



An
Bord
Pleanála

Inspector's Report

ABP-319686-24

Development

Demolition of 4 no. existing buildings; construction of a 2.5 storey building comprising 18 no. apartments and 1 no. retail unit; car and bicycle parking; vehicular and pedestrian access; open space, including shared communal and private open space; landscaping; public lighting; bin stores; site services; works to the R336 including new road markings and a new widened junction to the private road to the west of the subject site; all ancillary and associated site and development works.

Location

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

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

2460148

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) Fionnuala Uí Chathasaigh

Date of Site Inspection

14th August 2024

Inspector

Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.471 ha¹, is located in the townland of Freeport, on the northern side of the R336, c. 250 metres east of the centre of Barna (Bearna as Gaeilge), Co. Galway.
- 1.2. The appeal site is irregular in shape and accommodates a house and post office fronting onto the R336 and a number of sheds/outbuildings to the rear. A narrow area of land to the west of the house and post office also form part of the appeal site. A section of the R336 is included within the red line boundary of the appeal site². A narrow access road which bounds the appeal site to the west also forms part of the appeal site, with the red line boundary extending to include up to the centre line of this road. This laneway provides access to a number of dwellings to the north of the appeal site.
- 1.3. A low stone wall forms the boundaries of the appeal site to the south, north and west.
- 1.4. The area of the appeal site fronting the R336 is relatively flat, however the northern part of the appeal site is elevated relative to the R336, with topographical levels of c. 11 – 12 metres (OD Malin) relative to c. 9 metres at the R336.
- 1.5. A number of detached dwellings are situated to the rear/north of the appeal site. These dwellings are sited at a higher level compared to the appeal site. A filling station is currently under construction on the lands to the south of the appeal site. Bearna National School is located east of the appeal site, with the school yard/ball court abutting the appeal site.
- 1.6. Lands to the south of the appeal site (subject to PA. Ref. 24/60147 & ABP. Ref. 319685-24) are indicated as being within the applicants' ownership/control, as depicted by the blue line boundary.
- 1.7. The predominate building typology in the area is single storey/two storey traditional style dwellings.

¹ The particulars submitted with the planning application refer to a developable area of 0.302 ha. This appears to take account of the inclusion of the R336.

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

2.0 Proposed Development

2.1. The proposed development comprises;

- Demolition of the 4 no. existing buildings (stated floor are c. 367 sqm).
- Construction of a 2.5 storey building comprising 18 no. apartments –
 - 3 no. 1 bedroom units
 - 14 no. 2 bedroom units, and
 - 1 no. 3 bedroom units.
- 1 no. retail unit (c. 166.3 sqm).
- Car and bicycle parking to the rear of the site.
- Vehicular and pedestrian access to the site.
- Open space, including shared communal and private open space.
- Site landscaping, public lighting, bin stores and site services.
- Works to the R336 including new road markings and a new widened junction to the private road to the west of the subject site.
- All ancillary and associated site and development works.

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

- Planning Report.
- Architectural Design Statement.
- Appropriate Assessment Screening Report and Natura Impact Statement (NIS).
- Ecological Impact Assessment (EclA).
- Environmental Impact Assessment Screening Report (EIASR).
- Preliminary Construction Environmental Management Plan (pCEMP).
- 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.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission on the 10th of April 2024 for 3 no. reasons, as follows;

1. *Notwithstanding the submitted Flood Risk Assessment the Planning Authority has serious concerns regarding flood risk to the site, notably along the R-336. In the absence of certainty that the proposed culvert upgrade, which is considered by the Planning Authority as acting as a flood mitigation, in order to eliminate flooding from the site the Planning Authority consider that that*

³ Ref. 509 – 2023.

proposed development is premature. The Planning Authority are not satisfied that the subject site, notably access and egress to the site, is not at risk of flooding. In the absence of assurance that the proposed culvert will satisfactorily 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 along the R-336 within the planning unit, the direct hydrological link to the Inner Galway Bay SPA (Site Code:004031) and the Galway Bay Complex SAC (Site Code:000268), and the serious concerns raised within submissions received 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. *The Planning Authority has serious concerns that the development as proposed is an overdevelopment of the site by reason of density, bulk and overall massing which would negatively impact the visual and residential amenities of the local area. The site occupies a prominent location in Bearna within a long-established surrounding residential setting where the proposed apartment building does not satisfactorily relate to either its adjoining context or the surrounding development. The development as proposed is considered contrary to the Core Strategy of the Galway County Development Plan 2022-2028 with a proposed density that significantly exceeds that as set out in DM Standard 2. Accordingly, to grant the proposed development would be detrimental to the character of the area and would contravene materially policy objectives PM 1, PM 8, PM 10, and UL2, as well as development management standards DM1 and DM2 contained in the Galway County Development Plan 2022-2028, it would detract from the visual and residential amenity of the area, as well as setting an undesirable precedent for similar future development, and therefore 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 principle of the residential and commercial uses are acceptable.

