along a metalled road with no direct in-flow to either stream, no likely significant effects are predicted to occur from such works. Any surface water as may arise during the construction phase would be very minor and once in place, surface water will be managed by a drainage system. There is no uncertainty as to the operation of such a standard system. I note the results of the submitted Assimilative Capacity Modelling Study (by MSN Hydro Environmental Engineering Consultants, dated September 2020) which assessed the capacity of Galway Bay to assimilate a potential pollutant discharge and demonstrated that even in a highly unlikely pollution event, very low levels of pollutant have the potential to enter designated sites of Galway Bay Complex SAC and Inner Galway Bay SPA via Galway Bay.

11.6.21. I note concerns raised in submissions in relation to the capacity of the Bearna Pumping Station and the Mutton Island WWTP to accommodate wastewater from the proposed development. Irish Water has raised no issues in terms of capacity of the Bearna Pumping Station or the Mutton Island WWTP to cater for the proposed development. The EPA is the competent authority in respect of issuing and monitoring discharge licences and the license itself is subject to the provisions of the Habitats Directive. I note the Mutton Island WWTP, has a capacity for 170,000 PE, and is operating within capacity. In relation to in-combination impacts, given the scale of the development and the negligible contribution of the proposed development in terms of P.E. to the wastewater discharge from Mutton Island WWTP, I consider that any potential for in-combination effects on water quality can be excluded.

11.6.22. Overall, I consider that the proposed mitigation measures, which are summarised in section 12, are clearly described, and precise, and definitive conclusions can be reached in terms of avoidance of adverse effects on the integrity of European sites based on the mitigation measures submitted. Overall, the measures proposed are effective, reflecting current best practice, and can be secured over the short, medium and longer term and the method of implementation will be through a detailed management plan.

#### In-Combination Effects

11.6.23. Section 7 of the NIS considers the potential for cumulative effects on the SAC and SPAs arising in combination with other plans and other permitted developments, including inter alia the Bearna Plan incorporated into the Galway County Development Plan under Variation 2(a), the proposed N6 Galway City Ring Road Corridor and permission for 48 dwellings on a site to the southwest, among others.

11.6.24. The application site is a discrete piece of land that is zoned for residential use in the development plan for Galway County Council. The future development of Bearna in accordance with the development plan and subsequent variations, which were themselves subject to appropriate assessment, would not lead to effects on European sites that would, in combination with the proposed development, have adverse implications for the achievement of their conservation objectives. Overall, cumulative impacts are not anticipated.

#### Appropriate Assessment Conclusion

11.6.25. The proposed residential development at Bearna has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

11.6.26. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on European sites No. 000268 (Galway Bay Complex SAC) and 004031 (Inner Galway Bay SPA).

11.6.27. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

11.6.28. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites No. 000268 (Galway Bay Complex SAC) and 004031 (Inner Galway Bay SPA), or any other European site, in view of the sites Conservation Objectives.

11.6.29. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of Galway Bay Complex SAC and Inner Galway Bay SPA.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Galway Bay Complex SAC [000268].
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Inner Galway Bay SPA [004031].

## 12.0 Environmental Impact Assessment

12.1.1. The development provides for 121 units, on a site area of 5.38 ha within the town boundary. The site is located within the area of Galway County Council and is within an urban area.

12.1.2. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

i) Construction of more than 500 dwelling units

iv) Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

12.1.3. An EIAR is not required, however, it is stated in the submitted documentation that an EIAR has been submitted in accordance with a precautionary approach and having regard to the provisions of section 172 of the Planning and Development Act 2000, where EIA is required where sub-threshold development is likely to have significant effects on the environment.

12.1.4. The EIAR is laid out in three volume, volume 1 comprises the EIAR and non-technical summary, volume 2 comprises a photomontage booklet and volume 3 comprises the technical appendices. Chapter 1 sets out the introduction and methodology including a list of the competent experts involved in preparing the EIAR. Chapter 2 provides a description of the site context and planning history. Chapter 3 examines alternatives. Chapter 4 provides a description of the proposed development including construction and operational aspects and associated mitigation. Chapter 5 addresses vulnerability of the project to natural disaster/risk of major accidents and chapter 14 examines potential of interactions between the various factors. Chapter 16 provides a schedule of mitigation measures.

12.1.5. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application. A summary of the results of the submissions made by the planning authority, prescribed bodies, appellant, observers and applicant has been set out at Section 7.0 of this report. The main issues raised specific to the EIA can be summarised as follows:

- Biodiversity
- Water and Surface Water Management
- Material Assets – Traffic and Transport

These issues are addressed below under the relevant headings, and as appropriate in the reasoned conclusion and recommendation.

### **Likely Significant Direct and Indirect Effects**

12.1.6. As is required under Article 3(1) of the amending Directive, the EIAR describes and assesses the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive

2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape. It also considers the interaction between the factors referred to in points (a) to (d). Article 3(2) includes a requirement that the expected effects derived from the vulnerability of the project to major accidents and / or disasters that are relevant to the project concerned are considered.

12.1.7. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR adequately identifies and describes and the direct, indirect and cumulative effects of the proposed development on the environment, and complies with article 94 of the Planning and Development Regulations 2001, as amended.

12.1.8. This EIA has had regard to the application documentation, including the EIAR, and the observations received, as well as to the assessment of other relevant issues set out in section 10 of this report above. This EIA Section of the report should therefore, where appropriate, be read in conjunction with the relevant parts of the Planning Assessment.

### **Major Accidents/Disasters**

12.1.9. With respect to Article 3(2), chapter 5 (section 5.7.3.5) of the EIAR refers to major accidents/disasters. It is stated that a residential development is not a recognised source of pollution and should a major accident or natural disaster occur the potential sources of pollution on site during the operational phase is limited. Flooding and fire are identified as potential natural disasters that may occur on the site. The risk of flooding is addressed in Chapter 8 of the EIAR. The risk of pluvial and or fluvial flooding is stated to be mitigated through the incorporation of a properly designed surface drainage and gravity sewer network into the development, and by using underground attenuation tanks for drainage management which will control discharge to the Trusky Stream at pre-development greenfield rates. It is considered that the risk of significant fire occurring, affecting the proposed site and causing the site to have significant environmental effects is limited.

12.1.10. I note that a Construction Environmental Management Plan (CEMP) has been submitted as part of this application, which will reduce the risks of major accidents and disasters to human health. Having regard to the location of the site and the existing land use, as well as the zoning of the site, I am satisfied that the risk of



major accident is very low. I am satisfied that the proposed use, i.e. residential, is unlikely to be a significant risk of itself. Potential flooding has been addressed in this EIAR (and dealt with further below). I am satisfied that the risk of major accident is low.

## 12.2. Alternatives

12.2.1. Chapter 3 of the EIAR addresses the alternatives considered.

12.2.2. The site is zoned for development, therefore the applicant refers to a number of reasonable alternatives considered on the site with respect to the design and layout of the scheme. A summary of the alternatives is provided.

12.2.3. Having regard to the zoning of the site as residential, I am satisfied that alternative locations and alternative processes are not relevant to the proposal. In my opinion reasonable alternatives have been explored and the information contained in the EIAR with regard to alternatives provides a justification in environmental terms for the chosen scheme and is in accordance with the requirements of the 2014 EIA Directive.

