



An
Bord
Pleanála

Inspector's Report

ABP-319685-24

Development

Construction of 51 residential units (10 no. houses and 41 duplex units); 2 no. commercial buildings (703 sqm); car & bicycle parking; vehicular and pedestrian access; open space; public lighting; landscaping; bin stores; site services; new culverted drain beneath R336; works to R336; and site development works.

Location

An Chéibh, lands south of the R336, Freeport, Barna, Co. Galway

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

2460147

Applicant

Peter & Seóna O' Fegan

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant	Peter & Seóna O' Fegan
Observers	1) An Taisce 2) Conradh na Gaeilge 3) Ian Foley & Ruth Mc Donagh 4) Pobal Bhearne Community Group (c/o Dermot Corcoran) 5) Frank Kelly 6) Fionnuala Uí Chathasaigh
Date of Site Inspection	14 th August 2024
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 1.49 ha¹, is located in the townland of Freeport, on the southern side of the R336, c. 250 metres east of the centre of Barna (Bearna as Gaelige), Co. Galway.
- 1.2. The appeal site consists of 2 no. fields. The upper part of the site is relatively flat. The lower part of the site falls from north to south, with topographical levels of c. 8 metres (OD Malin) to the north and c. 5 metres (OD Malin) to the south. The lower part of the site is in agricultural use. There is a cattle crush on the southern part of the site.
- 1.3. The Truskey Stream (also known as the Cloghscoltia River) bounds the appeal site to the north-west. A track of agricultural land abuts the appeal site to the south. The foreshore is located beyond this area.
- 1.4. Site boundaries are formed by stone walls and hedge. The appeal site has panoramic views over Galway Bay.
- 1.5. A filling station is currently under construction on the lands to the north-east of the appeal site. 2 no. detached dwellings are situated to the east of the appeal site. A B&B is located to the north-west of the appeal site. The adjoining lands to the west of the appeal site are in agricultural use.
- 1.6. Lands to the north of the appeal site (subject to PA. Ref. 24/60148 & ABP. Ref. 319686-24) are indicated as being within the applicants' ownership/control, as depicted by the blue line boundary. The land to the immediate south of the appeal site and part of a local access road on the northern side of the R336 are also indicated within the blue line boundary. A section of the R336 is included within the red line boundary of the appeal site².
- 1.7. Access to the site is via a narrow laneway to the north-east of the appeal site. This laneway also provides access to the 2 no. dwellings to the east of the appeal site and

¹ Particulars submitted with the planning application also refer to a site area of 1.7151 ha. As per the site layout drawing this figure relates to the extent of lands within the blue line boundary. The 'developable area' of the site is stated as 1.13 ha, i.e. excluding the OS/Recreation and Amenity and coastal park.

² A letter of consent from Galway County Council has been submitted with the planning application in respect of this area.

a right-of-way is indicated on a section of laneway (relating to an area located outside the site boundary).

1.8. The predominate building typology in the area is single storey/two storey traditional style dwellings.

2.0 Proposed Development

2.1. The proposed development comprises;

- Construction of 51 no. residential units –
 - 10. No. houses (7 no. 3 bedroom houses and 3 no. 4 bedroom houses).
 - 41 no. duplex units (4 no. 1 bedroom duplex units, 21 no. 2 bedroom duplex units and 16 no. 3 bedroom units).
- 2 no. commercial buildings (total floor area 703 sqm) accommodating –
 - retail (99 sqm);
 - office (324 sqm); and
 - café (90 sqm).
- Car & bicycle parking.
- Vehicular (inc. signalised junction off R336) and pedestrian access.
- Open space.
- Public lighting, landscaping, bin stores and site services.
- New culverted drain beneath R336.
- Works to R336.
- Site development works.

2.2. The planning application was accompanied by the following reports;

- Planning Report.
- Architectural Design Statement.
- Strategic Housing Development Report.
- Appropriate Assessment Screening Report and Natura Impact Statement (NIS).

- Ecological Impact Assessment (EcIA).
- Environmental Impact Assessment Screening Report (EIASR).
- Construction Environmental Management Plan (CEMP).
- Construction, Demolition, and Operational Waste Management Plan.
- Stage 3 Flood Risk Assessment (SSFRA).
- Daylight and Sunlight Report (within development).
- Shadow Analysis Report.
- Traffic and Transport Assessment (TTA).
- Road Safety Audit - Stage 1 (RSA).
- Mobility Management Plan (MMP).
- DMURS Report.
- Civil Design Report.
- Landscape Design Report.
- Building Lifecycle Report.
- Outdoor Lighting Report.
- Archaeological Assessment Report.
- Linguistic Impact Assessment.

2.3. The applicants submitted unsolicited information to the Planning Authority on the 5th of March 2024. This information concerned the proposed culvert under the R336, specifically a Section 50 application³ made to the OPW. At the time of making the planning application the OPW had not determined the Section 50 application however the Section 50 application was granted on the 28th of February 2024 and details of same were submitted to the Planning Authority.

³ Ref. 509 – 2023.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission on the 10th of April 2024 for 2 no. reasons, as follows;

- 1. Notwithstanding the submitted Flood Risk Assessment and the proposed upgrading of the culvert, the Planning Authority has serious concerns regarding flood risk to the site. In the absence of certainty that the proposed culvert upgrade, which is considered by the Planning Authority as acting as a flood mitigation, will eliminate flooding from the site the Planning Authority consider that that proposed development is premature with uncertainties. Considering the vulnerability of receptors in the form of residential dwellings which are classified as Highly Vulnerable Development (Table 3.1 Classification of vulnerability of different types of development), the Planning Authority are not satisfied that the subject site is not at risk of flooding. In the absence of assurance that the proposed culvert will mitigate flood risk to the subject site, and in conjunction with the application of the precautionary principle, as set out under the Planning System and Flood Risk Management Guidelines 2009, the Planning Authority is not satisfied that the development if permitted as proposed, would not materially contravene Policy Objective FL 2, Policy Objective FL 3 and Policy Objective FL 8 of the Galway County Development Plan 2022-2028 and would be contrary to Ministerial Guidelines issued under Section 28 of the Planning and Development Act 2000 (as amended) and would set an undesirable precedent for similar future developments and would therefore be contrary to the proper planning and sustainable development in the area.*
- 2. Based on the information received with the planning application, and considering the flood vulnerability of the site, the direct hydrological link to the Inner Galway Bay SPA (Site Code:004031) and the Galway Bay Complex SAC (Site Code:000268), and the concerns raised by the Environment Section regarding the inadequacies with regards to the existing wastewater disposal infrastructure, it is considered that the*

development has, in the absence of satisfactory evidence to the contrary, the potential to adversely affect the qualifying interests and conservation objectives of the Inner Galway Bay SPA (Site Code:004031) and the Galway Bay Complex SAC (Site Code:000268), and would therefore materially contravene Policy Objective NHB 1 Natural Heritage and Biodiversity of Designated Sites, Habitats and Species, Policy Objective NHB 2 European Sites and Appropriate Assessment, and Policy Objective WR 1 Water Resources, and DM Standard 50 Environmental Assessments of the Galway County Development Plan 2022-2028 and would therefore be contrary to the proper planning and sustainable development of the area. The Planning Authority in conjunction with the application of the precautionary principle, consider that adverse effects on the integrity and conservation objectives of the European sites, cannot be ruled out, as a result of the proposed project. Therefore, the Planning Authority cannot be certain that the project will not adversely affect the integrity of the Inner Galway Bay SPA (Site Code: 004031) and the Galway Bay Complex SAC (Site Code: 000268), in light of their conservation objectives which would contravene materially policy objectives and a development management standard contained in the Galway County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer generally reflects the reasons for refusal. The report also notes –

- The uses proposed and the density of the proposal are acceptable.
- The Planning Authority has concerns in relation to the framed entrance into the scheme where visitors/users of the site are met with a block wall immediately adjacent to the landscaped open space. This wall should be removed and a defined corner unit with windows and doors interacting

with the streetscape and public open space should be incorporated at this prominent location in the scheme.

- The applicants have submitted a Daylight and Sunlight Report however consideration of impacts on the dwelling to the east have not been satisfactorily demonstrated.
- In the absence of the culvert being in situ and tested as effectively working the Planning Authority cannot conclusively determine that the proposed culvert works will alleviate flooding to the site. Section 3.1 of The Planning System and Flood Risk Management Guidelines for Planning Authorities states that a precautionary approach should be applied, where necessary, to reflect uncertainties in flooding datasets and risk assessment techniques and the ability to predict the future climate and performance of existing flood defences.

Other Technical Reports.

3.2.2. Environment Section – report notes that tankering of wastewater from the sewerage pumping station still takes place in periods of high rainfall which highlights inadequacies within the system. Report recommends that these issues should be rectified by Uisce Éireann before any further developments are allowed to connect into the wastewater network in Bearna. Report also notes water quality issues within the Truskey Stream and the coastal waters at Bearna Pier where the Truskey Stream discharges to, and recommends that clarification is sought regarding discharge of surface water from the development, either directly or indirectly, to the Truskey Stream. Report notes that it is unclear whether overflow from the attenuation tanks is proposed. Report queries whether surface water will be managed within the confines of the site.

3.3. **Prescribed Bodies**

Údarás na Gaeltachta – submission recommends that all signs/business names are in Irish, and that a language condition is attached.

An Taisce (2 no. submissions revised by GCC) – first submission (dated 19th March 2024) notes;

- there are capacity issues at Bearna pumping station and concerns are raised that Uisce Éireann has issued a 'Confirmation of Feasibility' when additional wastewater from the development will contribute further overloading of the pumping station.
- a proposed Drainage Area Plan remains to be completed and the proposal is premature pending same.
- Galway County Council and Galway City Council have not complied with conditions of their licence re. storm water overflows.
- Uisce Éireann should be requested to confirm (i) that the collection system in Bearna has capacity to take the additional wastewater; (ii) that Bearna Wastewater Pumping Station has the capacity to take the additional wastewater given the apparent overloading of the pumping station during wet weather; (iii) that the existing rising main from Bearna Wastewater Pumping Station has the capacity to convey the increased wastewater volume to the collection system in Galway City; and (iv) that the wastewater collection system in Galway City has the capacity to take the increased volume of wastewater without contributing to additional flows through stormwater overflows during rainfall events.
- no drawings or details of the proposed foul pump station and overflow tank have been submitted. Submission raises adequacy of public notices as these elements are not included in development description. Operational details of the proposed pumping station are required, including details of monitoring and measures to address critical plant and power failures.
- Further information is required in respect of the measures to reduce/manage the risk of blockages of the culvert under the R336. The Planning Authority should seek the views and recommendations of Inland Fisheries Ireland about this aspect of the proposed development, as recommended by the OPW.
- public notices do not refer to the new signalised junction. Revised public notices are required.

- modal split targets fall short of Key Performance Indicators (KPI's) for same set out in CAP 2024. The proposal would be highly car dependent. The proposal would contribute to traffic congestion on the R336, the road network within Galway City, and would be inconsistent with the objectives of the CAP 2024 and Galway County Council's Local Area Climate Action Plan 2024-2029 to reduce transport emissions.

Second submission (dated 20th March 2024) notes:

- the subject site is in proximity to the Truskey Stream which is designated as Moderate status under the Water Framework Directive (WFD) and the proposal should be assessed against Article 4 of the WFD.
- buildings should be constructed to be air tight, and heat pumps and solar panels should be employed.
- wider infrastructure should accommodate/promote cycling.
- flood risk, in particular coastal flooding, needs to be considered.
- capacity of the waste water treatment plant to serve the proposal needs to be assessed.