- Table 15.1 of the Development Management Standards of the Galway County Development Plan 2022-2028 states that within the MASP area on Outer Suburban/Greenfield site, densities of 25-30 units per hectare are recommended. The proposed density is considered excessive at this location. Whilst the Sustainable and Compact Settlement Guidelines of Planning Authorities (2023) sets out recommendations for density standards, it is considered that the density proposed herewith is excessive, particularly considering the adjoining single storey dwellings immediately adjoining the site. The development as proposed is considered contrary to the Core Strategy of the Galway County Development Plan 2022-2028 with a proposed density that significantly exceeds that as set out in the Core Strategy and DM Standard 2.
- The proposal is overdevelopment by reason of density, bulk and overall massing which would negatively impact the visual and residential amenities of the local area. The site occupies a prominent location in Bearna within a long-established surrounding residential setting where the proposed apartment building does not satisfactorily relate to either its adjoining context or the surrounding development.
- Serious concerns are expressed in relation to capacity of the existing wastewater infrastructure to accommodate the proposed development based on the submissions received and the reports received from the Environment Section.
- The Planning Authority are not satisfied that access and egress to the site is not at risk of flooding in the absence of assurance that the proposed culvert will satisfactorily mitigate flood risk.
- Regarding inadequacies with wastewater disposal and the lacunae for the upgrading of the culvert as a measure to prevent flooding, the Planning Authority are not satisfied that adverse impacts on Galway Bay Complex SAC and Inner Galway Bay SPA would not occur.

Other Technical Reports.

- 3.2.2. Environment Section – (2 no. reports on file) first report dated 26th of March 2024 notes that tankering of wastewater from the sewerage pumping station still takes place in

periods of high rainfall, highlighting inadequacies within the system and 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 Truskey Stream and the coastal waters at Bearna Pier where the Truskey discharged to. Report recommends that clarification is sought regarding discharge of surface water from the development, either directly or indirectly, to the Truskey Stream, and 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.

Second report, dated 4th of March 2024 notes requirements in respect of Article 27 Notifications and adherence to Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects, issued by the EPA, 2021.

3.3. Prescribed Bodies

An Taisce submission 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.

- 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.
- 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.

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;

- Requirement for controlled pedestrian crossing on R366.
- Road Safety Audit not carried out on a school day.
- Concern re. access to existing dwelling/TTA doesn't consider dwellings in area.
- Concerns re. junction layout.
- Concern re. audible tone for pedestrian crossing.
- Traffic congestion concerns.
- Proposal is premature development in the absence of upgrade of the Bearna Sewerage Scheme/concerns in relation to the Irish Water letter of Feasibility.
- Requirements for Irish language conditions.
- Footpaths in area should be widened.
- Concerns re. upgraded culvert.
- Requirement for Irish language signage.
- Scale and density of development inappropriate/amenity impacts.
- Validity of application.

- Climate concerns.

4.0 Planning History

Appeal Site

No recent/relevant planning applications pertaining to appeal site.

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

PA. Ref. 24/60147 & ABP. Ref. 319685-24 – Permission (currently on appeal) for 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.

Lands to south

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).

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. Part of the appeal site, the R336 along the west of the appeal site, is located within Flood Zone A and Flood Zone B.

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 zoned ‘**C1**’ – Town Centre. 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 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.0.471 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 location of the site 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 majority of the subject lands are within Flood Zone C, only a partial area of the lands are within Flood Zone A and B, which correspond to the R336. Access remains available from the east. However the upgrade of a culvert (see below) would mitigate flooding of the road.
- Flooding on the site stems from the limited conveyance capacity of a culvert beneath the R336, and not the Truskey Stream. The proposed upgrade of this culvert enlargement (in tandem with the application to the south PA. Ref. 24/60147 refers) would eliminate flood risk to the road and the area. 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 the provision of a 300 mm freeboard. The design of the culvert adopts a conservative approach, and accounted for potential standard errors. The proposed culvert will not result in any upstream or downstream flood risk. The proposal accords with the Planning System and Flood Risk Management Guidelines (2009) and with 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;
 - The reason why part of the site extends into Flood Zone A and B is due to the location of the signalised junction and upsizing of the culvert. All the highly vulnerable elements are within Flood Zone C. Access and egress can be maintained from the east.
 - 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.
 - The culvert upgrade has been designed to meet 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.
 - The proposed development will not result in additional upstream or downstream flood risk.