## 12.3. Consultations

12.3.1. I am satisfied that the participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

## 12.4. Assessment of the Likely Significant Direct and Indirect Effects

12.4.1. The likely significant direct and indirect effects of the proposed development on the environment are considered under the headings below which follow the order of the factors as set out in Article 3 of the EIA Directive 2014/52/EU:

- Population and human health
- Biodiversity, with particular attention to the species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC
- Land, soil, water, air and climate
- Material assets, cultural heritage and the landscape;
- The interaction between the factors referred to in points (a) to (d).

12.4.2. With respect to cumulative impacts it is stated that they have been considered for each environmental topic. The results of the cumulative impact assessment for each environmental topic are presented within each chapter.

12.4.3. My assessment is based on the information provided by the applicant, including the EIAR, in addition to the submissions made in the course of the application, as well as my site visit.

## 12.5. **Population and Human Health**

12.5.1. Chapter 5 of the EIAR addresses population and human health. The methodology for assessment is described as well as the receiving environment. Recent demographic trends are examined.

12.5.2. Potential impacts on population and human health are considered in terms of the construction and operational phases. The consideration of potential impacts on human health are examined in detail in the Air & Climate, Noise & Vibration, Geology and Soils, Hydrology & Hydrogeology and Traffic Sections of the EIAR.

12.5.3. Potential impacts during construction are considered under section 5.7.2 in terms of health and safety, employment and investment, population, tourism, traffic impact, land use, economic activity, construction impacts of noise, dust and air quality, and human health. With respect to population and housing, the proposed development will result in an additional population in the area and will contribute to the housing unit target for the area. The development of the site is in accordance with the land use zoning objective. The impact in terms of land use during construction and operation is considered to be a permanent positive impact on land that is zoned for this use. It is expected that the development will result in the employment of a local workforce during construction and to a lesser extent during operation, which will have a short term slight positive impact on employment and investment during construction and a long term moderate positive impact during operation. The provision of a public linear park along the Trusky Stream will have a positive impact in terms of amenities and the linear park is designed to facilitate the Bearna Plan's proposed greenway which will, when complete, facilitate additional permeability through the scheme and direct access to the town centre. This is considered to be a moderate permanent positive effect during operation. Impacts on traffic and transport are considered and reference is made to other sections of the EIAR. The proposed

development will have a Short-term, Slight Negative Impact in terms of traffic during the construction phase. Mitigation during the operation phase includes upgrades to the L1321 with a footpath and creation of a permeable and connected environment. There will be a long-term, not significant, negative effect in terms of traffic during the operational phase. A CEMP will address construction impacts in terms of noise, dust and air quality, with impacts on population and human health considered a short-term, slight negative impact and which during the operational phase will be a permanent, imperceptible, neutral impact. Human health is considered in the context of lands and soil, water, noise and vibration, air and climatic factors, and landscape and visual. These interactions are considered fully and referenced elsewhere within the EIAR.

12.5.4. Potential cumulative impacts are considered with no significant impacts anticipated. With respect to residual impacts, none have been identified.

12.5.5. I have considered all of the written submissions made in relation to population and human health. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on population and human health.

## 12.6. **Biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC**

12.6.1. Chapter 6 of the EIAR addresses biodiversity. The biodiversity chapter details the site characteristics and methodology of the ecological assessment. It is stated that a baseline ecological survey was undertaken on the 31st May 2018, the 30th August 2019 and 19th September 2019 by Pat Roberts (BSc, MCIEEM) of MKO. An additional site visit was conducted on the 29th of November 2019 by Pat Roberts and Sara Fissolo (BSc) of MKO, to carry out kick sampling on the Trusky stream and to obtain aerial imagery of the proposed development site using drone footage. An additional ecological walkover of the site was undertaken on the 19th May 2020, this confirmed the results of the surveys that were previously undertaken. Dedicated bat surveys were also undertaken by Pat Roberts on the 31st May 2018 and 30th August 2019 with static detectors deployed for a period of 10 days in September

2019 and the buildings on the site were also surveyed. An Otter survey of the Trusky stream and its 10m riparian corridor was conducted and a badger survey was also undertaken. The proposed N6 Galway City Ring Road Surveys and NIS were reviewed as part of the application where relevant to Bearna.

12.6.2. Consideration has been had for potential impacts on European sites. The application site is not located within or adjacent to a European site. Whilst the potential for significant effects on marine-based designated sites within Galway Bay located over 15km from the site of the proposed development was considered, likely significant effects may be excluded on the basis of the assimilative capacity of Galway Bay, as demonstrated within the report commissioned to assess Galway Bay titled Galway Bay Assimilative Capacity Assessment Report. A potential pathway for indirect effects in the form of surface water pollution was identified in relation to specific aquatic Qualifying Interests associated with Galway Bay Complex SAC and Inner Galway Bay SPA. An Appropriate Assessment Screening Report and NIS have been submitted with the application, which is assessed under section 11 above.

12.6.3. In terms of the receiving environment, habitats and flora are identified. The N6 Galway City Ring Road Mapping included the application site and habitats within the site were classified predominantly as scrub, dry/humid acid grassland. No Annex I habitats were identified within the site boundary. A small area of the Annex I habitat European dry heaths [4030] was mapped to the east of the development outside of the site boundary. The habitat survey undertaken as part of this application, identifies on the site spoil and Bare Ground, Dry Humid Acid Grassland, Scrub and Dense Bracken, in addition to recolonising bare ground, identification of two sheds and stones wall and other stonework throughout the site. At the southern end of the proposed site is an existing waste water treatment plant area, with a small area of wet grassland and non-native tree line in this area. The only trees of note on the site are poor quality *Leylandii* Cypress. The Trusky Stream is within the site boundary, located at a minimum 10m from the main construction footprint. The stream is 1-2m wide with some marsh in small patches along its floodplain. The stream discharges to Galway Bay approximately 690m downstream of the proposed development, approximately 1.5km to the west of Galway Bay Complex SAC and Inner Galway Bay SPA. No Annex I habitats or Annex II plant species associated with any nearby European Sites were recorded within or adjacent to the proposed development site.

No botanical species listed under the Flora (Protection) Order, 2015, listed in the EU Habitats Directive (92/43/EEC) or the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations 2011, as amended were recorded on the site.

- 12.6.4. With regard to bird species, it is stated that those recorded during site surveys were typical of the grassland and scrub habitats of the area. The site does not provide significant habitat for protected bird species such as those listed on Annex I of the EU Birds Directive or those species that are among the qualifying interests SPAs in the vicinity. No requirement for further dedicated bird surveys was identified following the ecological multi-disciplinary walkover surveys. I accept the findings in this regard.
- 12.6.5. No bat roosts were recorded on the site and bat activity was low during all surveys. Concerns are raised in a submission that the Lesser Horseshoe Bat recorded in Bearna Woods was not considered given it is within the 2.5km foraging range for this species. I note the methodology and content of the survey work undertaken and I am satisfied that the issue of bats has been adequately addressed. The proposed development will result in the loss of habitats that are widespread in the local area and surround the site to the north, east and south. There will be no loss of roosting habitat and any loss of foraging habitat is rated as not being significant.
- 12.6.6. A dedicated search for otter was undertaken along the length of the Trusky Stream within the site. No otter breeding or resting sites were recorded within the development boundary. Otter spraint was recorded within the stream and the stream is likely used to some extent by foraging and commuting otter. The Trusky stream was assigned Q3-4 as a result of the kick sampling survey.
- 12.6.7. Table 6.14 identifies sensitive ecological receptors. An ecological evaluation was undertaken under section 6.6 to identify the likely significant effects during the construction and operational phases on the key ecological receptors.
- 12.6.8. Mitigation measures are set under section 6.6 of chapter 6 of the EIAR. In terms of habitat loss, this is not considered significant, however, mitigation is proposed to minimise effects on biodiversity, including provision for a 10m riparian corridor along the Trusky Stream; a landscaping plan for the development; and adherence to a CEMP which provides for an environmental management framework for during construction and operational phases. Mitigation is also proposed within the CEMP to

prevent impacts on aquatic and riparian habitats through run off to the Trusky Stream, including provision for a solid boundary fence around the construction footprint and use of silt fencing, in addition to specific construction methods relating the surface water outfalls to the stream. Significant impacts on faunal and otter habitats are considered not significant, however, the design of the scheme with a 10m riparian corridor and other CEMP measures, including lighting measures to avoid impacts on bats, will mitigate any potential impact in terms of habitat and disturbance. Overall, during the construction phase no likely significant effects will arise following implementation of the applicable mitigation measures identified and the CEMP.

