



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313843-22

<b>Development</b>	Construction of 3 houses and all associated site works.
<b>Location</b>	An Chéibh, Freeport, Barna, Co. Galway
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	2260311
<b>Applicant</b>	Shane Kennedy
<b>Type of Application</b>	Outline Permission
<b>Planning Authority Decision</b>	Refuse Outline Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Shane Kennedy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	6 <sup>th</sup> September 2022
<b>Inspector</b>	Ian Campbell

# **Contents**

## **1.0 Site Location and Description**

- 1.1. The appeal site is irregular in shape and has a stated area of 0.172 ha. The appeal site is located within the village of Barna, on the northern side of the R336.
- 1.2. The appeal site previously accommodated 3 no. retail/commercial units however the appeal site has been recently cleared and comprises a relatively flat area, surfaced with loose stone chippings. The northern part of the appeal site is elevated (c. 10.5 metres OD Malin) relative to the central part of the appeal site (c. 9 metres OD Malin).
- 1.3. A palisade fence bounds the appeal site along the roadside. A footpath runs along the front of the appeal site. 2 no. bus stops are located to the front of the appeal site. The western boundary of the appeal site is formed by a concrete wall. The Trusky Stream is located behind this concrete wall. The Trusky Stream is culverted under the R336 and discharges to the sea at Barna Pier. A timber post and rail fence forms the eastern site boundary. The elevated area of the appeal site along the northern boundary is heavily overgrown.
- 1.4. The adjoining sites to the east and west accommodate detached bungalows. A number of dwellings are located on higher ground to the north/rear of the appeal site.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises;
  - 3 no. houses (i.e. a pair of semi-detached houses and 1 no. detached house).
  - Removal of existing palisade fencing.
  - Construction of new front boundary walls.
  - Decommissioning of septic tank manhole.
  - Connection to services and all associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority issued a Notification of Decision to Refuse Outline Permission on the 27<sup>th</sup> May 2022 for 1 no. reason which can be summarised as follows;

1. The subject site is located within an identified flood risk area. Based on the information received with the planning application, the Planning Authority are not satisfied that the proposal would not be susceptible to flooding in the future. The proposed development would therefore materially contravene Objective LU8 and Development Management Standard FL1 of the Galway County Development Plan 2015-2021 and would conflict with the flood maps associated with Variation 2 (a) of the County Galway Development Plan 2015-2021.

I note that the reason included in the Notification of Decision to Refuse Outline Permission issued by the Planning Authority makes reference to material contravention of the of the Galway County Development Plan 2015 - 2021. The Galway County Development Plan 2022-2028 came into effect on the 20<sup>th</sup> June 2022 and is now the relevant development plan. As such, I do not therefore consider that the Board is bound by the provision of Section 37 (2) (b) of the Planning and Development Act 2000 (as amended).

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report of the Planning Officer includes the following comments;

- The site is located within Flood Zone A and Flood Zone B. Residential development is a highly vulnerable use in this flood zone. Based on the information received with the application the Planning Authority is not satisfied that the subject is not at risk of flooding in the future.
- Permission was granted on a larger site under Reg. No. 18/910 for a 2- storey mixed use building consisting of 3 no. ground floor retail units and 3 no. first floor office units. The building was sited to the south-east of the site and close

to the roadside boundary which would create a strong street frontage and an attractive streetscape in this village setting and positively contribute to the vitality and character of Bearna village centre.

- The separation distance between the proposed dwelling and the stream, at 7 metres, is considered insufficient in order to protect the watercourse and associated riparian zone, and more importantly, the Planning Authority have concerns regarding the risk of residential properties flooding.
- A Hydrology Report was submitted with Planning Application with PA. Ref. 18/910 which stated that the culvert crossing the R336 was undersized. The flood assessment was based on the assumption that the culvert crossing the R336 was a 750mm diameter concrete pipe. However, the culvert crossing the R336 was not an undersized 750mm Diameter Pipe but was a much larger pipe. This pipe has a 40% + increased capacity per linear meter to that of smaller 750mm diameter pipe.

The report of the Planning Officer recommends a refusal of outline permission consistent with the Notification of Decision which issued.

#### 3.2.2. Other Technical Reports

None.

#### 3.3. Prescribed Bodies

None.

#### 3.4. Third Party Observations

A submission was received from Conradh na Gaeilge recommending the inclusion of a language enurement clause for 35% of the new houses and that a Language Impact Statement be prepared as part of the planning process.