Re. Refusal Reason 2 – Impact on European sites as a result of flood risk and inadequacies in waste water disposal:

- A Confirmation of Feasibility was issued to the applicants and Uisce Éireann have stated that the development can be facilitated without infrastructure upgrade.
- Calculations for wastewater demand exceed the projected accommodation schedule.
- 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 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 of the appellants' appeal submission. 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.
- Table 3 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 NHB1, NHB2, WR1 and DM Standard 50 of the Galway County Development Plan 2022 – 2028.
- 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.

Re. Refusal Reason 3 – Density and Design:

Density -

- The site is zoned Town Centre. Bearna has been identified to accommodate growth in the MASP area and the proposal is in keeping with the compact growth agenda.
- DM Standard 2 sets out a standard density of 30 dpha within town centres in the MASP, however it provides that a higher density may be applied at strategic locations with good access to public transport, and higher density will only be applied where appropriate and where a good standard of development is proposed. Noting the good standard/design of the development a higher density is appropriate. More recent national policy supersedes this local standard, the Sustainable and Compact Settlement Guidelines 2024 provides for a density of 40 dpha+ in the MASP area, the

proposal has a density of 59.6 dpha. and complies with the Sustainable and Compact Settlement Guidelines 2024.

- The Sustainable Housing: Design Standards for New Apartments Guidelines 2023 (see section 2.4) provides for 'higher density development that may wholly comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net) in Intermediate Urban Locations, such as Barna town centre.
- The promotion of mixed uses is encouraged in Objective BMSP 2 of the Galway County Development Plan 2022-2028.

Design –

- The scale of the proposal is entirely appropriate for a growing town, on a site in proximity to the town centre, and is consistent with Objective UL 1 of the Galway County Development Plan 2022-2028.
- Objective UL 2 of the Bearna Local Area Plan (LAP)⁴ states that a 'building height of two and half storeys will generally apply'. The proposal also complies with the preferred development option set out in Section 1.4.2 of the Bearna Local Area Plan in relation to sequential development. Building two and a half storeys. This building typology at this location provides a more compact form of development, combating urban sprawl and consolidate the village centre, providing the basis for a more sustainable urban community.
- The proposal accords with the requirements of the Urban Development and Building Height Guidelines (2018), specifically, at the scale of the relevant town, makes a positive contribution to place-making, incorporates new streets and public spaces, uses massing and height to achieve the required densities with sufficient variety in scale and form to respond to the scale of adjoining developments and creating visual interest in the streetscape; at the scale of the neighbourhood/street, responds to the overall natural and built environment, not being monolithic and contributing to the mix of

⁴ I note that the Bearna LAP has expired.

uses/building typology; and at the scale of site/building, the form, massing and height of the proposed development is modulated to maximise access to natural lighting and ventilation and minimise loss of light and overshadowing.

- The proposed development integrates into the existing context of Barna and is in keeping with the single and two storey dwellings in Bearna.
- The proposal complies with Section 3.4 of the Urban Development and Building Height Guidelines, which provides that newer housing development outside of town centres but in the suburban edges of the town, should typically include a mix of 2-3 storey buildings, and with Section 3.6 which states that developments should include an effective mix of 2, 3 & 4 storey development.
- The proposal provides for an active streetscape and much needed residential units.
- The Planning Authority have not identified any specific areas of non-compliance with DM Standard 1. A comprehensive design statement was prepared for the proposal addressing all the elements within DM Standard 1. The proposal also accords with Objective PM10.
- An 'Apartment Quality Assessment' was submitted as part of this application which demonstrates that the proposal both meets, and in many cases, exceeds, the standards set out in the 'Sustainable Urban Housing: Design Standards for new Apartment Guidelines for Planning Authorities' (2023).
- A daylight/ sunlight report was carried out and demonstrates that apartments met the requirements/exceed them in the majority of instances.
- A shadow analysis report was also submitted.
- The proposal uses a contextually appropriate, high quality and robust material palette which is contextually appropriate, ensuring that the proposal both respects the existing character of Barna town / village, while producing a building with the appropriate intensity which is appropriate for the site, according with Objective PM 1.