3.4. **Third Party Observations**

The report of the Planning Officer summarises issues raised in observations submitted in respect of the planning application as follows;

- Adequacy of footpaths R336/no linkage to cycle network.
- Requirement for controlled pedestrian crossing on R366.
- Traffic safety/traffic impact/proposal is premature pending N6 Galway City Outer Ring Road.
- Road Safety Audit not carried out on a school day.
- Concern re. junction layout and access to existing dwelling opposite site.
- Flooding/concern re. displacement of flooding.
- No buffer to 30m coastal set back zone.
- Overshadowing on adjoining property.
- Visual impact of proposal, particularly along shoreline.

- Proposal is premature development in the absence of upgrade of the Bearna Sewerage Scheme/concerns in relation to the Irish Water letter of Feasibility.
- Proposal is premature pending the Drainage Area Plan.
- Details of proposed foul pump station and overflow tank, and operational details required.
- Concern re. contaminated water outflow to foreshore as a result of the proposed upgraded culvert.
- Concerns re. blockages of upgraded culvert.
- Requirement for Irish language signage.
- Proposal is overdevelopment/concerns re. height of development.
- Amenity impacts from rock breaking.
- Inadequacy of car parking.
- Revised public notices required.
- High car dependency - contrary to CAP 2024.
- Block 2 directly overlooks adjoining residential dwelling.
- Impact on bats.
- Lack of sunlight.
- Impact on Bearna Architectural Conservation Area (ACA).
- Impact on Galway Bay Scenic Route.
- Concerns re. biodiversity.

4.0 Planning History

Appeal Site (recent/valid planning applications)

PA. Ref. 19/1798 – Retention permission REFUSED for a sign.

Lands to north (within blue line boundary/partially overlaps with appeal site)

PA. Ref. 24/60148 & ABP. Ref. 319686-24 – Permission (currently on appeal) for demolition of 4 no. buildings; construction of a 2.5 storey building comprising 18 no. apartments; 1 no. retail unit; car and bicycle parking; vehicular and pedestrian access; open space; landscaping; public lighting; bin stores; works to R336; and widening of junction at private access road.

Lands to north-east

PA. Ref. 14/563 & ABP. Ref. PL07.243912 – Permission GRANTED for filling station.

An extension of duration was granted under PA. Ref. 19/966.

5.0 Policy Context

5.1. National Policy

5.1.1. National Planning Framework ‘Project Ireland 2040’

Relevant Policy Objectives include:

- **National Policy Objective 3a**: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- **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 Policy Objective 13**: In urban areas, planning and related standards, including in particular building 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 33**: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

5.2 Ministerial Guidelines

5.2.1 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.

- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021).
- Design Manual for Urban Roads and Streets (2019).
- Urban Development and Building Height Guidelines, Guidelines for Planning Authorities (2018).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities (2010).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

5.3. Development Plan

5.3.1. The relevant Development Plan is the Galway County Development Plan 2022-2028.

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

5.3.3. The north-western part of the appeal site is located within Flood Zone A and Flood Zone B. A symbol referring to Policy Objective FL18 of the Galway County Development Plan 2022 – 2028 is indicated on the southern part of the appeal site on the land-use zoning map for Bearna (see Volume 2, Section 2.6 of the Galway County Development Plan 2022 – 2028).

5.3.4. The Town Centre Architectural Conservation Area (ACA) is located west of the appeal site.

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

Volume 1

Chapter 2 - Core Strategy, Settlement Strategy and Housing Strategy

- **Policy Objective SS1:** MASP (Level 1)

Chapter 3 – Placemaking, Regeneration and Urban Living

- **Policy Objective PM1:** Placemaking
- **Policy Objective PM8:** Character & Identity

Chapter 7 – Infrastructure, Utilities and Environmental Protection

- **Policy Objective WW4:** Requirement to Liaise with Irish Water – Wastewater
- **Table 7.10** - Indicative Infrastructure Capacity for Core Strategy Settlements

Chapter 8 – Tourism & Landscape

- **Policy Objective PVSR1:** Protected Views and Scenic Routes

Chapter 13 – The Galway Gaeltacht & Islands

- **Policy Objective GA 4:** Language Enurement Clause
- **Policy Objective GA 5:** Linguistic Impacts Statements

Chapter 14 – Climate Change, Energy & Renewable Resource

- **Policy Objective FL2:** Flood Risk Management and Assessment
- **Policy Objective FL3:** Principles of the Flood Risk Management Guidelines
- **Policy Objective FL8:** Flood Risk Assessment for Planning Applications and CFRAMS
- **Policy Objective FL18:** Inappropriate Development on Flood Zone

Chapter 15 – Development Management Standards

- **DM Standard 1:** Qualitative Assessment-Design Quality, Guidelines and Statements

- **DM Standard 2:** Multiple Housing Schemes (Urban Areas)
- **DM Standard 3:** Apartment Developments (Urban Areas)
- **DM Standard 31:** Parking Standards
- **DM Standard 68:** Flooding

5.3.6. The appeal site is located within an ‘Urban Environs Landscape’ (see Map 1, Landscape Character Assessment, Appendix 4 of Galway County Development Plan 2022 - 2028) for the purpose of landscape type, which is described as having a ‘low’ sensitivity to change. The R336 is designated as a Scenic Route (Galway Bay Scenic Route) in the Galway County Development Plan 2022 – 2028. There is a Protected View at Bearna Pier to the south-west of the appeal site. The focus of this view is described as including ‘...*the visible shore to the east and west of the viewing point*’, and includes the appeal site.

5.4. **Volume 2**

Metropolitan Area Strategic Plan 2022 – 2028

5.4.1. The land-uses for Bearna are set out in the Metropolitan Area Strategic Plan (MASP) Section 2.6, Volume 2 of the Galway County Development Plan 2022 – 2028. The appeal site is subject to 3 no. land use zonings –

‘**OS**’ - Open Space/Recreational & Amenity

‘**C1**’ – Town Centre; and

‘**TCI**’ – Town Centre Infill.

The part of the appeal site comprising the R336 is not subject to a specific land-use zoning.

The provisions of the Metropolitan Area Strategic Plan 2022 – 2028 relevant to this assessment are as follows:

- **GCMA 18** - Flood Zones and Appropriate Land Uses (Refer to Flood maps for Baile Chláir, Bearnna and Oranmore and the Urban Framework Plans for Briarhill and Garraun)
- **Section 1.10.1** - Land Use Zonings
- **BMSP 1** – Sustainable Residential Communities
- **BMSP 2** – Sustainable Town Centre
- **BMSP 9** – Coastal Setback
- **BMSP 17** – Language Enurement Clause

5.5. 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.

5.6. EIA Screening

See Form 1 and 3 (attached). 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, identify classes of development with specified thresholds for which EIA is required. The following classes of development in the Planning and Development Regulations 2001 are of relevance to the proposal:

- Class 10(b) relates to 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.

The proposed development is sub-threshold in terms of mandatory EIA requirements arising from Class 10(b)(i) and (iv) of the Planning and Development Regulations 2001, as amended. In respect of the latter, 'business district' is defined as a district within a city or town in which the predominant land use is retail or commercial use. I do not consider that the appeal site (with a site area of c.1.13 ha) comes within this definition and comes under other parts of a built-up area where the 10ha threshold applies. As such, the criteria in Schedule 7 of the Planning and Development

Regulations 2001, as amended, are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment and should be the subject of EIA. The applicants have submitted an Environmental Impact Assessment Screening Report (EIASR) with the application addressing issues which are included for in Schedule 7A of the Planning and Development Regulations 2001, as amended. I have carried out an EIA screening determination of the project (see Form 3 appended this report). I have had regard to the information provided in the applicants' EIASR and other related assessments and reports included in the case file. I concur with the nature and scale of the impacts identified by the applicants and note the range of mitigation measures proposed. I am satisfied that the submitted EIASR identifies and describes adequately the effects of the proposed development on the environment. I have concluded that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report (EIAR) is not therefore required. This conclusion is based on:

- a) The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.
- b) The location of the site on zoned lands, and other relevant policies and objectives in the Galway County Development Plan 2022 - 2028, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).
- c) The greenfield nature of the site and its location in an area which is served by public services and infrastructure.
- d) The pattern of existing and permitted development in the area.
- e) The planning history at the site and within the area.
- f) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.

- g) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage, and Local Government (2003).
- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- i) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- j) The features and measures proposed by the applicants envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the outline Construction and Environmental Management Plan, Ecological Impact Assessment, Natura Impact Statement, Flood Risk Assessment, and Archaeological Impact Assessment.

I consider that any issues arising from the proximity/connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment).

6.0 The Appeal

6.1. Grounds of Appeal

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

Re. Refusal Reason 1 - Flooding:

- The flood management proposals are appropriate and there is no flood risk associated with the site.
- The flood risk assessment delineates parts of the site subject to flooding (i.e. Flood Zones A and B) based on site-specific hydraulic modelling, which takes account of climate change. Flooding on the site stems from the limited conveyance capacity of a culvert beneath the R336 which overflows during extreme Truskey East flood flows. A proposed culvert enlargement, modelled for effectiveness, demonstrates that it would eliminate flood risk to the road and significantly reduce flood extents on the site, with downstream flood risks

remaining unchanged. Culvert upgrade works have been approved by the OPW under a Section 50 application and include designing for a 1 in 100 year mid-range future scenario flood event, consideration of climate change, and maintaining a 300 mm freeboard from the design water level to mitigate against capacity reductions.

- Coastal extents are expected to reach the site. Finished floor levels (FFL) are at least 300 mm above the 0.1% AEP flood level effectively mitigating flooding. In the context of coastal flooding there is no requirement for compensatory storage and no increase in flood risk elsewhere.
- In line with the Planning System and Flood Risk Management Guidelines (2009) the justification test was employed. The proposed upgrade of the culvert will alleviate flooding, the 300 mm freeboard mitigates the risk of blockage at the culvert, and a conservative design flow was used considering factorial standard error and climate change. The site's topography offers safe exceedance flow paths in case of blockage or failure in the stormwater network. Emergency access can be provided during extreme flood events and a 5 metre buffer is included to provide maintenance access to the Truskey Stream. The proposal aligns with the broader planning objectives for the area.
- The proposed development is appropriately located within Flood Zone C and the proposal accords with Policy Objectives FL2, FL3 and FL8 of the Galway County Development Plan 2022 - 2028. Table 2 of the appellants' appeal submission sets out compliance with Development Plan objectives in tabular form, this table sets out the information summarised above against Policy Objectives FL2, FL3 and FL8 of the Galway County Development Plan 2022 – 2028.
- The appeal submission is accompanied by a letter from a consulting engineer. The appellant's appeal submission (above) generally incorporates the content of the consulting engineer's submission, additional points raised in the consulting engineer's submission include;
 - Flooding is attributable to the lack of conveyance capacity of a culvert under the R336 (with a 750 mm inlet and 1050 mm outlet). There is no capacity issue with the Truskey Stream itself, but rather with the culvert.

When the bridge becomes surcharged due to extreme flood flows in the Truskey East Stream floodwater spills across the site and road. The depth of predicted flooding on the site is relatively shallow, at 0.2 metres.

- It is proposed to upgrade the size of the culvert, and when modelled it has been shown that there is no flood risk to the R336, and that the upgrade will eliminate the overtopping water flooding into the site. Maps 4.6 and 4.9 of the submission indicate the extent of modelled flooding with and without the upgraded culvert. The modelling indicates no flood risk downstream as a result of the upgraded culvert, and was tested under a scenario of extreme coastal flood levels in the area combined with the extreme fluvial event.
- The culvert upgrade has been designed to a rigorous standard with the Section 50 application process (correspondence from OPW attached), i.e. a 1 in 100 year mid-range future scenario flood event which includes for climate change, and a 300 mm freeboard from the designed water level to provide an allowance for blockages which may reduce the capacity of the culvert, thereby addressing residual risk.

