



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-320963-24

<b>Development</b>	Construction of a detached dwellinghouse, carport with tool shed, decommission of septic tank, connection to services and all associated site works.
<b>Location</b>	An Chéibh, Freeport, Bearna, Co. Galway
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	2460890
<b>Applicant(s)</b>	Shane Kennedy.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Shane Kennedy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> of September 2025
<b>Inspector</b>	Caryn Coogan

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## **1.0 Site Location and Description**

- 1.1 The subject site, 0.085Ha, is located in the heart of Bearna village, Co. Galway. Bearna is a coastal village, located 7km west of Galway city on the R336 Regional Road at the doorstep of Connemara. It is located within the Metropolitan area of Galway city and has experienced substantial growth in recent times.
- 1.2 The subject site is a brownfield site. It has immediate access to public transport. There is a bus stop located along the roadside boundary of the site. The site is within walking distance of the village centre, and a range of services within five minutes of the site.
- 1.3 The site has a south facing orientation and addresses the Main Street in a prime urban location in Bearna. There is no vegetation on the site. It is an almost level site, surfaced with gravel and concrete. The overall site, 0.172Ha, was previously assessed by the Commission under appeal reference ABP-313843-22. The original site has been subdivided into 2No. planning applications, one for a dwelling and the other is a building with commercial units on the ground floor and apartments overhead. The other site is currently under appeal under reference ACP 320964-24, and been assessed concurrently with this appeal. The site the subject of this appeal, 0.085Ha, is on the eastern half of the original site.
- 1.4 Along the southern site boundary (Main Street), there is a 2m palisade fence, a 2m wide footpath and a bus stop.
- 1.5 The rear/ northern site boundary adjoins an overgrown coppice which is positioned at a higher ground level than the subject site of c.1.6m. The Truskey East stream bounds the entire larger site along it's western boundary. The stream is narrow, overgrown and is positioned at a lower ground level to the overall site.
- 1.6 There are two cottages to the east of the site, and north of the contiguous cottage, there are a number of housing units, all single storey accessed from a short cul de sac. Further, east of the site, within c.100m, is a school, a Texaco garage and a Centra.
- 1.7 The site originally accommodated a supermarket for a long period of time, which relocated elsewhere in the village in 2003. There has been a variety of uses associated with the site since 2003, including a tyre centre, car wash, pet shop and

lawnmower outlet. The site has not been utilised since 2015 following a fire, which was followed by removing all the structures off the site.

## **2.0 Proposed Development**

2.1 The public notices describe the proposed development as follows:

- Construction of a Detached Dwelling House (268sq.m.),
- Construction of Carport with Tool Shed (19.6sq.m.),
- Removal of existing palisade fencing,
- Construction of new front boundary walls with vehicular entrance,
- Decommissioning of 1 No. septic tank,
- Connection to main sewer and watermains
- All associated site works

2.2 Accompanying the planning application, was a detailed planning report, an Appropriate Assessment Screening Report, a Site Specific Flood Risk Assessment, and letters from Uisce Eireann.

## **3.0 Planning Authority Decision**

### **3.1 Decision**

By Manager's Order on the 10<sup>th</sup> of September 2024, Galway County Council refused the proposed development for two reasons:

1. Notwithstanding the submitted Flood Risk Assessment the Planning Authority has serious concerns regarding flood risk to the subject site and environs owing to the existing culvert adjoining the site being considered to be hydrologically constrained and the potential for the proposed works associated with the project build to displace future flood waters to other locations in the site environs owing to the disparity in finished floor level between the proposed development and the and the existing built form to the east of the subject site. The Planning Authority are not satisfied that the subject site is not at risk of flooding. In the absence of assurance in respect to the aforementioned 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 lacunae associated with the existing culvert in the adjacent Truskey watercourse, and considering the flood vulnerability of the site and the direct hydrological link from the site to the Inner Galway Bay SPA (Site Code:004031) and the Galway Bay Complex SAC (Site Code:000268), it is considered that the development has, in the absence of satisfactory evidence to the contrary, the potential to adversely affect the qualifying interests and conservation objectives of the Inner Galway Bay SPA (Site Code:004031) and the Galway Bay Complex SAC (Site Code:000268), and would therefore materially contravene Policy Objective NHB 1 Natural Heritage and Biodiversity of Designated Sites, Habitats and Species, Policy Objective NHB 2 European Sites and Appropriate Assessment, and Policy Objective WR 1 Water Resources, and DM Standard 50 Environmental Assessments of the Galway County Development Plan 2022-2028 and would therefore be contrary to the proper planning and sustainable development of the area. The Planning Authority in conjunction with the application of the precautionary principle, consider that adverse effects on the integrity and conservation objectives of the European sites, cannot be ruled out, as a result of the proposed project. Therefore, the Planning Authority cannot be certain that the project will not adversely affect the integrity of the Inner Galway Bay SPA (Site Code:004031) and the Galway Bay Complex SAC (Site Code:000268), in light of their conservation objectives which would contravene materially policy objectives and a development management standard contained in the Galway County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

## 3.2 Planning Authority Reports

3.2.1 The **Planning Report** was prepared on 9<sup>th</sup> of September 2024. A summary of the relevant issues arising is as follows.

- Having regard to the lacunae identified in the hydrological report (see hereunder), the Planning Authority cannot be satisfied that the proposal will not adversely affect the integrity of a European site in light of its conservation objectives and in this regard the development has the potential to adversely affect the qualifying interests and conservation objectives of a protected European site and would materially contravene Policy Objective NHB 2 and Policy Objective NHB 3 and DM Standard 50 of the Galway County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.
- There is no real likelihood of significant effects on the environment arising from the proposed development in the context of EIA legislation (Directive 2014/52/EU).
- Following an examination of the relevant GIS information in relation to flood risk assessment, the site of the proposed development is within a flood zone A & B. The applicant has submitted a Flood Risk Assessment (FRA) prepared by Flood Risk Consulting (FRC) which is not considered to be site/development specific.
- The finished floor level of the proposed main block of the dwelling is 9.7 m which will entail filling the subject site by circa 0.5m and also result in the development footprint being half a metre higher than the existing adjoining property to the east. This land-raising could adversely affect the neighbouring lands by means of displacing potential flood waters.
- The Planning Authority has serious concerns regarding flood risk in terms of access and egress to the site as per the prediction set out in Plate 7.8 of the hydrological report received and the Planning Authority consider there to be significant lacunae in the absence of Drawing C101 being furnished and providing clear correlation to the subject site.

- The Planning Authority are not satisfied that the subject site is not at risk of flooding considering the lacunae associated with the culvert and the potential for the land raising to cause displacement of potential flood waters contrary to Objective GCMA 19 in relation Constrained Land Use wherein development will only be considered where it is demonstrated that it would not increase the risk of flooding to other locations.

### **3.2.2 Other Technical Reports**

Although the planning application was referred 5No. internal departments, there were no responses received.

### **3.3 Prescribed Bodies**

The planning authority issued referrals to :

- Údarás na Gaeltachta
- Inland Fisheries Ireland
- The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media

There were no responses received.

### **3.4 Third Party Observations**

There were no third-party submissions on file.

## **4.0 Planning History**

### **4.1 *Pl. Ref. No. 22/60311/ ABP – 313843-22***

The construction of 3 no. dwelling houses on the entire site area was refused by Galway County Council due to flooding concerns. The Commission upheld the reason for refusal on the grounds ‘the information provided on the file was insufficient to demonstrate that the proposed development would not give rise to an increased risk of flooding of the site or of property in the vicinity’.

### **4.2 *Pl. Ref. No. 21/1396***

The construction of 2 no. dwelling houses was refused by Galway County Council due to inadequate density.

### **4.3 *Pl. Ref. 18/910***

Demolition of existing dwelling and the construction of a two-storey mixed use building consisting of 3No. ground floor retail units on infill and brownfield development site.