- A high-quality landscaping proposal, prepared by a suitably qualified Landscape Architect has been submitted. A generous public open space has been provided to the northeastern corner of the site. The characteristic stone walls associated with the area have been retained where possible. The proposal accords with Policy Objective PM 8 of the Galway County Development Plan.
- Table 4 of the appeal submission sets out in tabular form compliance with the development plan objectives referred to in refusal reason 3, specifically Objectives PM1, PM8, PM10, UL2, DM1, and DM2. The appeal submission also includes a summary of the design report submitted with the planning application.

6.2. Planning Authority Response

None received.

6.3. Observations

3 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 the signalised junction.
- Transport modal splits are below Key Performance Indicators (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 Bearnna 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 3 homes out of 18, or 17%, 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 Bearnna 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.

Fionnuala Uí Chathasaigh

- The plan for Bearna is not adequate for the purpose of development management. Bearna risks becoming a dormitory suburb, deficient in essential services.
- The density of the proposal is higher than that recommended maximum density of 50 dpha for metropolitan towns in MASP set out in the Sustainable and Compact Settlement Guidelines (2024) see Table 3.3. The higher density is not justified given the peripheral location of the site and the pattern of car dependency.
- In the context of the Sustainable and Compact Settlement Guidelines (2024) the provision of 1.3 spaces (ave) car parking is below the maximum permitted (i.e. 2 spaces per dwelling) and is too low. The proposal will lead to on-road parking in the vicinity of the school.
- Concerns regarding drop-down area for apartments within drop-down area for school.
- Apartments overlook school.

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)
- Refusal Reason 3 (Density & Design/Visual Integration)
- 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 as a result access and egress to the site would be susceptible to flooding. The Planning Authority contend 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.
- 7.2.2. The western part of the appeal site, corresponding with part of the R336, is indicated in the Galway County Development Plan 2022 – 2028 as being located within Flood Zone A and Flood Zone B. I note that the part of the appeal site where the building is proposed is not indicated as being within Flood Zone A or B, and is therefore located within Flood Zone C, where residential and commercial development is considered appropriate from a flood risk perspective. The concerns of the Planning Authority therefore relate to flooding of the R336 and not to main body of the appeal site.
- 7.2.3. The applicants have prepared a site specific flood risk assessment/Stage 3 Flood Risk Assessment (FRA). 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. Coastal flooding does not affect the site, noting the minimum elevation of the existing site at 8.93 metres (OD Malin) and the Mid-Range Future Scenario (MRFS) water level at 4.68 metres(OD Malin). Sources of flooding on the site are identified as fluvial flooding. Based on the results of the hydraulic model undertaken as part of the FRA parts of the R336 at the western edge of the appeal site were shown as being liable to flooding, 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 also flows south. The FRA notes that the depth of flooding at the site is relatively shallow, with depth up to 0.2 metres. The upgrade of the existing road culvert is proposed by the applicants under a separate concurrent planning application, PA. Ref. 24/60147, which is subject to appeal, ABP. Ref. 319685-24, as a potential measure to mitigate/alleviate the flooding of the road and the adjoining area. 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 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. The crux of the applicants' case in relation to flood risk is that the majority of the subject lands are within Flood Zone C, that only part of the appeal site is within Flood Zone A and B, corresponding to the R336, that access remains available from the east, and that the upgrade of a culvert would mitigate flooding of the road. The applicants contend that the proposed culvert upgrade will address flooding of the road and surrounding area/site, resulting in the entire site (i.e. inc. the R336) being within Flood Zone C.
- 7.2.5. I note that the culvert upgrade, intended as a measure to address flooding on the R336 and on lands south of the R336, is not referred to in the development description contained in the public notices and therefore does not form part of the development proposed under this application/appeal. The development description contained in the public notices under PA. Ref. 24/60147 included reference to the proposed upgrade of the culvert, and therefore these works are proposed under a separate planning application, which is currently the subject of an appeal to the Board (ABP. Ref. 319685-24 refers). Notwithstanding this however, in the absence of the culvert upgrade, noting the extent of flooding on the R336 the appeal site would remain accessible from the east. I consider that the proposal would therefore be acceptable from a flood risk perspective.