Re. Refusal Reason 2 – Impact on European sites:

- A Confirmation of Feasibility was issued to the applicants and Uisce Éireann have stated that the development can be facilitated without infrastructure upgrade.
- The applicants have investigated alleged inadequacies in respect of Bearna pumping station and have established that there is no overflow installed at Bearna pumping station, meaning effluent cannot be released untreated into Galway Bay, the only discharge is via a rising main to Mutton Island WWTP; historically during intense periods of intense rainfall infiltration to the foul sewer system in Bearna would occur placing the pumping station under strain. To alleviate this, tankers were used to transfer the additional load to Mutton Island WWTP. Uisce Éireann have undertaken works to address the issue of infiltration of rainwater into the system in Bearna which has addressed the issue and as a result the tankering of effluent from the pumping station has not been required in the previous 12 months. Ongoing

improvements are underway to further enhance the system. Based on this there is no direct wastewater connection between the proposed development and Galway Bay SPA and SAC, and the existing wastewater infrastructure has capacity to cater for the proposed development.

- Correspondence from a consulting engineer has been submitted. The applicants' appeal submission generally incorporated this information contained in this correspondence. The submission from the consulting engineer also notes that;
 - Wastewater demand calculations submitted to Uisce Éireann were surplus to the schedule of accommodation proposed.
 - On receiving the pre-connection enquiry form from the applicants, wastewater demand calculations and relevant drawings, Uisce Éireann completed design checks to determine if the proposed development will have any negative effects on the network, and whether upgrades are required to facilitate the proposed connection.
- The conclusion of the NIS submitted with the planning application remains valid. The proposed development accords with Policy Objectives NHB1, NHB2, WR1 and DM Standard 50 of the Galway County Development Plan 2022 – 2028. Responses to each of the above policy objectives is provided in tabular form in Table 3. In respect of each of these policy objectives the appellants reiterate the conclusion of the NIS, i.e. that the proposed development individually or in combination with other plans or projects will not adversely affect the integrity of any European site.
- The appeal submission is accompanied by an 'ecological note'. The note reiterates the appellants' submission in respect of flood risk on the site and the appellants' position in respect of waste water capacity and states that the conclusion of the NIS submitted with the planning application remains valid.

6.2. Planning Authority Response

None received.

6.3. Observations

6 no. observations were received. The issues raised in the observations are summarised as follows.

An Taisce

- Inadequacy of waste water infrastructure in Bearna, evidenced by the requirement to tanker wastewater. There is no evidence that the Planning Authority have considered this issue, which was brought to the Planning Officer's attention by the Environment Section.
- Inadequacies in public notices, specifically absence of reference to foul pumping station and overflow tank, and junction 2.
- Transport modal splits are below KPI in CAP 2024. The Planning Authority have not considered the gaps between same.

Conradh na Gaeilge

- Notes the role/requirements of Development Plans in protecting the Irish language, and that planning in Gaeltacht areas is addressed in Section 28 Guidelines, Development Plans – Guidelines for Planning Authorities (July 2022).
- Refers to non-compensable reasons for refusal of permission in relation to impact on the Irish language.
- Notes that a Language Plan is currently being implemented in Bearna and Cnoc na Cathrach LPA.
- An independent language impact assessment should be required for each proposed unit. A language requirement of B2 or higher in spoken Irish on the Common European Framework of Reference for Languages (Council of Europe, 2001) is suggested.
- Only 7 homes out of 51, or 14%, have been set aside for Irish speakers. This does not meet the minimum set in the Galway County Development Plan 2022-2028, which requires a minimum of 20% of homes sold in developments of two or more homes in the Gaeltacht areas of Galway, or to the proportion of people using Irish on a daily basis, whichever is higher. According to the 2022 Census,

6,905 people out of 13,043, or 53% of the population, in the Bearna and Cnoc na Cathrach LPA have knowledge of Irish, with 5% of the population being daily speakers of Irish.

- A restriction is required on the resale of units to anyone but an Irish speaker for 15 years, along with a restriction preventing a home from being let on a long-term basis (longer than 3 months in any single year) to anyone but an Irish speaker.
- All homes should be available for sale or long-term rental, in order to address the housing shortage in the area.
- It is not recommended that language conditions be imposed on people in relation to units situated in their native constituency.
- Notes that in the absence of a language condition, the proposal could change the sociolinguistic context of the area.

Ian Foley & Ruth Mc Donagh

- Scale of the development is inappropriate at this location.
- The development overlaps with an area that is at high risk of flooding. There are more appropriate ways to configure the site. The applicants accept that coastal extents are expected to reach the site.
- Mitigation measures proposed do not conclusively address flood risk and there is no evidence that the proposal would not place property downstream at an increased risk of flooding. Blockages in the culvert and how pollution would be detected have not been addressed.
- Flood risk guidelines are outdated.
- It is unclear how the proposal can be accommodated given the constraints in the foul network. The applicants note that there is no overflow from the Bearna pumping station however this is not correct. There are capacity issues at Mutton Island WWTP. The observation includes dated photographs purporting to show effluent being tankered off site from Bearna pumping station, the most recent photograph is dated 28th of May 2024.
- The proposal would have a detrimental effect on nearby European sites.

- Lack of community facilities in Bearna.
- Impact on Bearna Architectural Conservation Area (ACA).
- Pollution in the stream would be exacerbated by the culvert.
- Block D would adversely affect the development of a coastal park, with reference to its siting and height.
- Initial observation to Planning Authority attached (issues raised include visual impact/impact on ACA; adequacy of foul sewer network; traffic concerns; flooding; design/placemaking concerns an impact on biodiversity).

Frank Kelly

- Density of proposal is excessive/proposal is out of character with area.
- Views from observer's property will be adversely affected.
- Traffic study was conducted during a quiet period. Recently constructed development (garage) has not been accounted for in traffic report. Concern regarding traffic impact of proposal.
- Proximity of Block A to adjacent property is intrusive, and will result in light problems/overshadowing. Commercial building is too close to adjacent property.
- Proposal will result in overlooking.
- The location of the waste facilities next to the observer's boundary wall will result in vermin and odours.
- Freeport B&B should set the building line for the proposal and the playground moved next to the shore.
- The line of duplex units along the shore is inappropriate and will set a precedent for similar developments.
- Initial observation to Planning Authority attached. Issues raised in initial observation which are not included in the observation to Board include - parking spaces at site entrance would create traffic hazard; light pollution; operation of existing right-of-way is unclear within the proposal; and impact on bats.

Pobal Bhearna Community Group

- Flood modelling submitted by the appellants cannot be relied upon; it is unclear if the modelling considering infilling of the site; it is unclear whether works carried out by Uisce Éireann are taken account of in the modelling; concerns regarding the potential for the displacement of flooding.
- The appellants' contention that there is no overflow at Bearna pumping station and therefore no potential for overflow to enter Galway Bay is incorrect.
- There has been a practice of foul sewerage being tankered from Bearna pumping station during heavy rainfall (most recent photographs of which dated May 2024 attached). The capacity of the pumping station (i.e. 2,000 PE) has been well surpassed. There is a lack of transparency in relation to the operational capacity of the foul network in Bearna.
- Traffic safety concerns/limited public transport serves the site.

Fionnuala Uí Chathasaigh

- The plan for Bearna is not adequate for the purpose of development management.
- The development of the coastal park should be part of the proposal.
- In the context of the Sustainable and Compact Settlement Guidelines (2024) the density of the proposal is too low and the provision of 1.3 spaces (ave) car parking is below the maximum permitted (i.e. 2 spaces per dwelling) and is too low.
- Road improvements should be more extensive than a signalised junction, and should include for example footpaths, bus shelters, cycle paths.
- Increased traffic movements in proximity to a school is problematic.
- The potential for modal shift is misguided.
- Flood risk has not been adequately addressed, the OPW and CFRAM have not comprehensively addressed coastal flooding in the Bearna. Reference to a boat being washed ashore is made.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal, observations 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:

- Refusal Reason 1 (Flooding)
- Density & Visual Integration
- Impact on Residential Amenity
- Wastewater
- Access & Traffic Impact
- Issues Arising
- Appropriate Assessment (Refusal Reason 2)

7.2. Refusal Reason 1 (Flooding)

7.2.1. The first reason for refusal cited by the Planning Authority relates to flooding. The Planning Authority consider that there is an absence of certainty in relation to the efficacy of the proposed culvert upgrade as a measure to eliminate flooding, and that considering the highly vulnerable nature of the development the Planning Authority are not satisfied that the subject site is not at risk of flooding. The Planning Authority contends that a precautionary approach should be applied in this instance to reflect uncertainties in flooding datasets and risk assessment techniques and the ability to predict the future climate and performance of flood defences. The Planning Authority consider that the proposed development would materially contravene Policy Objective FL 2 (i.e. compliance with requirements of Flood Risk Guidelines/requirement for site specific flood risk assessment), Policy Objective FL 3 (i.e. implementation of principles of Flood Risk Guidelines) and Policy Objective FL 8 (i.e. requirement for site specific flood risk assessment) of the Galway County Development Plan 2022-2028. A number of observations also raise concerns in relation to flooding on the site, specifically that the mitigation measures proposed do not adequately address flood risk, that the flood modelling is not robust, and that coastal flooding is an issue at this location.

7.2.2. The north-western part of the appeal site is indicated in the Galway County Development Plan 2022 – 2028 as being located within Flood Zone A and Flood Zone B. An area to the south of the site is also at risk of coastal flooding (indicated on the National Coastal Flood Hazard Mapping as being within the 0.5% and 0.1% AEP coastal flood events). To address the high level, indicative nature of preliminary flood risk assessment (PFRA) mapping, and the limitations of modelling, the applicants have prepared a site specific flood risk assessment/Stage 3 Flood Risk Assessment (FRA). Sources of flooding on the site are identified as fluvial and coastal flooding. The FRA notes that there is no evidence of pluvial or groundwater flooding on the site, and based on the OPW's National Flood Information Portal there are no past flood events recorded in Bearna.

7.2.3. Fluvial flooding predicted at the site is attributed to a lack of conveyance capacity in the existing culvert under the R336, which represents a hydraulic constraint. Subject to extreme flood flows in the Truskey East Stream, the bridge becomes surcharged and floodwater spills across the road and flows into part of the subject site. The FRA notes that the depth of flooding at the site is relatively shallow, with depth up to 0.2 metres. The FRA includes detailed site specific hydraulic modelling. Based on the results of the hydraulic model, parts of the existing site were shown as being liable to flooding. The upgrade of the existing road culvert is proposed by the applicants as a potential measure to mitigate/alleviate the flooding of the road and the subject site. The FRA notes that the replacement of the culvert has been approved by Galway County Council on the basis that it meets the hydraulic design standards of the OPW. A Section 50⁴ application has been approved by the OPW (details of same submitted). The requirements of the Section 50 application include, catering for the 100-year flow including Factorial Standard Error (FSE) and Climate Change and maintaining a freeboard of at least 300mm. The FRA notes that this is a conservative approach aimed at minimising the risk of blockages and accounting for potential uncertainty around the flow estimation. The FRA estimates that the proposed culvert upgrade will allow flood water to be contained within the existing channel, alleviating flooding of the road and surrounding area. Figure 4.8 and 4.9 of the FRA submitted by the applicants

⁴ Section 50 consents relate to construction/alterations to a watercourse, bridge or culvert. The statutory basis for a Section 50 consent is Section 50 of the Arterial Drainage Act, 1945.

indicates estimated flood extents with the proposed bridge/culvert upgrade (1% and 0.1% AEPs) and estimated flood extents with the proposed bridge/culvert upgrade and climate change (1% MRFS and 0.1% MRFS AEPs).