12.6.9. Operational phase impacts and mitigation are set out in section 6.6.3 of chapter 6. Potential impacts on aquatic habitats and species are considered and it is noted that within 10m of the Trusky Stream, the only elements of the development involve the planting of native species and the regular mowing of a grass path. As such, the riparian habitats associated with the Trusky Stream will be retained, enhanced and protected. The storm water drainage strategy has been designed to cater for all surface water runoff from all hard surfaces in the proposed development and has been designed using Sustainable Drainage Systems (SuDS) principles; discharge will be limited to the greenfield equivalent; a Hydro-Brake flow restrictor will be utilised prior to discharge to the Trusky Stream; attenuation has been designed to temporarily store the surface water runoff for design rainfall events up to, and including, the 1% AEP with a 20% increase in rainfall intensity; silt traps will be provided for upstream of the attenuation tanks; surface water will pass through petrol interceptors prior to discharging from the site; and pervious paving is proposed. There is capacity within the Mutton Island wastewater treatment plant to accommodate the proposed development. Given the low levels of bat activity and lack of roosts or significant roosting habitat recorded on the site, the pre-mitigation potential for disturbance is a Permanent Slight Negative Effect on the local bat population and there is no potential for significant effects in this regard, nonetheless, the site lighting has been designed to limit the environmental impact of artificial lighting on existing flora and fauna in the area during the operational phase. The proposed landscaping plan is also considered a positive element of the development. Potential impacts on the European Sites of Galway Bay Complex SAC

Inner Galway Bay SPA are considered in section 11 above, where the AA concludes that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites No. 000268 (Galway Bay Complex SAC) and 004031 (Inner Galway Bay SPA), or any other European site, in view of the sites Conservation Objectives.

12.6.10. Cumulative impacts of existing and proposed projects have been considered and none are anticipated.

#### Conclusion – Biodiversity

12.6.11. I have considered all of the written submissions made in relation to biodiversity. I am satisfied that the identified impacts on biodiversity would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures, and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of biodiversity.

#### Land, Soil, Water, Air and Climate

##### **12.7. Land, Soils and Geology**

12.7.1. Chapter 7 of the EIAR addresses land, soils and geology.

12.7.2. Geology maps and soil maps are provided.

12.7.3. The site is identified as by GSI mapping as being underlain by Shallow well drained mineral (AminSW) in the south and east of the site, with Peaty poorly drained mineral (AminPDPT) found to the west of the site and Shallow, rocky, peaty/non-peaty mineral complexes (AminSRPT) found to the north of the site. The site is predominantly underlain by Bedrock outcrop or subcrop with a small area of Till derived from granites to the west. The bedrock is identified as Galway Granite, which is described as a Poor Aquifer - Bedrock which is Generally Unproductive except for Local Zones. There are no recorded Geological Heritage sites within the proposed development area. There are no known areas of soil or ground contamination on the site.

12.7.4. The following area are identified as having a potential impact on soils and geology during construction:

- Subsoil excavation and bedrock excavation.

- Contamination of soil by leakages and spillages and alteration of soil geochemistry.
- Soil and subsoil compaction from inadvertent construction traffic.

12.7.5. Mitigation measures are described for the construction phase, which are in the main related to best practice construction methods, such as reuse of excavated soil and materials on site, highest standards of site management including, for example, provisions that refuelling to be completed in a controlled manner, use of containers and bunding for storage of hydrocarbons and other chemicals which will have a holding capacity of 110% of the volume to be stored, maintenance of an emergency spill kit on site. With regard to potential impacts on soil from construction traffic, it is noted that the portion of the site, along the Trusky stream, will not be developed and so soils and subsoils along this section, proposed as a linear park, will be maintained and enhanced. Any infill material/landscaping that is required in this area will be placed and levelled in appropriate lift thicknesses to ensure the material is not over compacted thereby retaining its drainage properties. No significant residual impacts are identified. With regard to the operational phase, due to the nature of the proposed development, no impacts on soils and geology are anticipated. The operational stage of the residential development consists of the typical activities in a residential area and will not involve further disturbance to the topsoil, subsoils and geology of the area.

12.7.6. Cumulative impacts of existing and proposed projects have been considered and none are anticipated.

12.7.7. I have considered all of the written submissions made in relation to land and soils. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of land and soils.

## 12.8. **Water**

12.8.1. Water is addressed within chapter 8 of the EIAR titled Hydrology and Hydrogeology.



12.8.2. Chapter 8 describes the surface water and groundwater regime. Water services have been described and assessed under the planning assessment in Section 10.8 of this report and are summarised hereunder.

12.8.3. It is stated that the following data was used in the preparation of this chapter on Hydrology and Hydrogeology:

- A walkover survey, including detailed drainage mapping, was undertaken by Eoin Gilson of MKO on the 27th August 2020. The walkover survey and hydrological mapping of the proposed site the surrounding area were undertaken whereby water flow directions and drainage patterns were recorded;
- A walkover survey was completed by Michael Watson from MKO on the 15th September 2020.
- A flood risk assessment for the proposed development footprint area completed by OCSC (January 2020).
- Engineering Services Report completed by OCSC (January 2020).

12.8.4. The site undulates with a general fall from the north (+24.0m AOD) to the southeast (+14.5m AOD), with levels along the western boundary typically +22.5m AOD to +15.1m AOD. The site contains the Trusky Stream along the eastern boundary with a riparian corridor comprising wet grasses, rushes and bracken. The stream discharges 690m south to Galway Bay, at Bearna Pier. Bedrock is close to surface over much of the site, particularly in the centre, where rock outcrops are visible and thin soils evident. The underlying bedrock is Galway Granite. The vulnerability rating of the aquifer within the overall site is classified as Poor Aquifer - Bedrock which is Generally Unproductive except for Local Zones, with a small area classified as 'extreme'. The local groundwater body in terms of water quality is deemed to be good. Given the ground conditions there is limited potential for significant infiltration of water to ground. Much of the surface water generally percolates to shallow ground and discharges via shallow subsurface flow to the Trusky Stream.

12.8.5. Separately a Flood Risk Assessment has been carried out. It is noted that Variation 2(a) of the development plan (the Bearna Plan) includes a Flood Risk Management maps, which indicates the lands zoned 'OS' are within Indicative Flood Zones A and

B; two specific areas of lands zoned 'R' are within Indicative Flood Zones A and B and are subject to Objective CCF6; the remainder of the lands zoned 'R' are within Indicative Flood Zone C. A detailed hydrological assessment and hydraulic modelling was undertaken as part of the application to quantify the fluvial flood risk at the subject site, which shows the predicted flood extent extends into areas shown to be within Indicative Flood Zone C in the Flood Risk Management map (Variation No.2(a) Galway County Development Plan 2015-2021 Bearna Plan). It is stated, following analysis, that all proposed buildings will be located exclusively within lands zoned 'R' (and not subject to Objective CCF6); within Indicative Flood Zone C (as identified in Variation No.2(a) Galway County Development Plan 2015-2021 Bearna Plan); and outside the predicted flood extent for the 0.1% AEP flood event. The building floor levels have been selected to provide at least 500mm freeboard over the adjacent 1.0% AEP flood water levels, in accordance with GDSDS recommendations.