7.2.6. I note that the applicants have not applied the 'Justification Test', as set out in the Flood Risk Guidelines. I consider this to be acceptable noting that flood extents only relate to the part of the site comprising an existing public road, the R336, and noting the nature of the proposed development along the R336, that being a signalised junction. I note that paragraph 5.28 of the Flood Risk Guidelines makes provision for minor proposal in areas of flood risk. Noting the nature of the development proposed within Flood Zone A and B, and given that the specific element of the proposal at this location (i.e. a signalised junction) would not significantly increase additional people in the area or obstruct a flow path, I am satisfied that the junction test is not required in this instance.

7.2.7. I do not consider that any material contravention of Policy Objective FL 2, Policy Objective FL 3 and Policy Objective FL 8 of the Galway County Development Plan 2022-2028 would occur should permission be granted for the proposed development, as contended by the Planning Authority. Should the Board decide to permit the proposed development I submit that the requirements of Section 37 2 (b) do not apply. Having regard to the forgoing I am satisfied that that the proposed development is acceptable in terms of flood risk. Furthermore, I am satisfied that the proposed development would not result in an increase in flood risk/flooding on adjoining lands/property in the vicinity.

7.3. Refusal Reason 3 (Density, Design & Visual Integration)

7.3.1. The third reason for refusal cited by the Planning Authority refers to overdevelopment of the site primarily with reference to density. The Planning Authority consider that the proposal would be contrary to the Core Strategy of the Galway County Development Plan 2022-2028 with a proposed density that significantly exceeds that as set out in DM Standard 2, that being 25-30 dpha (corresponding to outer suburban/greenfield, at locations adjacent to open rural countryside). The Planning Authority also note that the design of the proposal does not assimilate with the area with reference to the bulk and massing of the building, with consequent impacts on visual and residential amenity. The Planning Authority state that the proposal, if permitted, would materially contravene policy objectives PM 1 (permeability), PM 8 (character and identity), PM 10 (design quality), UL2 (design and layout), DM1 (placemaking, context, design

quality and built form) and DM2 (which prescribes density ranges within the MASP) in the Galway County Development Plan 2022-2028.

7.3.2. An observation submitted in respect of the appeal notes that the density of the proposal is higher than that recommended for Metropolitan Towns in MASP as set out in the Sustainable and Compact Settlement Guidelines (2024) see Table 3.3, and that the higher density is not justified given the peripheral location of the site and the pattern of car dependency.

7.3.3. Density - SPPR 4 of the Urban Development and Building Heights, Guidelines for Planning Authorities, 2018, provides that it is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure, inter alia, the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines. I note that the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) replaced the Sustainable Residential Development in Urban Areas (2007) and therefore are the applicable guidelines in respect of density. Regarding density/scale, the applicants contend that based on a site area/developable site of 0.302 ha the resultant density of the proposal is 59.6 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 90% of the overall floor area of the development (based on the development statistics submitted) density is thus calculated on a site area of 0.2718 ha, and not 0.302 ha (i.e. 90% of 0.302 ha). The proposed development therefore has a density of 66 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 that the appeal site is zoned ‘Town Centre’, and the location of the site within Bearna. It is a policy and objective of these 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 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.

- 7.3.4. Visual integration - 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 where existing development in the vicinity of the appeal site is primarily comprised of single and two storey buildings, with buildings up to three storey in the centre of Bearna. SPPR 4 of the Urban Development and Building Heights, Guidelines for Planning Authorities, 2018, provides that it is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure a greater mix of building heights and typologies in planning for the future development of suburban locations. In terms of the suitability of the site to accommodate apartment development, I note that the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) provides that Intermediate Urban Locations⁵, are generally suitable for smaller-scale, higher density development that may wholly comprise apartments (broadly >45 dwellings per hectare net). I note that the appeal site is zoned ‘Town Centre’, is located within the MASP area, which is envisaged as supporting the strategic growth of settlements, including Bearna, and as such a building of the scale proposed,

⁵ Which includes within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m), of suburban centres.

comprising apartments would not be atypical in this context. In my view the proposal, on Town Centre zoned lands, would also accord with Objective BMSP2, which seeks to promote the development of Bearna as an intensive, high quality, well landscaped and accessible environment, and national policy in respect of building height and apartment development.

7.3.5. Regarding detailed design considerations, the proposed building, has a maximum ridge height of 12.35 metres, and whilst described by the applicants as a 2.5 storey building is more accurately described as a three storey building, with a section of the building dropping to two storeys along the western side of the site. The proposal employs a number of design measures which assist with the integration of the proposal at this location. The pattern of fenestration, modulation of the block and recessing of the façade and roof/eaves allows for the massing of the building to be broken up. The building is of a traditional design idiom, and includes a palette of materials including render, stone and dark roofs which are common to the area. The design of the proposal also provides active street frontage to the R336 which will create an attractive environment for pedestrians. In my opinion the building typology proposed is cognisant of the context and character of the site, and would not be incongruous with adjacent area, or with the applicable landscape character. Furthermore, noting the scale and design of the proposed development I do not consider that the proposal would detract from the Galway Bay Scenic Route, on which the appeal site is located.