7.2.4. Coastal Flooding - the FRA notes that coastal extents are predicted to extend up to the subject site, however by designing finished floor levels (FFLs) at least 300mm above the 0.1% AEP flood level (>7.17mOD adjacent to Truskey East) and >4.98mOD at southern end of the site), no risk of flooding is predicted. Noting the coastal nature of the flooding, the FRA notes that no compensation storage is required and is not predicted to increase flood risk elsewhere.

7.2.5. As the development includes 'highly vulnerable' and 'less vulnerable elements', the 'Justification Test', as set out in the Flood Risk Guidelines, has been applied by the applicants. In respect of Point 1 and Points 2 (i) to (iv) of the Justification Test, the following is noted in the applicants' FRA;

- the subject lands have been zoned for development;
- the development has been the subject of a FRA showing that - (i) it is predicted that the proposed upgrade of the existing road bridge will alleviate flooding of the R336 and the subject site and the overall risk of flooding in the area will be reduced; (ii) the development includes measures to minimise the flood risk to people, property, the economy, and the environment, i.e. the bridge upgrade has been sized to provide >300mm freeboard in accordance with OPW Section 50 standards to minimise the risk of blockage; a conservative design flow was used with the sizing including allowance for factorial standard error and climate change, and the natural topography of the site also provides safe exceedance flow paths in the event of a blockage/failure of the stormwater network; and (iii) residual risk of flooding can be managed (as with point ii above).
- it is predicted that the upgrade of the bridge will allow emergency access to the area during an extreme flood event. A 5m buffer is also provided to allow access, to the Truskey Stream for future maintenance.

- 7.2.6. The FRA concludes that the site is estimated to be within Flood Zone C on the basis of the upgraded culvert and the FFL's on the site being a minimum of 300 mm above the 0.1% AEP Mid-Range Future Scenario flood level for coastal flooding.
- 7.2.7. The crux of the applicants' case in relation to flood risk is that the proposed culvert enlargement, which has been modelled for effectiveness, would eliminate flood risk to the road and would significantly reduce flood extents on the site, and that coastal flood risk will be effectively mitigated by finished floor levels (FFL) being at least 300 mm + above the 0.1% AEP flood level. The applicants' FRA concludes that the proposed culvert upgrade will address flooding of the road and surrounding area/site, resulting in the site being within Flood Zone C.
- 7.2.8. Correspondence from the OPW in respect of the Section 50 consent notes that due to the length of the culvert, at 18 metres, the applicants need to ensure that the risk of blockages is reduced and managed appropriately. Whilst the culvert incorporates a 300 mm free board to cater for potential blockages, the applicants have not submitted details of how the culvert is to be managed and monitored once constructed. Furthermore, notwithstanding the letter of consent from Galway County Council, it is unclear who would be responsible for the culvert once constructed given that the culvert is located on lands outside of the applicants' ownership. The provision of a freeboard will provide headroom in a flood event however the efficacy of the freeboard will be dependent on the duration of flood water backing up in the culvert. Should a blockage occur and either go unnoticed for a period, or there be ambiguity in relation to who is responsible for addressing the issue, then the culvert could become compromised resulting in flooding of the lands to the south where the proposed development is sited. Given the uncertainties around the efficacy of the proposed culvert upgrade, the requirements of the justification test have not in my view been met, specifically subsection 2 (ii) and (iii), which require that the development proposal includes measures to minimise flood risk to people, property, the economy and the environment, and that the development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future risk management measures. Having regard to the foregoing, the concerns expressed by the Planning Authority in relation to

uncertainties around the effectiveness of the culvert are justified in my opinion. I am not satisfied that measures to manage residual risk are adequately addressed in the applicants' FRA, and in accordance with paragraph 5.16 of the Flood Risk Guidelines a precautionary approach should be adopted in my view and permission refused on the basis of flood risk.

- 7.2.9. Regarding buffers, I note that the proposal provides for a 10 metre buffer from the upper bank of the Truskey Stream, as required under Objective FL18, and more generally under Objective FL7. The proposed development is also set back from the foreshore field boundary by 30 metres, as required under Objective BMSP9.

7.3. Density & Visual Integration

- 7.3.1. In respect of density/scale, an observation submitted in respect of the appeal contends that the scale of the proposed development is excessive at this location. Conversely, another observation contends that the density of the proposal is too low. Regarding design, the report of the Planning Authority raised concerns in relation to the entrance into the scheme, specifically the block wall immediately adjacent to the landscaped open space. The appropriateness of the duplex units along the shore were also raised in an observation.
- 7.3.2. Regarding density/scale, the applicants contend that based on a site area/developable site of 1.13 ha (i.e. excluding the part of the site zoned Open Space and Recreational Amenity and the coastal amenity park to the south) the resultant density of the proposal is 45 dpha. Appendix B of the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) sets out a methodology for calculating density in mixed use schemes. Noting that the proposed residential element within the scheme represents 89% of the overall floor area of the development density is thus calculated on a site area of 1.0107 ha, and not 1.13 ha (i.e. 89% of 1.13 ha). The proposed development therefore has a density of c. 50.5 dpha. The Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) provides guidance in respect of the density of residential development at different locations/scales. Bearna is within the Galway Metropolitan Area. Table 3.3 (Area and Density Ranges - Metropolitan Towns and Villages) provides three density ranges. In my opinion, the appeal site within Bearna

would fall under the category of 'Metropolitan Towns (>1,500 population) – Centre and Urban Neighbourhoods' the description of which includes 'the town centre and immediately surrounding neighbourhoods'. I consider this category to be the most applicable noting the 'Town Centre' and 'Infill Town Centre' applicable to the majority of the appeal site. It is a policy and objective of the Guidelines that residential densities in the range 50 dph to 150 dph (net) shall generally be applied in the centres and in urban neighbourhoods of Metropolitan Towns. Having regard to the forgoing I consider that the proposed development, with a density of c. 50.5 dpha, accords with the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) in respect of density, and that the scale/density of the proposal is therefore appropriate to this location.

- 7.3.3. In relation to visual integration, I note that the appeal site is located within an 'Urban Environs Landscape' for the purpose of landscape type, which is described as having a 'low' sensitivity to change. Urban Environs are noted in the Landscape Character Assessment, an accompanying document to the Development Plan, as occurring around settlements, often comprising concentrations of individual dwellings, and around larger towns consisting of modern housing estates, recreation facilities, commercial, industrial and educational buildings, with a complex mix of forms and scales. The appeal site is located in proximity to/c. 250 metres west of centre of Bearna. Existing development in the vicinity of the appeal site is primarily comprised of single/two storey buildings, with buildings up to three storey a short distance away in the centre. The proposal entails 2.5 storey buildings with ridge heights ranging from c. 9 metres up to c. 11 metres. In my opinion the building typology proposed would not be incongruous with the adjacent area, or with the applicable landscape character. The buildings are of a traditional design idiom, predominantly comprising terraced blocks with pitched roofs and a palette of materials including render, stone and dark roofs. The use of dormer features allows for the massing of the buildings to be broken up. Terraced housing is proposed in the centre of the site, with duplex units on the lower part of the site overlooking the coast. The front of the site accommodates open space, reflecting the land use zoning on this part of the site and the presence of the Truskey Stream. In my opinion, the scheme would benefit from the commercial building (Commercial 02) to the front of the site having a different design to the rest of the scheme. This would add a greater degree of variation to the scheme. Should the

Board decide to permit the proposed development a revised design for this building should be sought in my opinion, or alternatively this building should be omitted and the development of this part of the site addressed through a future planning application. Open space is also provided throughout the development with a desire line/visual connection through the development providing a connection to the coastal area south of the site.

- 7.3.4. The R336 is designated as a Scenic Route in the Galway County Development Plan 2022 – 2028 ('Galway Bay Scenic Route). The scale and design of the proposed development is appropriate to the area and would not in my opinion detract from the Galway Bay Scenic Route. There is a Protected View at Bearna Pier to the south-west of the appeal site. The focus of this view is described as including '*...the visible shore to the east and west of the viewing point*'. Currently views from the pier comprise the rear of the properties which front onto the R336 and the development would significantly alter the shoreline when viewed from the south, and from Bearna Pier. That being said, I note that the lands are zoned for town centre development and the scale and design of the proposed development is acceptable in my opinion, save for block annotated as Commercial 01. On this basis I do not consider that the protected view from Bearna Pier would be adversely affected by the proposal.
- 7.3.5. Regarding the development of duplex units along the shore, it is preferable in my view to orientate development onto this area rather than having development back or side onto it. The orientation of the development at this location also allows for passive surveillance of this area, which may in time be used for recreational/amenity purposes.
- 7.3.6. An observation raises concern in relation to the potential impact of the proposed development on the nearby ACA. I note that the appeal site is not located within or directly adjacent to the Town Centre Architectural Conservation Area (ACA). The Town Centre Architectural Conservation Area (ACA) is located west of the appeal site, with development located between the appeal site and the ACA (on the southern side of the R336). I am satisfied that the proposal would not have any significant negative impacts on the Town Centre ACA.

7.4. Impact on Residential Amenity

- 7.4.1. An observation to the appeal raises concerns in relation to the impact of the proposed development on the residential amenity of the property to the east. Specific concerns relate to the loss of views; loss of light/overshadowing; overlooking; the relationship/proximity of buildings to the adjacent property to the east; and the location of waste facilities/bin store next to the observer's boundary wall.
- 7.4.2. Regarding a loss of views, I note that the properties to the east of the site currently enjoy views over Galway Bay. Some views from these properties will be affected by the proposed development, however I note that the majority of the appeal site is zoned Town Centre and Infill Town Centre and there are no specific objectives in the Development Plan to preserve views from the location of the dwellings to the east of the site.
- 7.4.3. The applicants have submitted a shadow analysis report for the proposed development. The report does not provide details of the existing level of overshadowing, i.e. in the absence of the proposed development, and therefore the actual extent of overshadowing attributable to the proposed development is unclear. I note that the Planning Authority raised concerns in their report that impacts on the dwelling to the east have not been adequately considered. Based on the analysis submitted I note that significant overshadowing of the property to the immediate east is indicated on 21st March at 6pm and 21st September at 6pm. The extent of overshadowing beyond 6pm for June is not indicated. Should the Board be minded to permit the proposed development it may wish to seek clarity in respect of the impact of the proposed development on the property to the east, specifically details of existing overshadowing in the absence of the proposed development and details of overshadowing after 6pm in June.
- 7.4.4. In respect of overlooking, the eastern elevation of Block 2 (Commercial 02) is devoid of fenestration, save for a single window at first floor level serving a toilet. Noting the nature of accommodation which this window serves I am satisfied that no undue overlooking of the adjacent dwelling would occur. I note that above ground windows in Duplex Block 2 (which adjoins the commercial building referred to above) are

situated in excess of 11 metres from the opposing site boundary and would not in my opinion give rise to any significant overlooking of the dwelling to the east.

7.4.5. Regarding the relationship of the building/block along the eastern boundary of the site relative to the dwelling to the east and the observer's contention that the proposal is intrusive, noting the separation distance between this block and the eastern site boundary, at c. 4 metres to c. 16 metres⁵, the height of the buildings at this location, at c. 9 metres (duplex units) and 10.6 metres (Commercial 02) and the design of this block, I am satisfied that the proposal would not be overbearing, intrusive nor would it adversely affect the amenity of the dwelling to the east.