- 12.8.6. A summary of the flood risk assessment is set out in section 10.8 above and mitigation measures incorporated into the design and layout. It is estimated that the risk of flooding the proposed residential development will be minimal, and it is predicted that the development will not increase the risk of flooding elsewhere.
- 12.8.7. Consideration is given to potential connections to European Sites, specifically at Galway Bay. I refer to section 11 of my report above for further detail in this regard.
- 12.8.8. The surface water drainage system is described (see also section 10.8 of this report above) and involves discharge at two points to the Trusky Stream, as well as some SUDS measures. The water supply and wastewater infrastructure are also identified.
- 12.8.9. Potential impacts during construction and operational phases are detailed, including earthworks (stripping of soil, excavations and stock piling), and potential run-off of from bare soil and soil storage; potential surface water quality impacts from shallow excavation dewatering; potential release of hydrocarbons during construction; potential ground water and surface water contamination from wastewater; release of cement based products; construction of stormwater outfalls to Trusky Stream; potential impacts on hydrological connected designated sites during construction and operation; potential operational phase water quality impacts; and potential impacts on water supplies.

12.8.10. A range of mitigation measures are described to address each potential impact identified, with the mitigation measures set out under section 8.5 of the EIAR and summarised in chapter 16, Schedule of Mitigation. Mitigation Measures include use of silt fencing along the Trusky Stream and the maintenance of a minimum 10m setback from the stream during construction to avoid impact on the stream and downstream designated sites; preventative measures are incorporated into a Construction and Environmental Management Plan (Appendix 4-2 of the EIAR); a range of surface water control measures will also be used including a gravity fed sewer network water drainage system with a Hydro-Brake flow restrictor, silt trap and attenuation tank along with a petrol / oil interceptor prior to outflow to the Trusky Stream; it is stated that groundwater flowpaths will be maintained during the operational phase as any excavation proposed will be shallow; groundwater flowpaths during the operational phase from east to west below the site will be unaltered by the proposed development. The proposed system will control discharge volume and discharge quality to acceptable levels. It is also proposed to retain and enhance the existing riparian zone which will act as a buffer between the development and the stream. It is predicted that there will be no net impact on the local hydrological regime, groundwater levels, or groundwater flowpaths during the construction and operational phase of the proposed development. There will be no perceptible direct or indirect hydrological impacts on designated sites, including the Galway Bay SAC or Galway Bay SPA.

12.8.11. In combination effects have been considered, as have cumulative in-combination with other developments. No such impacts on groundwater or designated sites are anticipated.

12.8.12. I have considered all of the written submissions made in relation to water. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on water.

## 12.9. Air and Climate

- 12.9.1. Air and quality climate are addressed in chapter 9 of the EIAR. The methodology and receiving environment are addressed.
- 12.9.2. The primary sources of potential impacts relating to air are assessed, including construction phase impacts on air quality and dust emissions. Mitigation measures are proposed to prevent or minimise potential effects including good management practices as set out in the submitted CEMP of good site design and layout, adopting appropriate working methods, choosing the right equipment and ensuring that the workforce understands the company's responsibilities and is familiar with good working practice and dust suppression techniques. The potential for health effects arising from the construction stage are considered short term, imperceptible, and negative as the potential for both exhaust and dust emissions will be limited and controlled through the mitigation measures proposed.
- 12.9.3. With regard to climate change, construction of the proposed development will require the operation of construction vehicles and plant. Greenhouse gas emissions, e.g. carbon dioxide (CO<sub>2</sub>), carbon monoxide and nitrogen oxides associated with vehicles and plant will arise. The quantum arising is considered insignificant and short term, with the impact determined to be short-term slight negative. Mitigation proposed involves ensuring vehicles are in good operational condition whilst onsite and sourcing of aggregate materials locally where possible. In terms of operational impacts, the proposed development is required to comply with building regulations in relation to energy efficiency, and an Energy Statement Report has been undertaken setting out thermal performance and energy saving measures, with the impact considered to be not significant. I further more note the layout of the scheme supports walking through the provision of a new footpath along the L3121 and implementation of a section of a greenway with path along the Trusky Stream corridor, which will ultimately provide a direct pedestrian/cyclist only connection from the site to the village centre. Given the predicted level of traffic increase during operational phase is low, the impacts to air quality and climate will not be significant.
- 12.9.4. Cumulative impacts are considered and no significant impacts are predicted.
- 12.9.5. I have considered all of the written submissions made in relation to air quality and climate. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed

mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of air quality and climate.

#### **12.10. Noise and Vibration**

- 12.10.1. Chapter 10 of the EIAR evaluates noise and vibration associated with the construction and operational phases of the development.
- 12.10.2. Baseline noise monitoring was undertaken across the development, the main noise generator being road traffic noise. Noise sensitive receptors were identified as follows: At Cnoc Fraoigh, the rear and/or side gardens of 12 dwellings adjoin the site boundary; a combination of residential estates and one-off dwellings extends along the L1321. The rear gardens of three dwellings here adjoin the site boundary. Two dwellings further north lie close to the northwest corner; scattered dwellings are located to the northwest and east, 250-300 m from the boundary; and a residential development to the southeast approaches the southeast corner, with the nearest dwelling here located 30 m from the corner. There are approximately 50 dwellings within 200 m, most of which are located at Cnoc Fraoigh, at an extensive residential cluster further west, or at the residential development to the southeast.
- 12.10.3. Potential noise impacts during construction are described, including noise arising from site clearance, building construction works, and landscaping works. Vibration impacts are also considered. During the operational phase, consideration is given to noise arising from road traffic.
- 12.10.4. Mitigation measures are detailed for construction, such as selection of quiet plant, noise control at source, liaison with the public, and phasing of construction works. Construction noise impacts are anticipated to be short term, moderate negative. Vibration impacts are considered negligible. At operational stage, it is considered that no noise mitigation measures are necessary, other than implementation of speed restrictions on internal roadways in order to minimise traffic noise emissions. It is stated that the significance of effects will be slight to moderate negative and permanent at Cnoc Fraoigh, confined to a small number of dwellings in proximity to the main Cnoc Fraoigh avenue. Effects at all other receptors will be neutral. It is stated that inward noise levels will be satisfactory in the context of WHO and Pro-PG criteria. There are no expected cumulative impacts as a result of the

development, when considering adjoining developments permitted and adjoining zoned lands.

- 12.10.5. I have considered all of the written submissions made in relation to noise. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of noise.