7.3.6. Notwithstanding the above, and separate to considerations of visual amenity, I have a number of concerns in relation to the amenity issues arising for future residents of the proposal. The proposed deck access arrangement to the apartment units would allow residents to pass the windows of living areas of neighbouring units when accessing their own units, affecting the privacy of apartments. Also, in my view, the undercroft access arrangement would adversely affect the amenity of residents in Apartment Unit 2C (located above the vehicular passageway) as a result is vehicles passing below bedrooms and terrace. Should the Board decide to permit the proposed development it may wish to consider requiring a revised design for this building to address these issues.

7.3.7. For the reasoning set out above, I do not consider that any material contravention of Policy Objectives PM1, PM 8, PM 10, UL 2, DM1 or DM2 of the Galway County Development Plan 2022-2028 would occur should permission be granted for the proposed development, as contended by the Planning Authority. Should the Board decide to permit the proposed development I submit that the requirements of Section 37 2 (b) do not apply.

7.4. Wastewater

7.4.1. 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 station in Bearna to Mutton Island Wastewater Treatment Plant in Galway City during periods of high rainfall. I note that An Taisce made an observation 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.

7.4.2. In response, the applicants note that a Confirmation of Feasibility was issued from Uisce Éireann, and 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

7.4.3. 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 the issue of capacity at Bearna pumping station or Mutton Island WWTP 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. The report of the Environment Section of Galway County Council note that tankering of effluent still takes place. 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 collection⁶, treatment and disposal (in compliance with the Water Framework Directive and River Basin Management Plan) to the public sewer unless provided for otherwise by the plan.

- 7.4.4. 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. Access & Traffic Impact

- 7.5.1. 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. I note that at Paragraph 5.1 the opening year of the proposal is stated as being 2023 and the TTA states that 'growth factors were applied to the 2023 traffic flows to determine background traffic. It is unclear if this is a typographical error. 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,

⁶ My emphasis.

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.

- 7.5.2. 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.
- 7.5.3. 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, however, 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.
- 7.5.4. 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.

- 7.5.5. In relation to intervisibility at the proposed junction with the R336, *Drawing No. 10789-2103* (Proposed Roads Layout) indicates that visibility to the west at the junction with the R336 overlaps with the site boundary of an adjacent property. Whilst this area, comprising the front curtilage of the dwelling, is currently free of obstructions I note that the property is located outside the red and blue line boundary of the appeal site and as such the applicants have not demonstrated how the required visibility at this junction can be maintained in perpetuity. 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 maintained, noting that visibility to the west 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.

7.6. Issues Arising

- 7.6.1. Overlooking – of the adjacent school is raised in one of the observations to the appeal. I note that the proposal includes above ground windows serving living accommodation on the side/eastern elevation. Should the Board decide to grant permission for the proposed development a condition should be attached stipulating that these windows be fitted with obscure glass/or be positioned above head height to address overlooking of the adjacent school yard.
- 7.6.2. 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, Bearnna ED has experienced a population increase of 3.66% between 2016-2022. During this period there was an increase in Bearnna 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 3 no. houses, in addition to any further Irish speakers in the remaining 15 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 3 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 4 no. units (rounded from 3.6).

- 7.6.3. 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 signalised junction. 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.
- 7.6.4. 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 27 no. car parking spaces, and the retail unit has a car parking requirement of 7 no. car parking spaces, therefore the proposed development has a total car parking requirement of 34 no. car parking spaces. 24 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) in intermediate and peripheral locations. Noting the frequency of buses at this location (424 bus service⁷) 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).
- 7.6.5. 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).
- 7.6.6. 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’,

⁷ [Bus Éireann | Route 424 | Galway to Lettermullen via Carraroe](#)

I consider that the development, comprising 18 no. apartments, does not fall within the scope/remit of the Guidelines.

7.7. Appropriate Assessment

7.7.1. Stage 1 Screening

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

7.7.3. Background. The applicants submitted an Appropriate Assessment Screening report for the proposed development⁸ 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 is located c. 65 metres west of the main body of the appeal site), 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.