### 4.0 Planning History

Appeal Site:

**PA. Ref. 21/1396** – Outline Permission REFUSED for 2 houses. Reasons for refusal concerned the low density nature of the proposal at a location in the village centre.

**PA. Ref. 18/910** – Permission GRANTED for the demolition of an existing dwelling and the construction of a two storey mixed use building consisting of 3 no. ground floor retail units and 3 no. first floor office units. This site also included an additional area to the east.

**PA. Ref. 16/294** – Permission GRANTED for the demolish fire damaged building and erection of a palisade fence.

## **5.0 Policy Context**

### **5.1. National Policy**

#### **5.1.1. National Planning Framework 'Project Ireland 2040'**

- National Policy Objective 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

#### **5.1.2. Ministerial Guidelines**

Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Guidelines to be pertinent to the assessment of the proposal.

- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).

### **5.2. Development Plan**

5.2.1. The proposed development was considered by the Planning Authority under the Galway County Development Plan 2015-2021 however the Galway County Development Plan 2022-2028 came into effect on the 20th June 2022 and is now the relevant development plan.

5.2.2. The appeal site is located within an ‘Urban Environs Landscape’ (see Map 1) for the purpose of landscape type. Urban Areas are described as having a low sensitivity to change.

5.2.3. The appeal site is located within a Gaeltacht area, the Galway County Transportation and Planning Study Area (GCTPS) and is included in the Metropolitan Area Strategic Plan (MASP) area.

5.2.4. The provisions of the Galway County Development Plan 2022 - 2028 relevant to this assessment are as follows:

- GA 4: Language Enurement Clause
- GA 5: Linguistic Impacts Statements
- GIED 2: Development of Brownfield sites within Ghaeltacht settlements
- FL 18: Inappropriate Development on Flood Zones
- GCMA 18: Flood Zones and Appropriate Land Uses
- GCMA 19: Constrained Land Use Objective

### 5.3. **Bearna Metropolitan Plan 2022 – 2028**

5.3.1. The appeal site is zoned ‘C1’ Town Centre/Village in the Bearna Metropolitan Plan 2022 – 2028, included in Volume 2 of the Galway County Development Plan 2022 – 2028.

5.3.2. The provisions of the Bearna Metropolitan Plan 2022 – 2028 relevant to this assessment are as follows:

- BMSP 17 Language Enurement Clause

5.3.3. The majority of the appeal site is located within Flood Zone A and B, as indicated in the Flood Risk map associated with the Bearna Metropolitan Plan 2022 – 2028. The appeal site is also identified as a ‘Constrained Land Use’ in the Bearna Metropolitan Plan 2022 – 2028.

#### **5.4. Natural Heritage Designations**

- Galway Bay Complex SAC (Site Code: 000268), c 1.3 km east.
- Galway Bay Complex pNHA (Site Code: 000268), c 1.3 km east.
- Inner Galway Bay SPA (Site Code: 004031), c 1.3 km east.

#### **5.5. EIA Screening**

Having regard to the limited nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

This is a first-party appeal against the decision to refuse outline permission. The grounds for appeal can be summarised as follows;

- The proposed residential development is entirely suitable and appropriate to the subject lands and fully meets the objectives of the Bearna LAP.
- The proposed development accords with the National Planning Framework.
- The extent of flooding in the Bearna LAP is based on preliminary flood risk assessments undertaken by the OPW. The Planning Authority should not use indicative flood mapping to override hydraulic calculations and a site specific flood risk assessment. Circular PL2/2014 notes that PFRA mapping should not be used as the sole basis for determining flood zones or making decisions on planning applications.
- There is no history of flooding on the appeal site. A FRA was carried out which verified that the appeal site is located within Flood Zone C and is suitable for residential development. A freeboard against the 1/1000 year flood event was 1.106 metres, substantially higher than the recommended minimum 500 mm freeboard.