7.4.6. A bin store is indicated attached to the eastern elevation of Commercial 02. This store is fully enclosed and is part of the building. I do not share the concerns of the observer in relation to the potential for issues to occur in relation to vermin or odour. Having regard to the design and scale of the bin store I do not anticipate that it would give rise to significant negative effects on the adjacent dwelling to the east.

7.5. **Wastewater**

7.5.1. The second refusal reason cited by the Planning Authority concerns potential impacts on European sites and includes reference to inadequacies in existing wastewater disposal infrastructure. The report of the Planning Authority's Environment Section raised concerns in relation to the tankering wastewater from the sewerage pumping station⁶ in Bearna to Mutton Island Wastewater Treatment Plant in Galway City during periods of high rainfall. I note that An Taisce made observations to the Planning Authority raising concerns in relation to capacity issues at Bearna pumping station, specifically that the development will contribute further to overloading of the pumping station. Concerns in relation to the adequacy of wastewater infrastructure in Bearna are also raised in a number of observations to the appeal. 2 no. observations include dated photographs purporting to show effluent being tankered off site from Bearna pumping station, the most recent photographs are dated May 2024.

⁵ i.e. the main rear wall as distinct from the single storey rear annex.

⁶ It is proposed to use a pumping station in the centre of the site to pump effluent to the foul sewer on the R336. This is separate to the pumping station referred to in the context of tankering. The tankering of effluent relates to an existing pumping station west of the pier which serves the settlement of Bearna.

- 7.5.2. In response, the applicants note that a Confirmation of Feasibility was issued from Uisce Éireann, and that this states that the development can be facilitated without infrastructure upgrade. The applicants note that historically tankers were used to transfer the additional load from infiltration from rainfall to Mutton Island WWTP, but that Uisce Éireann have undertaken works to address the issue of infiltration of rainwater into the system in Bearna which has addressed the issue and as result the tankering of effluent from the pumping station has not been required in the previous 12 months. The applicants also note that there is no overflow installed at Bearna pumping station and that effluent cannot be released untreated into Galway Bay, with the only discharge via a rising main to Mutton Island WWTP
- 7.5.3. Wastewater from the settlement of Bearna is pumped via a pumping station to Mutton Island WWTP in Galway City. Both the Planning Authority and the applicants acknowledge that during periods of intense rainfall infiltration into the foul sewer network in Bearna occurs. Bearna is indicated as having 'limited' wastewater capacity in in Table 7.10 (chapter 7) of the Galway County Development Plan 2022 – 2028. Uisce Éireann have not raised or addressed this specific issue in their report and the applicants contend that the practice of tankering effluent from the pumping station no longer occurs, on foot of works carried out by Uisce Éireann in Bearna. However, the report of the Environment Section of Galway County Council note that tankering of effluent still takes place. Additionally, observations have been submitted to the Board which includes photographs purporting to show tankers removing effluent from Bearna pumping station as recently as May 2024. Based on the information on the file, I am not satisfied that the issue of infiltration within the foul network in Bearna has been resolved. I recommend that permission should be refused on the basis that it has not been demonstrated that there is adequate collection/conveyance capacity in the foul network in Bearna to cater for the effluent generated by the proposed development, and that as such the proposed development would be contrary to Policy Objective WW4 of the Galway County Development Plan 2022 – 2028, which requires that new developments will only be permitted which are adequately serviced with sufficient capacity for appropriate collection⁷, treatment and disposal (in compliance with the

⁷ My emphasis.

Water Framework Directive and River Basin Management Plan) to the public sewer unless provided for otherwise by the plan.

- 7.5.4. As there is no overflow installed at Bearna pumping station I am satisfied that effluent cannot be released untreated into Galway Bay and that there is no potential for impacts on Galway Bay Complex SAC, Inner Galway Bay SPA, or any European site.
- 7.5.5. An observation notes that no details of the proposed pumping station on the site have been submitted. I note that *Drawing no. 10789-2202 Rev P02* indicates the proposed pumping station and overflow tank within the site. Furthermore, regarding the design of this pumping station, I note that the relevant drawing annotates that the pumping station is to be designed to meet Uisce Éireann's requirements. I am satisfied that the pumping station (on the site), which will meet the technical requirements of Uisce Éireann, would function appropriately, and would likely include measures to cater for power outages.

7.6. Access & Traffic Impact

- 7.6.1. Concerns in relation to access and traffic impact are raised in a number of the observations which have been submitted in respect of the appeal. Specific issues raised include traffic congestion/generation; absence of public transport in the area; the location of car parking at the entrance to the site; modal splits below KPI in CAP 2024; adequacy of traffic study in terms of the timing of surveys underpinning it; and consideration of the garage which is currently under construction on the adjacent site.
- 7.6.2. A Traffic and Transport Assessment (TTA) was submitted with the planning application. The TTA examines junction capacity at 2 no. junctions, 'Junction 1' (R336/Pier Road signalised junction) and 'Junction 2' (proposed development and R336 signalised junction). The analysis is based on an opening year of 2025, and design years of 2030 and 2040. Trip rates are based on TRICS. In respect of Junction 1, for 2025/year of opening, the junction analysis indicates a practical reserve capacity of 41% (morning peak) and 20.5% (evening peak), and for 2040, a practical reserve capacity of 8.8% (morning peak) and -1.7% (evening peak). In respect of Junction 2, for 2025/year of opening, the junction analysis indicates a practical reserve capacity of 67.5% (morning peak) and 56.4% (evening peak), and for 2040, a practical reserve

capacity of 42.4% (morning peak) and 33% (evening peak). The TTA does not provide information in respect of the 2030 design year. I note that the implementation of mobility management measures set out in the Mobility Management Plan (MMP) have not been used for the purpose of reducing trips. In the case of both junctions the introduction of the N6 Galway City Ring Road is forecast to result in a major reduction in the degree of saturation for all arms of the junctions for both peak periods, with a resultant practical reserve capacity of 362.3% (evening peak) for Junction 1, from its modelled capacity of -1.7%. The junction analysis includes consideration of committed developments in the vicinity. I note that the petrol filling station on the adjacent site has been included under consideration of committed developments (PA. Ref. 19/966, an extension of duration to PA. Ref. 14/563 & ABP. Ref. PL07.243912 refers). The traffic count, on which the junction analysis is modelled on, was carried out on Thursday 20th of April 2023 between 0700 hours and 1900 hours. Morning Peak is stated as 0830 hours - 0930 hours and Evening Peak is stated as 1630 hours - 1730 hours.

7.6.3. In relation to the methodology of the TTA, Section 4.3 of the TTA states that 'an allowance has been made in the traffic analysis to account for this future infrastructure improvement' (i.e. the N6 Galway Ring Road). Section 5.4 of the TTA however states that the TTA has been conducted without this reduction by using the existing traffic survey data. It is unclear whether the analysis of junction capacity has factored in the N6 Galway Ring Road. Aside from this ambiguity, I do not consider that it is appropriate to factor in the impact of a project for which no consent currently exists. If a grant of permission is under consideration the Board may wish to clarify whether the junction capacity figures have factored in the N6 Galway Ring Road, and satisfy themselves as to the appropriateness of this approach should it be the case.

7.6.4. I note that Bearna regularly experiences significant traffic congestion, underpinning the importance of a robust TTA to demonstrate the impact of the proposal on the area in terms of capacity. Based on the information contained in the TTA, specifically regarding junction capacity, I am not able to determine whether the proposed development would result in significant traffic impacts in the vicinity.

- 7.6.5. A Mobility Management Plan (MMP) has been submitted with the planning application. Table 4.1 of the MMP sets out proposed modal split for proposal (i.e. for walking, cycling, bus, car driver, car passenger and van). An observation raises the issue of the modal splits in the MMP being below the KPI in CAP 2024. I note that the MMP is not a static document and that changes in the modes of transport used will be influenced by future public transport service/frequency and the provision of cycle infrastructure in the area, which would decrease the propensity of the use of private transport.
- 7.6.6. Regarding the location of car parking to the front of the site, I note that the planning application was subject to a Road Safety Audit (Stage 1), that potential safety issues were identified, including at the area of car parking to the north of the site, and the layout revised accordingly.
- 7.6.7. In relation to intervisibility at the proposed junction with the R336, *Drawing No. 10789-2203* (Proposed Roads) indicates that junction visibility to the east at the junction serving the proposed development overlaps with the site boundary of the filling station, which is currently under construction. From reviewing the plans submitted under PA. Ref. 14/563, which was granted by the Board under ABP. Ref. PL07.243912, I note that a 6.5 metre high totem sign was permitted and that this sign appears to obstruct visibility at the junction in an easterly direction. It is not evident that the applicants have taken this issue into account and it has therefore not been demonstrated how the required visibility at this junction can be achieved and maintained, noting that visibility to the east is contingent on lands outside the red/blue line boundary. Should the Board be minded to permit the proposed development the applicants should be required to address this issue.

7.7. **Issues Arising**

- 7.7.1. Linguistic Impact - The site is located within a designated Gaeltacht area under the Galway County Development Plan 2022-2028. Policy Objective GA5 of the Galway County Development Plan 2022-2028 requires the submission of a Linguistic Impact Statement for housing proposal consisting of two or more houses in the Gaeltacht area. A Linguistic Impact Statement (LIS) has been submitted to the Board. The report notes the following;

- Based on Census data, Bearna ED has experienced a population increase of 3.66% between 2016-2022. During this period there was an increase in Bearna in persons over 3 years old indicating an ability to speak Irish of 6.9%.
- It is not anticipated that the proposal will have any negative impact on the Irish language in Bearna.
- The reservation of 7 no. houses, in addition to any further Irish speakers in the remaining 41 no. houses will help strengthen the Irish language in Bearna.

I note that the Galway County Development Plan does not specify the qualifications required by persons undertaking Linguistic Impact Statements for Gealtacht areas. I note that this issue arose in the Rathcairn judgment [2020-522JR], where at paragraph 108, Mr. Justice O' Hanlon concludes that the author of a linguistic impact statement drew conclusions which he was not qualified to. I submit to the Board that caution should be exercised when using linguistic impact statements to assess proposals within Gealtacht areas, in particular where the author of the report has no referenced competence in sociolinguistics or language planning. In my opinion the LIS submitted, and the conclusions reached therein, are not sufficiently robust for the Board to rely on in determining the impact of the proposed development on the Irish language within Bearna.

Policy Objective GA4 (b, which applies to District F) and Policy Objective BMSP17 of the Galway County Development Plan 2022 – 2028 require that a language enurement clause will be a minimum of 20% or the proportion of persons using Irish language on a daily basis, in accordance with the latest census, whichever is greater. I note that the applicants propose to set aside 7 no. houses within the proposal for Irish speakers so as to accord with Policy Objective GA5 and Policy Objective BMSP17. Based on Census 2022, I note that the total population of Bearna (town) is 2,336, the population of Bearna Town aged 3 and over who have an ability to speak Irish is 1,585, and the population aged 3 plus who speak Irish on a daily basis (i.e. daily within and daily outside the education system) is 57. Policy Objective GA4 (b) and Policy Objective BMSP17 require that a language enurement clause will be a minimum of 20%, or the proportion of persons using Irish language on a daily basis, in accordance with the latest census, whichever is greater. The proportion of persons in Bearna using the

Irish language on a daily basis, i.e. 57 out of 2,336 is 2.4% and therefore the 20% figure is applicable as it is the greater. Should the Board be minded to grant permission for the proposed development then an language enurement clause of 20% should be applied, which would equate to 10 no. units.

7.7.2. Procedural Issues – an observation to the appeal raises concerns in relation to the adequacies of public notices, specifically the absence of reference to the proposed foul pumping station and overflow tank, and junction 2. I submit to the Board that consideration of such matters are outside the scope of this appeal. The above assessment represents my *de novo* consideration of all planning issues material to the proposed development.