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

⁸ 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 south. For the purpose of this assessment the elements of the Appropriate Assessment Screening report and NIS I have considered relate to the northern site and not to the southern site.

development, alone, or in combination with other plans and projects on European sites.

7.7.5. 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 (inc. the buildings on the site⁹); 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 sets out environmental control measures for re-fuelling; soil excavation; air quality; noise and vibration; soil and groundwater; surface water; and construction traffic management.

A Stage 3 Flood Risk Assessment was submitted with the application. Flood risk on the site (along the R336) 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 entire site is estimated to be within Flood Zone C on the basis of a proposal to upgrade the culvert. In the absence of the upgraded culvert flooding extends to a point west of the access road to the appeal site, access remains viable from the east. The SSFRA notes that there is no evidence of pluvial or groundwater flooding on the site, and coastal flood extents do not affect the appeal site.

⁹ On a precautionary basis it is proposed to undertake a pre-construction bat survey of the buildings within 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 *Buildings and artificial surfaces (BL3)*; *Stone walls and other stonework (BL1)*; *Scrub (WS1)*; *Dry grassy verges categorised as Dry meadows and grassy verges (GS2)*; *Amenity grassland (GA2)*; *Flower beds and borders (BC4)*; *Treeline (WL2)*; *Hedgerow (WL1)*; and *Stone wall (BL1)*.

7.7.6. 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.

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

- Demolition of 4 no. existing buildings.
- Construction of 18 no. apartments and 1 no. retail unit.
- Car and bicycle parking; vehicular and pedestrian access; open space; landscaping; public lighting; bin stores; site services; works to the R336 including new road markings and a new widened junction to the private road to the west of the subject site; all ancillary and associated site and development works.

The documentation submitted with the application estimates that the importation of 200 m³ of fill will be required to provide levels on the site. The proposed development is expected to take 24 no. months to complete.

7.7.8. 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 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).

7.7.9. Submissions and Observations. No observations to the appeal raise issues relating to Appropriate Assessment/European sites.

7.7.10. 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] • Large shallow inlets and bays [1160] • Reefs [1170] • Perennial vegetation of stony banks [1220] 	c. 1.3 km east of appeal site.	The Truskey Stream is located c. 65 metres west the main body of the site and discharges to Galway Bay c. 1.5 km west of Galway Bay Complex SAC. Noting the	Y

	<ul style="list-style-type: none"> • 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] 		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] • Lapwing (<i>Vanellus vanellus</i>) [A142] • Dunlin (<i>Calidris alpina</i>) [A149] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] 	c. 1.3 km east of appeal site.	The Truskey Stream is located c. 65 metres west of the main body of the site 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"> • 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] 			
--	---	--	--	--

7.7.11. 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 is located c. 65 metres west of the main body of the site, 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.

7.7.12. 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>.

7.7.13. 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. 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. 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.	During the construction phase there is potential for surface water runoff from site works to temporarily discharge to surface water and reach the	No effect	Screened in for AA

		<p>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>		
<p>Inner Galway Bay SPA (Site Code: 004031)</p>	<p>c. 1.3 km east of appeal site.</p>	<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 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</p>	<p>No effect.</p>	<p>Screened in for AA.</p>

		potential for ex-situ effects (disturbance/displacement) during construction and operational phases of the proposed development.		
--	--	--	--	--

7.7.14. 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.

7.7.15. 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.

7.7.16. **Stage 2 – Appropriate Assessment**

7.7.17. 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.

7.7.18 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).

7.7.19 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.

7.7.20. 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 SAC¹⁰ and Inner Galway Bay SPA. The NIS 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

¹⁰ 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.

on SCI of Inner Galway Bay SPA (ex-situ effects) should they use to grassland habitat within 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.

7.7.21. The NIS refers to mitigation measures which will be adhered to. Measures to avoid impacts on water quality are proposed. A number of these measures relate to the lands to the south which are subject to concurrent planning application/appeal PA. Ref. 24/60147/ABP. Ref. 319685-24), and include construction phase measures relating to the upgrading of a culvert beneath the R336 and reference to measures to address an invasive species (Himalayan balsam) which is present along the Truskey Stream). These measures do not relate to the development proposed under the current application/appeal as the culvert is proposed under PA. Ref. 24/60147/ABP. Ref. 319685-24 and not under this application/appeal. Measures (operational phase) set out in Section 6 of the NIS relating to the northern/application site include;

- 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.

7.7.22 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.

7.7.23 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.

7.7.24 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.