- The proposed development is not obstructing flow paths, will not increase levels of flood peaks in the stream, and will not increase flooding at site or elsewhere.
- Access to the stream for maintenance is not obstructed by the proposed development.
- Trusky Stream runs dry in spring and summer, and has a small catchment area. Moss growth on the rocks within the stream (photographs attached to appeal submission) indicate low water levels. The extent of the high water mark in the culvert pipe under the R336 is also evident (photographs attached to appeal submission).
- Residential development was considered appropriate on the appeal site under PA. Ref. 21/1396 and has been permitted on similar sites within Barna.
- The appeal site is not located on lands designated as Constrained Land Use (CL) and does not contravene Objective LU8 and Development Standard F1 of the GCDP 2015-2021, which is only applicable to lands designated as CL.
- Highly vulnerable development is appropriate within Flood Zone C.
- The proposed development is for 3 no. new dwellings, or 4 no. dwellings when the earlier renovation of the cottage is considered. This is in lieu of 3 no. shops. The current proposal represents a higher density compared to PA. Ref. 21/1396, which was refused on the basis of having a density which was considered to be too low.
- Under PA. Ref. 21/1396, it was stated in the Planner's Report that the Planning Authority would favour a mixed use development, or alternatively a development of 3-4 dwellings. The decision of the Planning Authority in respect of the current proposal is therefore contradictory.
- The constrained nature of the appeal site is noted, specifically the narrow width of the site and the presence of the stream to the west.
- The Planning Authority have permitted residential development in the vicinity where the freeboard provided was less than the current proposal.
- The provision of commercial development on the appeal site would require the demolition of the recently renovated cottage. Offices and shops are not viable



given the trend towards remote working. There are a number of vacant commercial properties in Barna. A similar standalone mixed use development in Furbo has never achieved 100% occupancy, having been constructed in 2006.

## **6.2. Planning Authority Response**

None received.

## **6.3. Observations**

None received.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including the appeal, and having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Principle of Development
- Design/Siting & Impact on Visual & Residential Amenity
- Flooding
- Access
- Appropriate Assessment
- Linguistic Impact (New Issue)

## **7.2. Principle of Development**

7.2.1. The appeal site is zoned 'C1' (Town Centre/Village) in the Bearna Metropolitan Plan 2022 – 2028 (Volume 2 of the Galway County Development Plan 2022 – 2028). 'Residential Excluding Apartments' is open for consideration under the 'C1' zoning, I therefore consider that the proposal is consistent with the applicable land use/zoning objective.

7.2.2. The appeal site previously accommodated 3 no. commercial units. Permission was refused for 2 no. dwellings under PA. Ref. 21/1396 on the basis that the density proposed was too low, taking account of the location of the site within the village. I note that the Planning Authority have not raised the issue of density under the current proposal. The appeal site is located on the eastern periphery of the village, and not centrally within the village. Having regard to the character of this part of the village, where the predominant building typology is single storey/two storey in nature, and where the predominate land use is residential, I consider the scale and density of the proposal to be acceptable. I also note that the appeal site is constrained, by virtue of its size and configuration, proximity to the stream to the west and the elevated nature of the rear/northern part of the site. The site associated with PA. Ref. 18/910 (under which permission was granted for a mixed use building) was larger, incorporating the detached bungalow to the east. The appeal site does not include this cottage, which has been recently renovated. As such, I consider that the appeal site does not have the same capacity to accommodate the type of development permitted under PA. Ref. 18/910.

7.2.3. The applicant contends that a mixed use building at this location would not be commercially viable. Having regard to the location of the appeal site on the periphery of the village, outside of the main concentration of commercial uses, I consider the proposal, which does not include any retail/commercial element, to be acceptable.

### **7.3. Design/Siting & Impact on Visual & Residential Amenity**

7.3.1. As the proposal is for outline permission, no elevations or floor plans have been submitted. It has not been specified whether the proposed dwellings are single, two storey etc. Reference is made in the particulars submitted with the planning application to the proposed dwellings having a ridge height similar to the building permitted under PA. Ref. 18/910. I note that the height of this building was 8.8 metres. Noting the character of the adjoining area, and notwithstanding that the dwellings on the adjoining sites to the east and west are single storey in nature, I consider that two-storey dwellings could be accommodated on the appeal site without detriment to the amenities of the adjoining area. In reaching this conclusion I consider the separation

distances between the dwellings and to adjacent site boundaries to be acceptable in the context of a proposal for two storey dwellings.

7.3.2. Boundary treatments are indicated as comprising a stone wall to the front of the appeal site and block walls (unspecified height) between the proposed dwellings. The eastern boundary is to comprise an existing timber post and rail fence. Extensive screening is provided by existing trees along the western and northern site boundaries. I consider the proposed boundary treatments to be acceptable. Should the Board be minded to grant outline permission, I recommend that the height of the front boundary wall should be a maximum of 1 metre and the boundary wall between dwellings should be 2 metres high.