### **Material Assets, Cultural Heritage and the Landscape**

#### **12.11. Material Assets - Traffic and Transport**

- 12.11.1. Chapter 13 (section 13.1) of the EIAR relates to Traffic and Transport. The Board is also referred to section 10.7 of my report above in respect of traffic and transport.
- 12.11.2. The site is located within the development boundary of Bearna, c. 680m north of the town centre. The site is accessed off the L1321, via an existing access road serving Cnoc Fraoigh/Heather Hill residential development (21 dwellings).
- 12.11.3. The existing environment and local road network is described in the EIAR, as well as planned improvements to the strategic movement network, including the proposed Galway City to Bearna Greenway for pedestrians and cyclists, which will act as a commuter route as well as amenity resource; and the proposed N6 Galway City Ring Road. The baseline traffic data was gathered, with traffic surveys undertaken during May 2018 at the R336 Bearna Road/L1321 Local Road junction; L1321/Thornberry Road (Bearna Inner Relief Road) junction; and L1321/Cnoc Fraoigh access road; and an automatic traffic count was undertaken on the L1321. The recorded traffic data for the 2018 count year has been projected to future assessment years. The assessment results indicate all junctions will operate well within capacity and the effect over the short to long term assessments is deemed to be not significant.
- 12.11.4. Potential impacts are described both during construction and operational stages. It is stated that management and mitigation measures related to construction activities will be implemented in accordance with a Design Process Traffic

Management Plan (DPTMP). Impacts are considered to be slight negative, temporary and will be minimised.

12.11.5. In relation to the operational phase, the impact is determined to be minimal on the surrounding roads network. A footpath is proposed to the village centre which will support walking. It is stated that the low parking provision with increased cycle provision will support reduced dependency on car travel. The internal street layout has been designed with horizontal curves and low radii to ensure slow vehicular speed.

12.11.6. Cumulative impacts with other planned and approved residential developments in Bearna are considered and it is considered that the effects on the road network will not be significant. Consideration has also been given to the proposed N6 Galway City Ring Road. It is considered that this road which would provide for an alternative route around the city will result in reduced traffic levels and congestion in Galway City Centre, it's existing approaches and the towns and villages on those approaches, including in relation to the traffic levels in Bearna, which would potentially results in support for walking, cycling and public transport. I accept the findings in this regard.

12.11.7. I have considered all of the written submissions made in relation to traffic and transport. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of traffic and transport.

## 12.12. **Material Assets – Water and Other Services**

12.12.1. Chapter 13, section 13.2 of the EIAR, evaluates the impacts on material assets required to facilitate the development, including electricity network, telecommunications networks, water supply networks, wastewater networks, land use and waste management.

### Electricity and Telecommunications

12.12.2. There are no overhead electricity cables on the site of the proposed development. There is a short section of underground electrical cable route that

extends through the Cnoc Fraoigh residential estate and extends into the proposed development site. It is stated that all proposed works for the project have been designed to avoid these services as much as possible, but where any moving of electricity lines is required, this will be carried out in consultation with ESNB.

12.12.3. There is existing EIR infrastructure that currently runs through the Cnoc Fraoigh residential estate and up to the western boundary of the site via underground ducts and overhead cables.

12.12.4. No significant impacts are predicted. Mitigation measures during construction are set out in section 13.2.5 and within the submitted CEMP in Appendix 4.2 of the EIAR. No operational phase impacts or associated effects on utilities associated with the proposed development are anticipated.

#### Wastewater Networks

12.12.5. It is proposed to decommission the existing wastewater treatment plant (wwtp) for the Cnoc Fraoigh residential development, which is located within the open space zoning of the site. The existing Cnoc Fraoigh wastewater network will be maintained and connected to the wastewater network of the proposed development via a new pump station and rising main. Wastewater from both the proposed development (121 residential units) and the existing Cnoc Fraoigh development (21 residential units) will be connected to the existing public sewer via a new wastewater line to be installed along the L-1321. Decommissioning of the existing onsite wastewater treatment plant will involve disconnecting all electrical connections, and demolishing and removing all above ground elements of the plant. It is stated the wwtp will then be filled with inert material and covered with at least 30cm of topsoil. A portion of the existing Cnoc Fraoigh wastewater network will be decommissioned. The existing pipe will be plugged and left in-situ. In terms of construction phase mitigation, it is stated that the Cnoc Fraoigh wastewater network will be connected to the completed wastewater network of the proposed development, and from there to the public sewer system, in advance of the decommissioning of the existing wastewater treatment plant, which will ensure continuity of wastewater service for the residents of Cnoc Fraoigh.

12.12.6. No operational impacts are anticipated. Wastewater will be accommodated within the public waste system and treated at Mutton Island Wastewater Treatment



Plant, which operates under licence from the EPA. The EPA cannot issue a licence in the event that emissions from that facility could lead to unacceptable environmental emissions. In circumstances where Irish Water has confirmed that the wastewater arising from the proposed development will be treated at the Mutton Island wastewater treatment plant, the potential for cumulative effects associated with the wastewater discharges does not arise. It is anticipated there will be no operational phase impacts on wastewater infrastructure.

#### Water Supply

12.12.7. It is unlikely that there will be any water mains encountered during the construction works as the site is greenfield agricultural land. Irish Water has submitted a confirmation of feasibility for connection to Irish Water assets.

#### Land Use

12.12.8. The proposed development is stated to be in accordance with the landuse zoning, as per the Galway County Development Plan, with measures proposed to encourage/increase the use of public transport, walking and cycling.

#### Waste Management

12.12.9. Construction phase impacts include waste from construction materials. It is stated that reuse of certain types of construction wastes such as broken rock will cut down on the cost and requirement of raw materials therefore further minimising waste levels. Recycling of waste will be the preferred option with disposal of waste to landfill minimised as much as possible.

12.12.10. A project-specific Waste Management Plan (WMP) is proposed to address waste generation during the construction phase of the project, with further details in relation to management waste set out in the submitted Construction and Environmental Management Plan. The WMP outlines the methods of waste prevention and minimisation by recycling, recovery and reuse at each stage.

#### Conclusion – Material Assets of Water and Other Services

12.12.11. Cumulative impacts and in combination effects between the various elements have been considered. Cumulative impacts and associated effects between the proposed development and the projects have been described and considered in Section 15 of the submitted EIAR. No significant impacts have been identified.

12.12.12. I have considered all of the written submissions made in relation to Material Assets. I am satisfied that potential effects would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on waste management.

### **12.13. Archaeological, Architectural and Cultural Heritage**

12.13.1. Chapter 12 of the EIAR addresses archaeology, architectural and cultural heritage.

12.13.2. A desktop study and field inspection were carried out as part of the assessment of the site. There are no recorded monuments within the application site, no protected structures and no ACAs.

12.13.3. In relation to new potential archaeology, a visual site inspection was undertaken, however, no other surveys were undertaken in this regard, therefore the potential exists for the uncovering of subsurface archaeological material during the construction phase of the project. Mitigation is proposed by way of archaeological monitoring of groundworks during construction.

12.13.4. The site was assessed in relation to vernacular structures and cultural heritage. Cultural heritage items identified during fieldwork include five vernacular structures and a series of field walls, all dating from the late eighteenth and nineteenth centuries. The proposed development will require the removal of all cultural heritage sites. The following mitigation is proposed: All cultural heritage items which are to be removed will be recorded by means of photographs, written descriptions and scale drawings if necessary prior to removal; groundworks at all locations shall be monitored and any sub-surface traces of the cultural heritage items shall be recorded by means of photographs, written descriptions and scale drawings if necessary. The impact on cultural heritage is deemed to be permanent, moderate, and negative.

12.13.5. Potential indirect visual impacts from the constructed development on national monuments, recorded monuments, and RPS/NIAH structures in the wider area are considered. No significant negative impacts are identified and no mitigation measures are proposed.