7.7.25 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).

7.7.26 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 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 on the site for foraging, during construction and operational phase of the development.

7.7.27. Assessment of proposed Mitigation Measures. The NIS outlines a number of mitigation measures. I am satisfied that the measures are sufficient to address potential impacts from pollution during construction and that the potential for deterioration of habitats and species identified within the European sites (Galway Bay Complex SAC and Inner Galway Bay SPA) are not likely. Furthermore, I am 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.

7.7.28. Integrity test. Following the appropriate assessment and the consideration of mitigation measures, I am 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.

7.7.29. 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 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 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.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Galway Bay Complex SAC.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Inner Galway Bay SPA.

Reason no. 2 of the Planning Authorities refusal states that the proposed development 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. Having regard to the Appropriate Assessment conclusion (above), specifically that the proposed development, individually or in combination with other plans or projects 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, I do not consider that any material contravention of Policy Objective NHB 1, Policy Objective NHB 2, Policy Objective WR 1 or DM Standard 50 of the Galway County Development Plan 2022-2028 would occur should permission be granted for the proposed development, as contended by the Planning Authority. Should the Board decide to permit the proposed development I submit to the Board that the requirements of Section 37 2 (b) do not apply.

8.0 Recommendation

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

9.0 Reasons and Considerations

1. 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-319686-24			
Proposed Development Summary	Demolition of 4 no. existing buildings; construction of a 2.5 storey building comprising 18 no. apartments and 1 no. retail unit; car and bicycle parking; vehicular and pedestrian access; open space, including shared communal and private open space; landscaping; public lighting; bin stores; site services; works to the R336 including new road markings and a new widened junction to the private road to the west of the subject site; all ancillary and associated site and development works.			
Development Address	An Chéibh, lands north 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)	Conclusion
No				No EIAR or Preliminary Examination required

Yes	X	Class 10, (b), (i) (threshold is 500 dwelling units) Class 10, (b), (iv) (threshold is 10 Ha.)		Proceed to Q.4
------------	---	---	--	----------------

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 - 319686-24	
Development Summary	Demolition of 4 no. existing buildings; construction of a 2.5 storey building comprising 18 no. apartments and 1 no. retail unit; car and bicycle parking; vehicular and pedestrian access; open space, including shared communal and private open space; landscaping; public lighting; bin stores; site services; works to the R336 including new road markings and a new widened junction to the private road to the west of the subject site; all ancillary and associated site and 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 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
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)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The site accommodates a house, Post Office and outbuildings and is located within a settlement. The adjoining lands have been developed for housing and commercial development. Site is zoned 'Town Centre'. 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.	No.
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	No	The proposal will involve physical changes to the existing site but in the context of the wider locality these are not considered significant.	No.

1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	No	The proposal will require use of land and typical materials for such projects. These are not considered to be in short supply. No significant use of natural resources in operational phase.	No.
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	No.

		would satisfactorily mitigate potential impacts.	
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. 24/60147 & ABP. Ref. 319685-24 submitted for lands to south. Sch. 7A information submitted in respect of same, appeal subject to EIA screening determination.	No.

2. Location of proposed development			
<p>2.1 Is the proposed development located on, in, 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 	No	<p>Closest European sites are c. 1.3 km east (i.e. Galway Bay Complex SAC and Inner Galway Bay SPA). NIS submitted which concludes that the proposed development, would not adversely affect the integrity of Galway Bay Complex SAC or Inner Galway Bay SPA.</p> <p>No recorded archaeological monuments on site.</p>	No.
<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>	No	<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.</p> <p>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>	No.
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	No	<p>No recorded archaeological monuments on site. Archaeological Assessment report submitted.</p> <p>No evidence of archaeological features on site.</p> <p>Town Centre Architectural Conservation Area</p>	No.

		(ACA) is located outside/west of the appeal site.	
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?	No	No such resources on or close to site.	No.
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?	No	Stage 3 Flood Risk Assessment addresses flood risk posed by Truskey Stream. Only a portion of the site (the R336) is affected by flooding. No other water resource will be significantly affected by the project.	No.
2.6 Is the location susceptible to subsidence, landslides or erosion?	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	A filling station is currently under construction on a site to the south. 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			
<p>Having regard to: -</p> <ol style="list-style-type: none"> the criteria set out in Schedule 7, in particular <ul style="list-style-type: none"> (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). 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). the features and measures proposed by applicants envisaged to avoid or prevent what might otherwise have been significant effects on the environment. <p>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.</p>			