7.3.3. Objective FL18 of the Galway County Development Plan 2022 – 2028 requires a 10 metre wide buffer in riparian zones. I note that this buffer can be increased or decreased on site-by-site basis. At its closest point, the westernmost proposed dwelling is located 8.5 metres from the top of the bank of the adjacent watercourse, however this distance increases towards the rear of the appeal site. I consider the proposal acceptable in this regard.

#### **7.4. Flooding**

7.4.1. The majority of the appeal site is indicated as being located within Flood Zone A and Flood Zone B in the Bearna Metropolitan Plan 2022 - 2028. The extent of flooding indicated in the Bearna Metropolitan Plan 2022 – 2028 is informed by OPW Preliminary Flood Risk Assessment (PFRA) mapping. I note that these maps are ‘predictive’ flood maps, showing areas predicted to be inundated during a theoretical or ‘design’ flood event, with an estimated probability of occurrence. The first party has submitted a SSFRA for the proposed development which noted the following;

- The appeal site is not indicated on OPW flood maps as being affected by incidences of historic flooding.
- Preliminary Flood Risk Assessment mapping undertaken by the OPW indicates a risk of fluvial flooding from the stream to the west of the appeal site. These

maps are however only to be used as an indication of relevant flood mechanisms.

- The relevant flood mechanism for this site is fluvial flooding from the stream.
- The estimated flood depth in the stream is 8.375 metres AOD for the 0.1% chance (1000 year return period) and 8.596 metres for a flood of 0.1% chance, with an allowance of 20% for climate change.
- The finished floor level of the proposed dwellings are at 9.7 metres AOD and the freeboard is 1.325 metres against 0.1% chance flood and 1.104 metres against a 0.1% chance flood with a 20% allowance for climate change.
- The entire site is within indicative Flood Zone C (i.e. above the 0.1% - 1000 year return period), a justification test is not required.
- The proposed development will not obstruct flow paths, increase levels of flood peaks in the stream and will not increase flooding on the site or elsewhere. Access to the stream for maintenance or water management works will not be obstructed by the proposed development.

7.4.2. The appeal site is located within the 'Constrained Land Use' designation in the Bearna Metropolitan Plan 2022 – 2028. Objective GCMA 19 of the Galway County Development Plan 2022 – 2028 provides policy in relation to Constrained Land Use, including that proposals seeking to change the use of existing buildings from a less vulnerable use to a more vulnerable will not normally be considered, the requirement for a Flood Risk Assessment, and that development will only be considered where it is demonstrated that it would not increase the risk of flooding to other locations. The extent of the 'Constrained Land Use' designation is based on the extent of Flood Zones A and B, which is based on OPW Preliminary Flood Risk Assessment (PFRA) mapping. Having regard to the conclusions of the SSFRA, which indicates that the entire site is within indicative Flood Zone C, that the proposed development is not obstructing flow paths and will not increase flooding on the site or elsewhere, I consider that the proposed development accords with Objective GCMA 19.

7.4.3. Having reviewed the SSFRA submitted, noting the location of the proposed dwellings within Flood Zone C, the finished floor level of the proposed dwellings with reference to the estimated 0.1% chance (1000-year return period) flood level of the adjacent stream and to the freeboard provided against the 0.1% chance flood level for fluvial flooding, I consider that the proposed development is acceptable in terms of flood risk and that it accords with the Planning System and Flood Risk Management Guidelines 2009.

#### **7.5. Access**

7.5.1. The appeal site is located within an urban area and as such DMURS applies. The posted speed limit at this location is 50 kmph and based on DMURS the corresponding sightline requirement is 45 metres. The site layout submitted indicates achievable sightlines of 45 metres in either direction from the proposed vehicular entrance. I consider the proposal to be acceptable in terms of traffic safety.

#### **7.6 Linguistic Impact (New Issue).**

7.6.1. The appeal site is located within a Gaeltacht area. Objective GA 5 of the Galway County Development Plan 2022 – 2028 requires the submission of a Linguistic Impact Statement for housing proposal for two or more houses in the Gaeltacht area. A Linguistic Impact Statement has not been submitted with the planning application or the appeal documentation. Given that the proposal is for outline permission I consider it reasonable that this issue is addressed at approval stage, as part of an assessment for permission consequent to a grant of outline permission.

7.6.2. Objective BMSP 17 of the Bearna Metropolitan Plan 2022 – 2028 requires that a language enurement clause is applied to a portion (i.e. a minimum of 20%) of residential units within developments consisting of two or more units. Objective GA 4 (B) of the Galway County Development Plan 2022 – 2028 reflects this requirement and requires such a enurement clause to be for a duration of 15 no. years. Having regard to the number of proposed units within the development, in the event of a grant of outline permission I consider that a language enurement clause should be applied in respect of 1 no. unit.