12.13.6. As Bearna is recognised as being a Gaeltacht area, impact on language and the Gaeltacht is considered. A Linguistic Impact Statement (LIS) is submitted under Appendix 12.2 of the EIAR. Section 1.4.8 of Variation No. 2(a) Galway County Development Plan 2015-2021 Bearna Plan provides that “A Language Enurement Clause will be applied on a portion of residential units in development of two or more units in Bearna. The proportion of homes to which a language enurement clause will be a minimum of 20% or to the proportion of persons using Irish Language on a daily basis, in accordance with the latest published Census, whichever is greater.” It is proposed to reserve 24 no. residential units for Irish speaking members of the community for a period of 7 years in accordance the with the Objective CH3- Language Enurement Clause. It is considered that the proposed development will have an imperceptible impact on the use of the Irish language in Bearna.

12.13.7. In terms of cumulative impacts and residual impacts, none are identified.

12.13.8. I have considered all of the written submissions made in relation to archaeology, architectural and cultural heritage. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme, the proposed mitigation measures and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct or indirect impacts on archaeology, architectural or cultural heritage.

#### **12.14. Landscape and Visual Impact**

12.14.1. Chapter 11 of the EIAR addresses Landscape and Visual Impact. The EIAR notes the policy context and existing visual character. The Landscape and Landscape Character Assessment for County Galway (hereafter referred to as: the LLCACG), published by Galway County Council in 2002, identified LCA 9 Ineran to Galway City as the only LCA relating to Bearna, which states ‘The coast is flat, comprising rocks and sand merging with natural grassland towards the R336. The coastline commands striking views of County Clare and the Aran Islands. Further inland from the R336 route, there are residential and some light industrial developments which have lowered the scenic value in this area’. There are no designated focal points or views pertaining to the proposed site. However, 2 No. scenic viewpoints were identified within the LVIA study area (1 km radius from the

site). The landscape sensitivity is considered Medium in accordance with the GCDP sensitivity rating.

12.14.2. The applicant has submitted a visual impact assessment with photomontages of the development from various viewpoints. Most of the distant views towards the proposed site were predominantly available from the R336 (Bearna road), as well as the Scach na Mara Housing Estate and the L-1321 and L-5384 running parallel on the western and eastern site boundary. In terms of localised views, these are primarily from the western and southeastern boundary. It is stated that the development will result in permanent change from what is a rural area on the edge of the village into a suburban area, however, the effect is considered to be relatively localised and is not likely to have significant effects on the landscape character of the wider area as the proposed development is in keeping with the style and scale of the surrounding suburban character, and will be in accordance with the zoning designations Residential Phase 1 (R) and Open Space/Amenity (OS) zoning in the Bearna Plan. The landscaping plan will in time provide for a level of screening and mitigate the impact to neutral and slight.

12.14.3. It is stated that the predicted impact during construction will be short term, adverse and range from Not Significant to Slight adverse in the wider study area and Moderate adverse for areas in close proximity, up to approximately 450m radius from the boundary of the proposed development site, where intervening existing vegetation and built structures do not screen views of the proposed development site. I am satisfied the issue has been adequately assessed.

12.14.4. No cumulative impacts are predicted. No mitigation measures are proposed.

12.14.5. I have considered all of the written submissions made in relation to landscape and visual impact. I am satisfied that the identified impacts would be avoided, managed and mitigated by the measures which form part of the layout and design of the proposed scheme, and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct, indirect or cumulative effects on the landscape or on visual impact.

### 12.15. Significant Interactions

12.15.1. Chapter 14 of the EIAR comprises a matrix of significant interactions between each of the disciplines. All interactions between the various elements of the project

were considered and assessed both individually and cumulatively within each chapter. Where necessary, mitigation was employed to ensure that no cumulative effects will arise as a result of the interaction of the various elements of the development with one another.

12.15.2. I have considered the interrelationships between factors and whether these might as a whole affect the environment, even though the effects may be acceptable on an individual basis. Having considered the mitigation measures in place, no residual risk of significant negative interaction between any of the disciplines was identified and no further mitigation measures were identified.

12.15.3. In conclusion, I am satisfied that effects arising can be avoided, managed and mitigated by the measures which form part of the proposed development, mitigation measures, and suitable conditions. There is, therefore, nothing to prevent the granting of permission on the grounds of cumulative effects.

#### **12.16. Reasoned Conclusion on the Significant Effects**

12.16.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the developer, and the submissions from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- A significant direct positive effect with regard to population and material assets due to the increase in housing stock that would be made available in Bearna and to the Galway Metropolitan Area (GMA), within which Bearna is located.
- Biodiversity Impacts: Significant direct local impacts on existing flora and fauna will be mitigated by a range of measures identified in the EIAR, including construction management measures, retention of existing riparian corridor along Trusky Stream and landscaping. The proposed development would not have a significant negative impact on biodiversity.
- Potential effects on water due to the location of residential development proximate to Trusky Stream and risk of flooding. The information submitted in

the EIAR and the other documentation submitted with the application regarding the proposed measures to mitigate this impact is sufficient to demonstrate that such measures are likely to be successful in protecting the proposed development from flooding and comply with the justification test for residential development within flood risk zones A and B, as set down in the 2009 Guidelines on The Planning System and Flood Risk Management.

- Traffic and Transport: Potential for moderate short term impacts in terms of construction traffic will be mitigated as part of a Construction and Environmental Management Plan. There will be no significant negative impact on traffic junctions in the immediate area.
- Landscape and Visual Impacts: A significant effect on the landscape as there will be changed views from various locations given the change from a greenfield site to a residential development, however, the lands are zoned for residential development and the proposal is not expected to involve the introduction of new or uncharacteristic features into the local or wider landscape character setting, relative to what exists in the immediate and wider area. The potential impact will be mitigated by the design, retention of a riparian corridor, and proposed landscaping. The proposed development would not have a significant negative impact on the landscape.
- Potential impacts on air quality and climate, which will be mitigated by measures set out in the EIAR.
- Potential effects arising from noise and vibration during construction, which will be mitigated by appropriate management measures.

Having regard to the above, the likely significant environmental effects arising as a consequence of the proposed development have been satisfactorily identified, described and assessed and I consider that the EIAR is compliant with Article 94 of the Planning and Development Regulations, 2001, as amended.

### 13.0 Recommendation

It is recommended that permission is granted.

## 14.0 Reasons and Considerations

Having regard to the following:

- (a) the policies and objectives set out in the Galway County Development Plan 2015-2021,
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (d) the Design Manual for Urban Roads and Streets (DMURS), 2013 (as updated)
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (h) the nature, scale and design of the proposed development,
- (i) the availability in the area of a wide range of social, community and transport infrastructure,
- (j) the pattern of existing and permitted development in the area,
- (k) the planning history within the area,
- (l) the submissions and observations received, and
- (m) the report of the Chief Executive of Galway County Council,

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenity of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of surface water management and traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 15.0 Recommended Draft Order

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 16th day of October 2020 by Burkeway Homes Ltd., care of McCarthy Keville O'Sullivan, Block 1, G.F.S.C. Moneenageisha Road, Galway.