7.7.3. Bats – the potential impact on bats was raised in an initial observation to the Planning Authority and this observation is in turn referred to in an observation to the Board. A bat survey was undertaken of the site (see EclA). The site was inspected for its suitability to support roosting, foraging and commuting bats. No bat roosts were identified within the site and no roost site of national importance was recorded within the site. Static detector surveys were undertaken. Bat activity was detected at the site during a dusk survey. Habitats on the site were generally deemed as having a low suitability for foraging and commuting bats, however *stone walls and other stonework* may provide some connectivity to the surrounding landscape and as such was assessed as having a moderate suitability in the context of commuting and foraging. The removal of treeline, hedgerow and stone walls within the site is proposed. The applicants' assessment of the proposed development on bats in the EclA notes that construction works will result in increased noise and activity within the site, with a potential for disturbance to bats, however the assessment notes that the site is bordered by existing development and the R336 and as such it is likely that bats are accustomed to some levels of disturbance. Illumination of the site is identified as a potential source of disturbance to bats and operational impact on bats is also examined, including from lighting. Lighting will be angled towards the centre of the site and the watercourse will not be subject to direct lighting. The western boundary of the site will be subject to a light spill of 5 to 0.1 lux. Mitigation measures are provided in the EclA to address the potential impact on fauna, including bats (see para. 2.3.1.3, measures include noise control and minimisation of illumination). The applicants'

assessment concludes that no significant effects on bats are anticipated as a result of the proposed development. Based on the information submitted I am satisfied that the proposed development will not result in significant impacts on bats.

7.7.4. Car Parking – is raised in an observation. Table 15.5 of the Galway County Development Plan 2022 – 2028 sets out car parking standards for different types of development. Based on Table 15.5 the residential element of the proposed development has a requirement of 72 no. car parking spaces, and the commercial uses have a car parking requirement of 22 no. car parking spaces, therefore the proposed development has a total car parking requirement of 94 no. car parking spaces. 87 no. car parking spaces are proposed. I note that the standards in Table 15.5 are maximums. I note that SPPR 3 of the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) provides car parking at a rate of 2 no. spaces per dwelling (max) at intermediate and peripheral locations. Noting the frequency of buses at this location (424 bus service⁸) I consider that the site comes under the ‘intermediate’ location criteria. I consider that the quantum of car parking is acceptable and accords with the Galway County Development Plan 2022 – 2028 and the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).

7.7.5. Quantitative Standards - I note that the proposed units within the scheme accord with the quantitative requirements set out in Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) and Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

7.7.6. Institutional Investment - The Section 28 Guidelines, Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021), issued by the Department of Housing, Local Government and Housing, applies to developments comprising 5 or more houses or duplex units. Having regard to the Section 28 Guidelines in respect of ‘Commercial Institutional Investment in Housing’, I consider that the development, comprising/including 5 or more own-door units and

⁸ [Bus Éireann | Route 424 | Galway to Lettermullen via Carraroe](#)

falling within the definition of structure to be used as a dwelling to which these guidelines applies, should include a condition to restrict the first occupation of these units as outlined by the Guidelines. In the event that the Board are minded to grant permission for the proposed development I recommend that 'Condition RCIIH1' as per the wording provided in the Guidelines is used as it enables the developer to carry out any enabling or preparatory site works, unlike condition RCIIH2, and as the effect in respect of the residential component is the same.

7.8. **Appropriate Assessment**

7.8.1. Stage 1 Screening

7.8.2. **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.

7.8.3. **Background**. The applicants submitted an Appropriate Assessment Screening report for the proposed development⁹ to the Planning Authority. 11 no. European sites were examined in the Stage 1 Appropriate Assessment Screening report. Following this screening exercise, 2 no. European sites were identified on the basis of there being potential for polluted run-off during construction and operational phase from the appeal site to reach Galway Bay Complex SAC and Inner Galway Bay SPA via the Truskey Stream, which in turn enters Galway Bay Complex SAC and Inner Galway Bay SPA. Potential was identified for ex-situ effects (disturbance/displacement) on otter in the Truskey Stream arising from pollution entering the Truskey Stream and from noise. The potential of the site to provide suitable grassland habitat for SCI associated with Inner Galway Bay SPA was also identified as an ex-situ effect.

7.8.4. The applicants' Stage 1 Appropriate Assessment Screening report was prepared in line with current best practice guidance and provides a description of the proposed

⁹ The Appropriate Assessment Screening report and NIS submitted also includes sections in respect of a concurrent development which is also subject to appeal and located to the north. For the purpose of this assessment the elements of the Appropriate Assessment Screening report and NIS I have considered relate to the southern site and not to the northern site.

development and identifies European Sites within a possible zone of influence of the development. Having reviewed the document, 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.

7.8.5. Supplementary Reports/Studies.

An Ecological Impact Assessment was submitted with the application. The report provides a description of the baseline ecological environment based on surveys of the site, assesses the impact of the proposed development on biodiversity and sets out measures to avoid/minimise such effects. The report notes that, the site does not provide significant suitable habitat for protected birds species or SCI of SPA's in the vicinity; that there is no evidence of protected non-volant fauna on the site; that no evidence of otter was recorded on/in the vicinity of the site; that the site does not provide a roosting site of ecological significance; and concludes that there will be no significant effects on biodiversity at any geographical scale.

A Preliminary Construction and Environmental Management Plan (pCEMP) was submitted with the application. The pCEMP addresses environmental protection and waste management and translates mitigation measures from planning documents into site procedures. The pCEMP sets out environmental control measures for re-fuelling and hazardous materials storage; soil excavation; air quality; noise and vibration; soil and groundwater; surface water; mitigation measures for invasive species (Himalayan balsam) and construction traffic management. The pCEMP also provides details of the methodology and sequencing of works for the culvert.

A Stage 3 Flood Risk Assessment was submitted with the application. Flood risk on the site is attributable to a lack of conveyance capacity in a culvert under the R336. The assessment included detailed site specific hydraulic modelling. Based on the SSFRA the site is estimated to be within Flood Zone C on the basis of the upgraded culvert and the FFL's on the site being a minimum of 300 mm above the 0.1% AEP Mid-Range Future Scenario flood level for coastal flooding. The SSFRA notes that there is no evidence of pluvial or groundwater flooding on the site.

A number of site surveys/multidisciplinary walkovers were undertaken of the site, including 3 no. wintering bird surveys to establish the ecological baseline of the site. No Annex II or SCI birds associated with Inner Galway Bay SPA or any other SPA were identified within the footprint of the development site. Habitats on the site are noted as comprising *Dry meadows and grassy verges (GS2)*; with occasional areas of *Scrub (WSI)*; *Spoil and bare ground (ED2)*; *Stone walls and other stonework (BLI)*; and *Recolonizing bare ground (ED3)*. The Truskey Stream is classified as an *Upland/eroding river (FW1)*. An otter survey was undertaken along the Truskey Stream. No evidence of the stream's use by otter was identified.

7.8.6. 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.

7.8.7. The Proposed Development. The development comprises permission for;

- Construction of 51 no. residential units.
- Construction of 2 no. commercial buildings.
- Open space, public lighting, landscaping, bin stores, site services.
- New culverted drain¹⁰ beneath R336, and works to R336.
- Site development works.

The documentation submitted with the application estimates that the importation of 600 m³ of fill will be required to provide levels on the site. The proposed development is expected to take 24 no. months to complete.

7.8.8. 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

¹⁰ Page 12 of the Appropriate Assessment Screening report sets out the methodology and sequencing of works for the culverting.

following issues are considered for examination in terms of the implications for likely significant effects on European sites:

- The uncontrolled release of pollutants, generated by the proposal during the construction stage, to ground water and surface water (e.g. run-off, silt, fuel, oils, concrete etc.) and subsequent impacts on water quality sensitive habitats of Galway Bay Complex SAC (Site Code 000268) and Inner Galway Bay SPA (Site Code 004031).
- Potential for the release of contaminated surface water, generated by the proposal at operational stage, and subsequent impacts on water quality sensitive habitats of Galway Bay Complex SAC (Site Code 000268) and Inner Galway Bay SPA (Site Code 004031).
- Potential release of foul effluent generated by the proposal on water quality sensitive habitats of Galway Bay Complex SAC (Site Code 000268) and Inner Galway Bay SPA (Site Code 004031).
- Potential disturbance/displacement of otter in the Truskey Stream (i.e. ex-situ effects).
- Should any bird species, which are Special Conservation Interests (SCI) of Inner Galway Bay SPA (Site Code 004031), or another European site, use the site for resting, foraging, breeding etc., then the proposed development would have the potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).

7.8.9. Submissions and Observations. An observation to the appeal raises concern in relation to the potential impact of the proposed development on nearby European sites.

7.8.10. 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 note that the applicants included a greater number of European sites in their initial screening consideration with sites within 15km of the development site considered. There is no ecological justification for

such a wide consideration of sites, and I have only included those sites with any possible ecological connection or pathway in this screening determination. 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.

The applicants’ Appropriate Assessment screening report includes Lough Corrib SPA (Site Code: 004042). The report notes that the development site is outside the foraging range for Greenland white-fronted goose (stated as being 5-8 km), however the screening report states that the development site is 6.7 km from Lough Corrib SPA. I note that the forage distance cited is from night roost to feeding areas and is therefore unlikely to correspond to the nearest boundary measurement. Furthermore, I note that the appeal site is surrounded by urban development and is unlikely to be an ecologically important site outside of the SPA. I am satisfied that the extent, availability and quality of supporting habitats that may be of importance to Lough Corrib SPA population will not be affected to any significant extent. Given the distance from Lough Corrib SPA, the lack of records of the species from wintering surveys (see page 73 of NIS), and the presence of other more suitable habitat between the proposed development site and Lough Corrib SPA, it is unlikely that the proposed development would result in significant effects on the conservation objective for supporting habitat area and quality. I note that other bird species/SCI of Lough Corrib SPA were excluded from potential effects as all other species are more localised in their ecological requirements.

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"> Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] 	c. 1.3 km east of appeal site.	The Truskey Stream bounds the site to the north-west and discharges to	Y	

	<ul style="list-style-type: none"> • Large shallow inlets and bays [1160] • Reefs [1170] • Perennial vegetation of stony banks [1220] • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Turloughs [3180] • <i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130] • Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210] • Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210] • Alkaline fens [7230] • Limestone pavements [8240] • <i>Lutra lutra</i> (Otter) [1355] • <i>Phoca vitulina</i> (Harbour Seal) [1365] 		Galway Bay c. 1.5 km west of Galway Bay Complex SAC. Noting the indirect connectivity formed by the Truskey Stream a likelihood of significant effects exists.	
Inner Galway Bay SPA (Site Code 004031)	<ul style="list-style-type: none"> • Black-throated Diver (<i>Gavia arctica</i>) [A002] • Great Northern Diver (<i>Gavia immer</i>) [A003] • Cormorant (<i>Phalacrocorax carbo</i>) [A017] • Grey Heron (<i>Ardea cinerea</i>) [A028] • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Wigeon (<i>Anas penelope</i>) [A050] • Teal (<i>Anas crecca</i>) [A052] • Red-breasted Merganser (<i>Mergus serrator</i>) [A069] • Ringed Plover (<i>Charadrius hiaticula</i>) [A137] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] 	c. 1.3 km east of appeal site.	The Truskey Stream bounds the site to the north-west and discharges to Galway Bay c. 1.5 km west of Inner Galway Bay SPA. Noting the indirect connectivity formed by the Truskey Stream a likelihood of significant effects exists.	Y

	<ul style="list-style-type: none"> • Lapwing (<i>Vanellus vanellus</i>) [A142] • Dunlin (<i>Calidris alpina</i>) [A149] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162] • Turnstone (<i>Arenaria interpres</i>) [A169] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Common Gull (<i>Larus canus</i>) [A182] • Sandwich Tern (<i>Sterna sandvicensis</i>) [A191] • Common Tern (<i>Sterna hirundo</i>) [A193] • Wetland and Waterbirds [A999] 			
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7.8.11. 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 (Site Code: 000268) and Inner Galway Bay SPA (Site Code: 0004031) have been screened in having regard to the potential connectivity via the Truskey Stream which bounds the site to the north-west, connecting to Galway Bay Complex SAC and Inner Galway Bay SPA. The Appropriate Assessment Screening report submitted by the applicants notes the potential for ex-situ effects (disturbance/displacement) on otter resulting from pollution entering the Truskey Stream and from noise during the construction and operational phases of the development. The Appropriate Assessment Screening report also notes that the grassland habitat within the site may represent suitable supporting habitat for bird species associated with Inner Galway Bay SPA, and therefore a potential for ex-situ effects (disturbance/displacement) exists.