## 7.7 Appropriate Assessment

### 7.7.1 Stage 1 Screening

7.7.2 Compliance. The requirements of Article 6(3) of the Habitats Directive as related to screening the need for appropriate assessment of a project under Part XAB, Section 177U of the Planning and Development Act 2000, as amended, are considered fully in this section.

7.7.3 Background. A screening report for Appropriate Assessment was not submitted with the planning application or the appeal. Therefore, this screening assessment has been carried out *de-novo*.

7.7.4 Likely Significant Effects. The project is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated as SACs and SPAs to assess whether it may give rise to significant effects on any European site.

7.7.5 The Proposed Development. The development comprises outline permission for;

- The construction of 3 no. dwellings.
- Decommissioning of septic tank manhole.
- Connection to services and all associated site works.

7.7.6 Potential Effects of the Proposed Development. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of the implications for likely significant effects on European sites:

- The uncontrolled release of pollutants to surface and ground water (e.g. sedimentation, run-off, fuel, oils) at construction phase of the proposed development.

- Potential for the release of contaminated surface water generated by the proposal at operational stage of the proposal.

7.7.7 Submissions and Observations – none received which relate to Appropriate Assessments issues.

7.7.8 European Sites and Connectivity. A summary of European sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail. I am satisfied that other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site or given the absence of any direct hydrological or other pathway to the appeal site.

**Table 7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.**

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Galway Bay Complex SAC (Site Code:000268)	<ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Coastal lagoons [1150]</li> <li>• Large shallow inlets and bays [1160]</li> <li>• Reefs [1170]</li> <li>• Perennial vegetation of stony banks [1220]</li> <li>• Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</li> <li>• Mediterranean salt meadows (Juncetalia maritimi) [1410]</li> </ul>	c. 1.3 km east of appeal site	The Trusky Stream runs along the western boundary of the appeal site. This stream discharges to the sea at Barna Pier, c. 200 metres south of the appeal site. Having regard to the scale of the proposed development, the distance between the point of discharge into the sea and Galway Bay Complex SAC, and the consequent dilution effect on any contaminated run-off	<b>N</b>

	<ul style="list-style-type: none"> <li>• Turloughs [3180]</li> <li>• Juniperus communis formations on heaths or calcareous grasslands [5130]</li> <li>• Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</li> <li>• Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]</li> <li>• Alkaline fens [7230]</li> <li>• Limestone pavements [8240]</li> <li>• Lutra (Otter) [1355]</li> <li>• Phoca vitulina (Harbour Seal) [1365]</li> </ul>		from the appeal site, I do not consider a likelihood of significant effects.	
Inner Galway Bay SPA (Site Code: 004031)	<ul style="list-style-type: none"> <li>• Black-throated Diver (Gavia arctica) [A002]</li> <li>• Great Northern Diver (Gavia immer) [A003]</li> <li>• Cormorant (Phalacrocorax carbo) [A017]</li> <li>• Grey Heron (Ardea cinerea) [A028]</li> <li>• Light-bellied Brent Goose (Branta bernicla hrota) [A046]</li> <li>• Wigeon (Anas penelope) [A050]</li> <li>• Teal (Anas crecca) [A052]</li> <li>• Red-breasted Merganser (Mergus serrator) [A069]</li> <li>• Ringed Plover (Charadrius hiaticula) [A137]</li> <li>• Golden Plover (Pluvialis apricaria) [A140]</li> <li>• Lapwing (Vanellus vanellus) [A142]</li> <li>• Dunlin (Calidris alpina) [A149]</li> <li>• Bar-tailed Godwit (Limosa lapponica) [A157]</li> <li>• Curlew (Numenius arquata) [A160]</li> <li>• Redshank (Tringa totanus) [A162]</li> </ul>	c. 1.3 km east of appeal site	The Trusky Stream runs along the western boundary of the appeal site. This stream discharges to the sea at Barna Pier, c. 200 metres south of the appeal site. Having regard to the scale of the proposed development, the distance between the point of discharge into the sea and Inner Galway Bay SPA, and the consequent dilution effect on any contaminated run-off from the appeal site, I do not consider a likelihood of significant effects.	<b>N</b>