### Proposed Development

The proposed development will consist of:

- 1) Demolition of existing outbuildings
- 2) Construction of 121 no. residential units comprising:
  - 52 no. houses (37 no. three-beds, 15 no. four-beds)
  - 4 no. duplex units in Duplex Block D1 (2 no. two-beds (ground floor units) and 2 no. three beds (2 storey units))
  - 8 no. duplex units in Duplex Block D2 (4 no. two-beds (ground floor units) and 4 no. three beds (2 storey units))
  - 6 no. duplex units in Duplex Block D3 (3 no. two-beds (ground floor units) and 3 no. three beds (2 storey units))
  - 14 no. duplex units in Duplex Block D4 (7 no. two-beds (ground floor units) and 7 no. three beds (2 storey units))
  - 4 no. duplex units in Terrace Block T5 (2 no. two-beds (ground floor units) and 2 no. three beds (2 storey units))
  - 14 no. Apartments in Apartment Block A1 (5 no. one-beds, 9 no. two-beds)
  - 13 no. Apartments in Apartment Block A2 (4 no. one-beds, 9 no. two-beds and a Multipurpose Room) o 2 no. Apartments in Apartment Block A3 (2 no. two-beds)
  - 4 no. Apartments in Apartment Block A4 (4 no. two-beds)



- 3) Development of a crèche facility (224.80 sqm) associated outdoor play areas and parking
- 4) Provision of a footpath connectivity link along the L-1321
- 5) Provision of shared communal and private open space, car and bicycle parking, site landscaping and public lighting, decommissioning of the existing wastewater treatment plant and provision of all services, access from the L-1321 via the Cnoc Fraoigh development and all associated site development works
- 6) Provision of a public linear park along the Trusky Stream

## **Decision**

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

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

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

- (a) the policies and objectives set out in the Galway County Development Plan 2015-2021,
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (d) the Design Manual for Urban Roads and Streets (DMURS), 2013 (as updated)

- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (h) the nature, scale and design of the proposed development,
- (i) the availability in the area of a wide range of social, community and transport infrastructure,
- (j) the pattern of existing and permitted development in the area,
- (k) the planning history within the area,
- (l) the submissions and observations received,
- (m) the report of the Chief Executive of Galway County Council, and
- (n) the report of the Inspector

### **Appropriate Assessment: Stage 1**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban site, the Screening for Appropriate Assessment submitted with the application, the Inspector's Report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, other than European site no. 000268 (Galway Bay Complex SAC) and European site no. 004031 (Inner Galway Bay SPA), which are European sites for which there is a likelihood of significant effects.

## **Appropriate Assessment: Stage 2**

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development on Galway Bay Complex SAC (000268) and Inner Galway Bay SPA (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:

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

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European sites, having regard to the sites 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 European sites in view of the sites conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

## **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) The nature, scale, location and extent of the proposed development;
- (b) The environmental impact assessment report and associated documentation submitted with the application;

(c) The reports and submissions received from observers and prescribed bodies and the applicant's further submission in the course of the application;

(d) The Inspector's report;

The Board agreed with the summary of the results of consultations and information gathered in the course of the Environmental Impact Assessment, and the examination of the information contained in the Environmental Impact Assessment Report and the associated documentation submitted by the applicant and the submissions made in the course of the application as set out in the Inspector's report. The Board is satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision.

### **Reasoned Conclusions on the Significant Effects:**

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. A Construction Management Plan (CEMP) is the overarching general mitigation embedded in the project design and delivery for the construction stage. The main significant effects, both positive and negative are:

- A significant direct positive effect with regard to population and material assets due to the increase in housing stock that would be made available in Bearna and to the Galway Metropolitan Area (GMA), within which Bearna is located.
- Biodiversity Impacts: Significant direct local impacts on existing flora and fauna will be mitigated by a range of measures identified in the EIAR, including construction management measures, retention of existing riparian

corridor along Trusky Stream and landscaping. The proposed development would not have a significant negative impact on biodiversity.

- Potential effects on water due to the location of residential development proximate to Trusky Stream and risk of flooding. The information submitted in the EIAR and the other documentation submitted with the application regarding the proposed measures to mitigate this impact is sufficient to demonstrate that such measures are likely to be successful in protecting the proposed development from flooding and comply with the justification test for residential development within flood risk zones A and B, as set down in the 2009 Guidelines on The Planning System and Flood Risk Management.
- Traffic and Transport: Potential for moderate short term impacts in terms of construction traffic will be mitigated as part of a Construction and Environmental Management Plan. There will be no significant negative impact on traffic junctions in the immediate area.
- Landscape and Visual Impacts: A significant effect on the landscape as there will be changed views from various locations given the change from a greenfield site to a residential development, however, the lands are zoned for residential development and the proposal is not expected to involve the introduction of new or uncharacteristic features into the local or wider landscape character setting, relative to what exists in the immediate and wider area. The potential impact will be mitigated by the design, retention of a riparian corridor, and proposed landscaping. The proposed development would not have a significant negative impact on the landscape.
- Potential impacts on air quality and climate, which will be mitigated by measures set out in the EIAR.
- Potential effects arising from noise and vibration during construction, which will be mitigated by appropriate management measures.

### **Conclusions on Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this

location, would not seriously injure the residential or visual amenity of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of surface water management and traffic and pedestrian safety and convenience.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plan for the area, a grant of permission could materially contravene provisions of the core strategy and density. The Board considers that, having regard to the provisions of section 37(2)(b)(i)(ii) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Galway County Development Plan 2015-2021 would be justified for the following reasons and considerations:

In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended):

The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended); and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

In relation to section 37(2)(b)(ii) of the Planning and Development Act 2000 (as amended):

The objectives of the development plan are not clearly stated in so far as the development is concerned, with regard to the density range proposed within 'DM Guideline DM1' and the application of CS8 and the associated core strategy density provision.

In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended):

The Board considers that the proposed development materially contravenes the Core Strategy and Density as set out Galway County Development Plan 2015-2021.

In relation to Core Strategy, while the proposal is in breach of the housing yield of 130 units assigned to Bearnna, the development in all other regards accords with the principles of proper planning and sustainable development, and is of a scale and nature, that in the opinion of the Board, does not significantly undermine the county's settlement hierarchy, notwithstanding the breach of the housing target, or proposed pattern of growth and does not undermine the principles of compact growth and sustainable development for the county or town. In this regard the Board notes that in respect of the subject site, the lands are zoned, serviceable, and spatially sequential to the settlement, will provide for a development of a reasonable density with a range of house types, will enhance and improve pedestrian connectivity within Bearnna, as well as provide for and open up amenity lands. The Board have reviewed and considered the National Planning Framework, Regional Spatial and Economic Strategy and MASP, and Galway County Development Plan Core Strategy relating to Bearnna and are satisfied, that notwithstanding the overarching principles and high level population targets in the National Planning Framework and Regional Spatial and Economic Strategy, there are no specific objectives or population targets in the national plans that the development plan is required to meet at a micro level relating to Bearnna. The development is in accordance with the broad principles and objectives of the national and regional planning framework documents. The proposal would contribute to the objectives of the adopted RSES and the Galway Metropolitan Area Strategic Plan (MASP) contained therein, where Bearnna is identified as a residential opportunity site in the MASP and the primary strategy is for consolidation and higher density development on zoned lands. The proposed development would be in keeping with the sustainable development of Bearnna and overall of the Galway Metropolitan Area in a reasonably compact and coherent form and would be consistent with the provisions of the National Planning Framework in this regard. It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework, specifically National Policy Objective 27, 33 and 35; and the 'Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas May 2009' (in particular Chapter 5).

In relation to Density, it is the opinion of the Board that the proposed development is in accordance with the National Planning Framework, specifically NPO 27, 33, and

35; the Urban Development and Building Height Guidelines SPPR 4; and the 'Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas May 2009' (in particular Chapter 5).