7.8.12. Conservation Objectives of European Sites ‘Screened-In’. There is no Conservation Management Plan for Galway Bay Complex SAC. The Conservation Objectives for **Galway Bay Complex SAC** can be found at <https://www.npws.ie/protected-sites/sac/000268>. There is no Conservation Management Plan for Inner Galway Bay

SPA. The Conservation Objectives for **Inner Galway Bay SPA** can be found at <https://www.npws.ie/protected-sites/spa/004031>.

7.8.13. Identification of Likely Effects. In light of the above Conservation Objectives, the main elements of the proposal which may give rise to impacts on the European sites listed above are as follows;

Construction Phase Impacts on Galway Bay Complex SAC - during the construction phase, there is potential for surface water run-off from site works to temporarily discharge to groundwater and surface water and flow into the SAC. There is the potential for the water quality pertinent to this European Site to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons. There is potential for ex-situ effects (disturbance/displacement) on otter resulting from noise during construction phase of the development, as identified in the applicant's Appropriate Assessment screening report.

Operational Phase Impacts on Galway Bay Complex SAC - during the operational phase the applicants propose to discharge effluent to the public sewer via a pumping station on the site. Effluent will be treated at Mutton Island Wastewater Treatment Plant. Sustainable Urban Drainage (SuDs) measures are incorporated into the proposed development. Surface water from impermeable areas within the proposed development will discharge to an attenuation area via a petrol/oil interceptor. All stormwater will be dealt with within the site and there will be no discharge of stormwater to public sewers or watercourses. In this regard, there is no potential for the water quality pertinent to this European Site to be negatively affected. There is potential for ex-situ effects (disturbance/displacement) on otter resulting from noise during operational phase of the development, as identified in the applicants' Appropriate Assessment screening report.

In the absence of mitigation, the proposed development has the potential to result in negative impacts on Galway Bay Complex SAC. I consider that such impacts could be significant in terms of the stated conservation objectives of Galway Bay Complex SAC.

Construction Phase Impacts on Inner Galway Bay SPA - during the construction phase, there is potential for surface water run-off from site works to temporarily discharge to groundwater and surface water and flow into the SPA. There is the

potential for the water quality pertinent to this European Site to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons. The applicants' Appropriate Assessment Screening report notes that the grassland habitat within the site may represent suitable supporting habitat for bird species associated with Inner Galway Bay SPA, the potential for ex-situ effects (disturbance/displacement) exists.

Operational Phase Impacts on Inner Galway Bay SPA - during the operational phase the applicants propose to discharge effluent to the public sewer via a pumping station on the site. Effluent will be treated at Mutton Island Wastewater Treatment Plant. Sustainable Urban Drainage (SuDs) measures are incorporated into the proposed development. Surface water from impermeable areas within the proposed development will discharge to an attenuation area via a petrol/oil interceptor. All stormwater will be dealt with within the site and there will be no discharge of stormwater to public sewers or watercourses. In this regard, there is no potential for the water quality pertinent to this European Site to be negatively affected. The applicants' Appropriate Assessment Screening report notes that the grassland habitat within the site may represent suitable supporting habitat for bird species associated with Inner Galway Bay SPA, the potential for ex-situ effects (disturbance/displacement) exists.

In-combination Impacts. Recent planning applications where permission has been granted and plans have been examined in the applicants' Appropriate Assessment Screening.

A summary of the outcomes of the screening process is provided in the screening matrix Table 7.2.

Table 7.2 - Summary Screening Matrix				
European Site	Distance to proposed development/ Source, pathway receptor	Possible effect alone	In combination effects	Screening conclusions:

Galway Bay Complex SAC (Site Code (000268))	c. 1.3 km east of appeal site.	<p>During the construction phase there is potential for surface water runoff from site works to temporarily discharge to surface water and reach the SAC. There is the potential for the water quality pertinent to this European Site to be negatively affected by contaminants, from site clearance and other construction activities and also from the release of hydrocarbons.</p> <p>There is potential for ex-situ effects (disturbance/displacement) on otter resulting from pollution entering the Truskey Stream and from noise during construction and operational phase of the development.</p>	No effect	Screened in for AA
Inner Galway Bay SPA (Site Code: 004031)	c. 1.3 km east of appeal site.	<p>During the construction phase there is potential for surface water runoff from site works to temporarily discharge to surface water and reach the SPA. There is the potential for the water quality pertinent to this European Site to be negatively affected by contaminants, from site clearance and other construction activities and also</p>	No effect.	Screened in for AA.

		<p>from the release of hydrocarbons.</p> <p>The grassland habitat within the site may represent suitable supporting habitat for bird species associated with Inner Galway Bay SPA, with the potential for ex-situ effects (disturbance/displacement) during construction and operational phases of the proposed development.</p>		
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7.8.14. 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.

7.8.15. 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 **could have a significant effect** on Galway Bay Complex SAC and Inner Galway Bay SPA in view of the Conservation Objectives of the site, and Appropriate Assessment is therefore required.

7.8.16. **Stage 2 – Appropriate Assessment**

7.8.17. Article 6(3). The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act, 2000, as amended, are considered fully in this section. The areas addressed in this section 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 each European site.

7.8.18 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 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).

7.8.19 Screening The Need for Appropriate Assessment. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in-combination with other plans or projects, will not have a significant effect on the following European Site:

- Galway Bay Complex SAC (Site Code: 000268)
- Inner Galway Bay SPA (Site Code: 004031)

The possibility of significant effects on other European sites has been excluded on the basis of objective information and noting that there is no possible ecological connection or pathway between the appeal site and other Natura 2000 sites surrounding the proposed development. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

7.8.20. The Natura Impact Statement. A NIS, prepared by MKO Planning and Environmental Consultants, examines and assesses potential adverse effects of the proposed development on Galway Bay Complex SAC¹¹ and Inner Galway Bay SPA. The NIS

¹¹ Table 5.1 'Assessment of Qualifying Features potentially affected' of the NIS excludes [5130] *Juniperus communis* formations on heaths or calcareous grasslands and [6210] Semi-natural dry grasslands and scrubland facies on calcareous substrates (*festuco Brometalia*) (* important orchid sites) on the basis of the absence of a complete source-pathway-receptor chain for any effect on these species as a result of the proposed development.

identifies the main potential impact from the proposed development on Galway Bay Complex SAC and Inner Galway Bay SPA as being the potential for pollution to enter a nearby stream (Truskey Stream) which in turn connects to the Galway Bay Complex SAC and Inner Galway Bay SPA, affecting aquatic dependent QI and SCI. The NIS also identifies disturbance and displacement to commuting and foraging otter, a QI of Galway Bay Complex SAC (ex-situ effects) and disturbance and displacement effects on SCI of Inner Galway Bay SPA (ex-situ effects) should they use to grassland habitat south of the appeal site. The NIS includes an examination of recent planning applications where permission has been granted in the vicinity of the appeal site and also of plans. The NIS notes that there is no potential for the proposed development to contribute to any cumulative adverse effects on any European site when considered in combination with other plans or projects.

7.8.21. The NIS refers to mitigation measures which will be adhered to. Measures to avoid impacts on water quality are proposed for the construction and operational phase of the proposed development and are set out in Section 6 of the NIS and include;

Construction Phase:

- Erection of silt fencing along the full stretch of the site adjacent to the Truskey Stream, and maintenance and monitoring of the silt fence.
- A temporary dam will be constructed within the northern section of the Truskey Stream. Pumping arrangement will be utilised to manage the water up stream. The overpumped water will pass through silt bags or other suitable measures before discharging to the existing culvert at a suitable location downstream of the R336.
- Where water ingress in excavations is evident during the construction of the culvert, all dewatering flow will be passed through settlement ponds located in site compound areas or, alternatively, through filtering dewatering bags, to remove sediments.
- A pre-cast headwall will be installed and a rip-rap stone detail constructed to avoid erosion.
- The above works will be carried out during dry spells and weather forecasts monitored.

Himalayan balsam, an invasive species, is noted as being recorded adjacent to the Truskey Stream. Measures for the treatment of Himalayan balsam are set out in the CEMP and under the heading 'mitigation and preventive measures to avoid impact on water quality' the applicants' NIS refers to the CEMP as including comprehensive details including biosecurity.

Operational Phase:

- Surface water run-off will pass through petrol interceptors.
- SuDS measures, including a filter strip, permeable paving and tree pits.

Measures to address disturbance/displacement to otter (a QI of Galway Bay Complex SAC) are also set out in Section 6 of the NIS and include the confinement of construction works to daytime hours and adherence to best practice measures in respect of disturbance limitation.

In relation to ex-situ disturbance and displacement impacts to birds, the NIS notes that 3 no. wintering bird surveys were carried out at the site and no SCI birds species associated with Inner Galway Bay SPA were recorded within the site. The NIS notes the site does not comprise wetland habitat, does not support suitable habitat for any of the SCI of Inner Galway Bay SPA, and that no mitigation measures are required to address ex-situ disturbance and displacement impacts to birds.

7.8.22 The NIS concludes that with the implementation of the mitigation measures, no potential for adverse impacts on water quality exists, that adverse impacts on otter populations associated with Galway Bay Complex SAC can be excluded, and that the proposed development, individually or in combination with other plans or projects, will not adversely affect the integrity of any European site.

7.8.23 Having reviewed the documents, submissions and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the following European sites alone, or in combination with other plans and projects:

- Galway Bay Complex SAC (Site Code: 000268)
- Inner Galway Bay SPA (Site Code: 004031)

The applicants' NIS was prepared in line with current best practice guidance and provides an assessment of the potential impacts on Galway Bay Complex SAC and Inner Galway Bay SPA.

7.8.24 Appropriate Assessment of implications of the proposed development. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. 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.

7.8.25 The following sites are subject to Appropriate Assessment:

- Galway Bay Complex SAC (Site Code: 000268)
- Inner Galway Bay SPA (Site Code: 004031)

A description of the sites and their Conservation and Special Conservation Interests are set out in Table 7.1 of this report. 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).

7.8.26 The main aspects of the proposed development that could adversely affect the conservation objectives of the European sites include;

- The potential for the water quality pertinent to Galway Bay Complex SAC and Inner Galway Bay SPA to be negatively affected by contaminants, from site clearance and other construction activities, including the construction of the culvert under the R336, during the construction phase of the proposed development.
- The potential for ex-situ effects (disturbance/displacement) on otter resulting from pollution entering the Truskey Stream and from noise during construction and operational phase of the development.
- The potential for ex-situ effects (disturbance/displacement) of bird species associated with Inner Galway Bay SPA, should they use the grassland habitat adjacent to the site for foraging, during construction and operational phase of the development.