	<ul style="list-style-type: none"> <li>• Turnstone (<i>Arenaria interpres</i>) [A169]</li> <li>• Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</li> <li>• Common Gull (<i>Larus canus</i>) [A182]</li> <li>• Sandwich Tern (<i>Sterna sandvicensis</i>) [A191]</li> <li>• Common Tern (<i>Sterna hirundo</i>) [A193]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>			
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7.7.9. Following an examination of sites within the zone of influence, and upon an examination of the connectivity between the appeal site and these sites (see Table 7.1 above), Galway Bay Complex SAC and Inner Galway Bay SPA have been screened out due to the weakness in connectivity between the appeal site and these European sites. In terms of the potential for ex-situ effects, the appeal site is located within an urban area and would not represent a favourable habitat for birds species connected with Inner Galway Bay SPA for resting, foraging, breeding etc.

7.7.10. Mitigation Measures. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.

7.7.11 Screening Determination 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 and projects would not be likely to give rise to significant effects on European Site No. 000268 and 004031, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment is therefore not required.

This determination is based on the following;

- The scale of the proposed development;

- The effects of tidal dilution on any contaminated run-off, noting the distance between the point of discharge of Trusky Stream into the sea at Barna Pier and Galway Bay Complex SAC and Inner Galway Bay SPA, c. 1.3 km away.

## 8.0 Recommendation

- 8.1. Having regard to the above it is recommended that outline permission is granted based on the following reasons and considerations and subject to the attached conditions.

## 9.0 Reasons and Considerations

Having regard to:

- (a) The layout of the proposed development,
- (b) The pattern of development in the area,
- (c) The provisions of the Galway County Development Plan 2022-2028, incorporating the Bearna Metropolitan Plan 2022 - 2028, including the zoning of the site,
- (d) The Site Specific Flood Risk Assessment,
- (e) The conclusion of the Appropriate Assessment Screening, which was undertaken by the Board,

it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not result in flooding, and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	This grant of outline permission is in respect of development as indicated in the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. No development is authorised on foot of this grant of outline permission and no
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	<p>development shall be undertaken until a grant of approval consequent on this outline permission is received.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>This outline permission relates solely to the principle of the development on this site. Plans and particulars to be lodged for permission consequent on this grant of outline permission shall include the following information and comply with the following requirements:</p> <p>(i) The finished floor levels of the proposed units shall be as indicated on the plans received by the Planning Authority on the 4th day of April 2022.</p> <p>(ii) The proposed units shall be two storey with a maximum height of 8 metres above the finished floor levels indicated on the plans received by the Planning Authority on the 4th day of April 2022.</p> <p>(iii) The front elevations of the units shall be orientated south.</p> <p>(iv) A detailed landscaping plan for the entire site. Where blockwork walls are proposed such walls shall be 2 metres in height and shall be capped and rendered where open to public view.</p> <p>(v) Details indicating the layout of each house, driveways and drainage;</p> <p>(vi) The roof of the houses shall be finished with slate/tile of blue/black colour, external walls shall comprise neutral coloured render.</p> <p>(vii) Parking for 2 no. cars shall be provided within the curtilage of each unit, with an adequate turning area.</p> <p>(viii) The front boundary treatment to the site of shall not exceed a height of 1 metre.</p> <p><b>Reason:</b> In the interest of clarity and to define the subject matter for consideration at permission consequent stage.</p>
3.	<p>One of the houses hereby permitted outline permission 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.</p>

	<p>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 for the use of occupants who have an appropriate competence/fluency in Irish.</p> <p>Details of the standard of Irish to be achieved and method of evaluating this shall be submitted to and agreed in writing with the planning authority prior to the finalisation of the agreement hereby conditioned. (Qualification for the Sceim Deontais Tithe will automatically qualify).</p> <p>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>
4.	<p>The developer shall submit a Linguistic Impact Statement to the planning authority prior to the commencement of development.</p> <p><b>Reason:</b> To preserve and protect the language and culture of the Gaeltacht.</p>
5.	<p>All surface water runoff from roofs, driveways and paved areas shall be collected and disposed of within the site. No surface water runoff shall be discharged to the public sewer, to the public road or to adjoining properties.</p> <p><b>Reason:</b> In the interest of public health.</p>
6.	<p>No development shall take place until the developer has entered into water and waste water connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>No development on foot of any permission granted consequent on this outline permission shall be undertaken until such time as the developer has paid 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</p>

	<p>authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</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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Ian Campbell  
Planning Inspector

16<sup>th</sup> September 2022