## 16.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report and Natura Impact Statement, as set out in Chapter 16 of the EIAR 'Schedule of Mitigation' and in Section 5.2 of the NIS, shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p><b>Reason:</b> In the interest of protecting the environment and in the interest of public health.</p>
3.	<p>The proposed development shall be amended as follows:</p> <p>(a) Detailed construction drawings and an associated construction management plan in relation to the works proposed to the L1321, including lighting and surface water drainage, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. As conditioned in 17(a) hereunder</p>



	<p>no unit shall be occupied prior to the completion of the footpath and associated improvements to the L1321.</p> <p>(b) A planted privacy strip shall be provided at ground level to the apartments in Block A4, and between Blocks A1 and A2, where ground level windows adjoin public footpaths.</p> <p>(c) The alleys providing access to the gardens to the rear of terraced units 32-37 and the terraced units in T5 shall be omitted and adequate bin storage shall be provided to the front of each terraced house in lieu, with the areas thus released incorporated into the adjoining gardens.</p> <p>(d) The eastern elevation of Block A3 shall be revised with the provision of additional windows to provide adequate overlooking of the adjoining open space.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of residential amenity, visual amenity, public realm and ecological protection.</p>
4.	<p>A minimum of 20% of the houses hereby permitted shall be restricted to use as a house by those who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht, unless otherwise agreed in writing with the planning authority, for a period of 15 years. The developer shall submit a completed Linguistic Impact Statement to the planning authority providing details of compliance with this requirement prior to the commencement of development. Prior to commencement of development, the developer shall enter into a legal agreement with the planning authority (under the provisions of section 47 of the Planning and Development Act, 2000, as amended), the purposes of which shall be to restrict or regulate a portion of the residential elements of the development hereby permitted for the use of occupants who have an appropriate competence/fluency in Irish. Details of the standard of Irish to be achieved</p>

	<p>and method of evaluating this shall be agreed in writing with the planning authority prior to the finalization of the agreement hereby conditioned. (Qualification for the Scéim Deontais Tithe will automatically qualify). Within three months of commencement of development, the developer shall enter into a legal agreement with the planning authority (under the provisions of section 47 of the Planning and Development Act, 2000, as amended), the purposes of which shall be to give effect to the above restrictions. No house shall be occupied until an agreement has been entered into with the planning authority pursuant to section 47 of the Planning and Development Act, 2000, as amended.</p> <p><b>Reason:</b> To ensure that development in the area in which the site is located is appropriately restricted.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
6.	<p>Details of signage for the childcare facilities shall be submitted to and agreed in writing with, the planning authority prior to the occupation of the building.</p> <p><b>Reason:</b> In the interest of the amenities of the area/visual amenity.</p>
7.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
8.	<p>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 development. Thereafter, all estate and street signs, and house numbers, shall be provided in</p>

	<p>accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p><b>Reason:</b> In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>
9.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be sensitive to bat and otter species in the area and shall have regard to EUROBATS and Dark Sky lighting recommendations.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
10.	<p>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.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
11.	<p>Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned and managed.</p> <p><b>Reason:</b> To ensure that adequate parking facilities are permanently available to serve the proposed residential units.</p>
12.	<p>The number of bicycle parking spaces within the site, shall be agreed in writing with the planning authority. Details of the layout, storage arrangement, marking demarcation, and security provisions for bicycle</p>

	<p>spaces shall be submitted for the written agreement of the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.</p>
13.	<p>The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of amenity and of traffic and pedestrian safety.</p>
14.	<p>Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.</p> <p><b>Reason:</b> In the interest of encouraging the use of sustainable modes of transport.</p>
15.	<p>A minimum of 10% of all car parking spaces should be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.</p>

	<p><b>Reason:</b> To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.</p>
16.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.</p> <p>Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>
17.	<p>The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to the planning authority for written agreement prior to commencement of any development. In particular, this scheme shall include the following:</p> <ul style="list-style-type: none"> <li>a) The pedestrian connection on the L1321, with its associated drainage, lighting, signage, and all associated works, shall be completed in Phase 1 prior to the making available for occupation of any residential units and shall be completed in accordance with the detailed construction standards of the planning authority for such works.</li> <li>b) The public linear park, identified as 'Landscape Phase 1', 'Landscape Phase 2' and 'Landscape Phase 3' on the development phasing drawing no. 924-MDO-XX-XX-DR-01202 shall be completed in accordance with the submitted Landscape Plan as part of Phase 1.</li> </ul>

	<p><b>Reason:</b> To ensure the timely provision of services, and the provision of a pedestrian connection to the centre of Bearna, for the benefit of the occupants of the proposed dwellings.</p>
18.	<p>The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, with the exception of the revised elements (a) and (b) hereunder. 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 or management company.</p> <p>The following elements shall be incorporated into a revised landscape plan and shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <ul style="list-style-type: none"> <li>a) The shrub <i>Cotoneaster Franchetii</i> shall be omitted.</li> <li>b) The European Communities (Sustainable Use of Pesticides) Regulations 2012 and the Irish National Action Plan for the Sustainable Use of Pesticides – notably part 4.c ‘Reduction of risk in Sensitive Areas’ shall be addressed within the Landscape Plan.</li> </ul> <p><b>Reason:</b> In the interest of nature conservation, residential amenity, and to ensure the satisfactory development of the public open space areas and their continued use for this purpose.</p>
19.	<p>(a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.</p> <p>(b) No construction equipment, machinery or materials shall be brought</p>

	<p>onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.</p> <p>(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree(s) to be retained, particularly at the western boundary, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.</p> <p>(d) No trench, embankment or pipe run shall be located within three metres of any trees/hedging which are to be retained on the site.</p> <p><b>Reason:</b> To protect trees and planting during the construction period in the interest of visual amenity.</p>
20.	<p>A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of visual amenity.</p>
21.	<p>(a) 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 for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.</p>

	<p><b>Reason:</b> In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
22.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of this development.</p>
23.	<p>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.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
24.	<p>The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, generally in accordance with the commitments set out in the Environmental Impact Assessment Report, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The CEMP shall include specific proposals as to how the CEMP will be implemented effectively, and prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including inter alia:</p>



	<ul style="list-style-type: none"> <li>a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;</li> <li>b) Location of areas for construction site offices and staff facilities;</li> <li>c) Details of site security fencing and hoardings;</li> <li>d) Details of tree protection measures;</li> <li>e) Details of on-site car parking facilities for site workers during the course of construction;</li> <li>f) Details of 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;</li> <li>g) Measures to obviate queuing of construction traffic on the adjoining road network;</li> <li>h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</li> <li>i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</li> <li>j) 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;</li> <li>k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</li> <li>l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</li> <li>m) 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.</li> </ul> <p><b>Reason:</b> In the interest of amenities, public health and safety.</p>
25.	Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on

	<p>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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
26.	<p>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.</p> <p><b>Reason:</b> 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.</p>
27.	<p>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.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>

28.	<p>The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
29.	<p>The developer shall appoint a person with appropriate archaeological expertise to ensure that the mitigation measures identified in the Environmental Impact Assessment Report are implemented in full.</p> <p><b>Reason:</b> In the interest of clarity and to protect the archaeological environment during the construction and operational phases of the proposed development.</p>
30.	<p>The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to the planning authority for written agreement prior to commencement of any development. In particular this scheme shall stipulate that construction access via Faythe Harriers Hurling and Camogie Club shall be utilised for the construction of the bridge over the railway line and the access road into the site only. All other construction access shall be over the new bridge when complete. Deviation from this arrangement may be facilitated in limited circumstances subject to prior written agreement with the planning authority.</p> <p><b>Reason:</b> In the interest of traffic and pedestrian safety and the timely provision of supporting infrastructure.</p>
31.	<p>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</p>

	<p>matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> 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.</p>
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Una O'Neill  
Senior Planning Inspector

29<sup>th</sup> January 2021