7.8.27. Assessment of proposed Mitigation Measures.

The NIS outlines a number of mitigation measures. For the most part the mitigation measures are intended to avoid the release of contaminated run-off to from the site to groundwater and surface water. Measures to address Himalayan balsam, set out in the CEMP, and referred to in the NIS are sufficient to address the potential release and spread of this invasive species to Galway Bay Complex SAC and Inner Galway Bay SPA. I am also satisfied that the mitigation measures set out in the NIS are sufficient to address potential impacts on otter, and that no mitigation measures are required to address potential impacts on birds associated with Inner Galway Bay SPA on the basis of the wintering bird surveys undertaken by the applicants, the habitat on/adjacent to the site and the distance to Inner Galway Bay SPA. Regarding flood risk, part of the appeal site is located within Flood Zone A and B. The culvert under the R336 acts as a hydraulic constraint and the applicants propose to upgrade the culvert to address flooding on the site. However, as addressed at paragraph 7.2.8 (above), the applicants have not submitted details of how the culvert is to be managed and monitored once constructed and it is unclear who would be responsible for the culvert once constructed. Should a blockage occur and either go unnoticed for a period, or there be ambiguity in relation to who is responsible for addressing the issue, then the culvert could become compromised resulting in flooding of the lands to the south where the proposed development is sited. Flooding of the site, during the construction or operational phase of the proposed development could affect the efficacy of the mitigation measures proposed, resulting in contaminated surface water run-off to discharge to groundwater and surface water and entering Galway Bay Complex SAC and Inner Galway Bay SPA, via the Truskey Stream, or overland via a flow path. I am not therefore satisfied that the potential for deterioration of habitats and species identified within the European sites is not likely.

7.8.28.Integrity test. Following the appropriate assessment and the consideration of mitigation measures, I am not able to ascertain with confidence that the project would not adversely affect the integrity of Galway Bay Complex SAC or Inner Galway Bay SPA in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

7.8.29.Appropriate Assessment Conclusion. The proposed development has been considered in light of the assessment requirements of Sections [177U and 177V] of the

Planning and Development Act, 2000, as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Galway Bay Complex SAC and Inner Galway Bay SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these sites in light of their conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects could adversely affect the integrity of Galway Bay Complex SAC or Inner Galway Bay SPA, in view of the Conservation Objectives of these sites. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures 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.

I consider that there remains a reasonable scientific doubt as to the absence of adverse effects on the integrity of on Galway Bay Complex SAC and Inner Galway Bay SPA and as such the Board is precluded from granting permission for the proposed development.

8.0 Recommendation

- 8.1. Having regard to the above it is recommended that permission should be refused for the reasons set out below.

9.0 Reasons and Considerations

1. Having regard to the location of the site, partially within Flood Zone A and Flood Zone B as indicated in the Galway County Development Plan 2022 – 2028, and on the basis of the submissions made in connection with the planning application and appeal, the Board is not satisfied that the upgrade of the culvert under the R336 would adequately address fluvial flood risk on the site, in particular due to ambiguity regarding measures to address the potential for blockages to occur within/along the culvert and the management and monitoring of the culvert. The Board is not satisfied that the proposed

development would not give rise to an increased risk of flooding of the site or of property in the vicinity. The proposed development would, therefore, be prejudicial to public health, public safety, and contrary to the proper planning and sustainable development of the area.

2. On the basis of the information submitted with the planning application/appeal documentation and the Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Galway Bay Complex SAC (Site Code: 000268) or Inner Galway Bay SPA (Site Code: 004031), in view of the sites' conservation objectives. In such circumstances, the Board is precluded from granting permission.
3. During periods of intense rainfall, infiltration into the foul sewer network in Bearna occurs. Whilst works to address this issue have recently been undertaken by Uisce Éireann in Bearna, information submitted in respect of the appeal indicates that the practice of tankering effluent from Bearna pumping station still occurs. It has not therefore been demonstrated that there is adequate collection/conveyance capacity in the foul sewer network in Bearna to cater for the effluent generated by the proposed development, and as such the proposed development would be contrary to Policy Objective WW4 of the Galway County Development Plan 2022 – 2028, which requires that new developments will only be permitted which are adequately serviced with sufficient capacity for appropriate collection, treatment and disposal. Furthermore, it is considered that the proposed development constitutes a significant expansion of the settlement of Bearna, and in light of conveyance capacity constraints in the foul sewer network the Board is not satisfied that the drainage proposal represents a sustainable approach to servicing the proposed development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Ian Campbell
Senior Planning Inspector

30th January 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319685-24		
Proposed Development Summary	Construction of 51 residential units; 2 no. commercial buildings; car & bicycle parking; vehicular and pedestrian access; open space; public lighting; landscaping; bin stores; site services; new culverted drain beneath R336; works to R336; and site development works.		
Development Address	An Chéibh, lands south of the R336, Freeport, Barna, Co. Galway		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	x		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No			
Yes	X	Class 10, (b), (i) (threshold is 500 dwelling units)	Proceed to Q.4
			Conclusion
			No EIAR or Preliminary Examination required

		Class 10, (b), (iv) (threshold is 10 Ha.)		
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4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes	X	Screening Determination required

Inspector: Ian Campbell

Date: 30th January 2025

Form 3 - EIA Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference	ABP - 319685-24	
Development Summary	Construction of 51 residential units; 2 no. commercial buildings; car & bicycle parking; vehicular and pedestrian access; open space; public lighting; landscaping; bin stores; site services; new culverted drain beneath R336; works to R336; and site development works.	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	The Planning Authority undertook a preliminary examination of the proposed development and noted that having regard to the nature, size and location of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development and that the preparation of an EIAR is not required.
2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?	Yes	AA Screening report and NIS
4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	The site is zoned for town centre uses (inc. residential and commercial development). SEA undertaken as part of Development Plan.

B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
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This screening examination should be read with, and in light of, the rest of the Inspector’s Report attached herewith

1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)

<p>1.1 Is the project significantly different in character or scale to the existing surrounding or environment?</p>	No	<p>The site comprises two fields and is located within a settlement. The adjoining lands have been developed for housing and commercial development. Site is zoned ‘Town Centre’, ‘Town Centre Infill’ and ‘Open Space and Recreational Amenity’. In the context of existing environment in the area the project is not significantly different in character or scale to its existing surrounding or environment.</p>	No.
<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	No	<p>The proposal will involve physical changes to the existing site but in the context of the wider locality these are not considered significant.</p>	No.
<p>1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or</p>	No	<p>The proposal will require use of land and typical materials for such projects. These</p>	No.

energy, especially resources which are non-renewable or in short supply?		are not considered to be in short supply. No significant use of natural resources in operational phase.	
1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?	No	Plant/machinery used will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for the construction activity on the site. Any impacts would be local and temporary in nature and the implementation of standard construction practice measures would satisfactorily mitigate potential impacts.	No.
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	No	Discharge of foul effluent to existing public infrastructure. Construction machinery may give rise to potentially harmful materials, such as fuels and oil leak. Noise and dust emissions during construction are likely. Any impacts would be local and temporary in nature and the implementation of standard construction practice measures would satisfactorily mitigate potential impacts.	No.

1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?	No	A risk of contamination is typical at all such sites during construction and operation. No discharge of pollutants to ground or surface waters. CEMP contains measures to address accidental spillages.	No.
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	No	Some noise and vibration impacts during construction. Temporary duration – 24 months, construction hours controllable, localised impact. Mitigation measures proposed in submitted CEMP	No.
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	No	Some dust during construction. Temporary duration – 24 months, construction hours controllable, localised impact. Mitigation measures proposed in submitted CEMP.	No.
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	No risk of major accidents given nature of project.	No.
1.10 Will the project affect the social environment (population, employment)	No	Will result in localised increase in population and increase in employment during construction.	No.
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	Concurrent application PA. Ref. 24/60148 & ABP. Ref. 319686-24 submitted for lands to north. Sch. 7A information submitted in respect of same, appeal subject to EIA screening determination.	No.
2. Location of proposed development			
2.1 Is the proposed development located on, in,	No	Closest European sites are c. 1.3 km east (i.e.	No.

<p>adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> • European site (SAC/ SPA/ pSAC/ pSPA) • NHA/ pNHA • Designated Nature Reserve • Designated refuge for flora or fauna • Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 		<p>Galway Bay Complex SAC and Inner Galway Bay SPA). Following an Appropriate Assessment, it has been ascertained that the proposed development could adversely affect the integrity of Galway Bay Complex SAC and Inner Galway Bay SPA, in view of the Conservation Objectives of these sites, however, the impact of the proposed development would be limited to specific species and habitat within a defined area and would not result in impacts of a magnitude which would be significant at a wider geographic scale.</p> <p>No recorded archaeological monuments on site.</p>	
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	<p>No</p>	<p>Site surveys (inc. wintering bird surveys, otter, mammal and bat surveys) found no Annex II or SCI birds associated with Inner Galway Bay SPA or any other SPA within the footprint of the development site. NIS addresses potential for ex-situ effects on SCI associated with Inner Galway Bay SPA and other SPA's. No likely significant impacts and no mitigation measures required.</p>	<p>No.</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p>	<p>No recorded archaeological monuments on site. Archaeological</p>	<p>No.</p>

		<p>Assessment report submitted.</p> <p>No evidence of archaeological features on site.</p> <p>Archaeological monitoring during construction proposed. Town Centre Architectural Conservation Area (ACA) is located outside/west of the appeal site.</p>	
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	No	No such resources on or close to site.	No.
<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	No	<p>Stage 3 Flood Risk Assessment addresses flood risk posed by Truskey Stream and coastal flooding. The applicants' proposal to upgrade a culvert to address flooding within the site is not deemed adequate and flood risk remains an issue within the site. However, aside from implications for Galway Bay Complex SAC and Inner Galway Bay SPA, potential environmental impacts arising as a consequence of flooding on the site would be limited to the general confines of the site.</p> <p>No other water resource will be significantly affected by the project.</p>	No.
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	No	No evidence of these risks.	No.

2.7 Are there any key transport routes (e.g. National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	Notwithstanding the issues identified in relation to the methodology underpinning the TTA, any congestion arising from the project is likely to be geographically limited and not likely to give rise significant effects on the environment.	No.
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	No	Site is adjacent to school. Nature of development such that would not negatively affect this use.	No.
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No.	Site adjoins filling station which is currently under construction. Nature of development such that cumulative effects would not arise.	No.
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No.		No.
3.3 Are there any other relevant considerations?	No.		No.
C. CONCLUSION			
No real likelihood of significant effects on the environment.	X	EIAR Not Required	
Real likelihood of significant effects on the environment.		EIAR Required	
D. MAIN REASONS AND CONSIDERATIONS			
Having regard to: -			
1. the criteria set out in Schedule 7, in particular			
(a) the limited nature and scale of the proposed development, which is below the threshold in respect of Class 10 'Infrastructure projects', as set out in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, specifically, (b) (i) construction of more than 500 dwelling units, and (b) (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.			
(b) the absence of any significant environmental sensitivity in the vicinity.			
(c) the location of the development outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended).			

2. the results of other relevant assessments of the effects on the environment submitted by the applicants (i.e. Appropriate Assessment screening report and NIS, Stage 3 Flood Risk Assessment and Ecological Impact Assessment).
3. the features and measures proposed by applicants envisaged to avoid or prevent what might otherwise have been significant effects on the environment.

The Board concluded that the proposed development would not be likely to have significant effects on the environment, and that an environmental impact assessment report is **not** required.