#### 4.4 ***Pl. Ref. 16/294***

Permission granted to demolish fire damaged building and to reinstate the site with green palisade fencing and associated site works at buildings formerly known as Bearna Tyre Centre

## 5.0 **Policy Context**

### 5.1 **National and Local Planning Policy**

The National Planning Framework, identifies **Galway** as one of the five cities that will see significant growth, with an objective to increase its population and jobs by 50-60% by 2040. Key to this plan is the creation of a Metropolitan Strategic Area Plan to coordinate development across the metropolitan area of the city which includes Bearna village. The framework aims for a more balanced regional development, moving away from unsustainable commuting trends and focusing on compact, sustainable growth for cities and towns.

Under the umbrella of **Galway County Development Plan 2022-2028**, Bearna is recognised under section 2.6 of the Plan as a Metropolitan Settlement.

- 5.1.1 The subject site is located within the **C1 Town Centre Zoning** (see Photo Plate 12). Also a portion of the site is located within the Constrained Land Use Zoning as per the Bearna Zoning Map of Volume 2 of the County Galway Development Plan.

#### **2.8.2 Town Centre/ Retail**

The consolidation of the Village centre is supported by the policy objectives in this plan and there are lands zoned Town Centre/Infill identified to accommodate residential development as outlined in the NPF and the RSES.

### 5.1.2 **2.10 Climate Change and Flooding**

As outlined in Chapter 14 Climate Change, Energy and Renewable Resource climate change continues to have a direct effect on peoples live, society and economy. The plan seeks the creation of well-planned communities, where travel distances to education, work and services are reduced, enhancement of walking and



cycling facilities and where appropriate local renewable and low carbon energy sources are integrated. A stage 2 Flood Risk Assessment has been carried out on the Bearna settlement plan which has identified areas at risk of flooding, including fluvial, coastal, pluvial and groundwater flooding. A flood risk map is contained in Section 4 of this metropolitan plan.

NOTE: The subject site is within a designated area identified as Flood Zone A and Flood Zone B.

### **5.1.3 Policy Objectives Bearna (Bearna Metropolitan Settlement Plan – BMSP)**

#### **BMSP 1 Sustainable Residential Communities**

Promote the development of appropriate and serviced lands to provide for high-quality, well laid out and well landscaped sustainable residential communities with an appropriate mix of housing types and densities, together with complementary land uses such as community facilities, local services and public transport facilities, to serve the residential population of Bearna Metropolitan settlement plan.

#### **BMSP 2 Sustainable Town Centre**

Promote the development of Bearna, as an intensive, high quality, well landscaped and accessible environment, with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses as appropriate, that provide a range of retail services, facilities and amenities to the local community and visitors. The town centre and associated main street shall remain the primary focus for retail and service activity within these plan areas.

### **5.1.4 14.6 Flooding**

Flooding is an environmental phenomenon that can pose a risk to human health as well as causing economic and social effects. It is expected that climate change will impact on flood risk in Galway into the future from an increase in the number of heavy rainfall days per year leading to an increase in frequency, pattern and severity of fluvial (river) and pluvial (surface water drainage) flooding. Sea level rise will exacerbate coastal flooding. Accordingly, it is more important than ever to take account of flood risk in spatial planning.

#### **14.6.3 Flood Zones and the Sequential Approach**

The Planning System Flood Risk Management Guidelines (2009) prescribe the use of a sequential approach to ensure development is directed towards land that is at a low risk of flooding. The sequential approach makes use of flood risk assessment and of prior identification of flood zones for river (fluvial) and coastal flooding. It is essential that the risk potentially arising from other sources of flooding (e.g. groundwater and pluvial) should also be taken into account in all areas and stages of the planning process.

There are three types or levels of flood zones defined for the purposes of implementing the Planning System Flood Risk Management Guidelines:

- 1. Flood Zone A**– where the probability of flooding from rivers and the sea is highest (greater than 1% or 1 in 100 for river flooding or 0.5% or 1 in 200 for coastal flooding);
- 2. Flood Zone B**– where the probability of flooding from rivers and the sea is moderate (between 0.1% or 1 in 1000 and 1% or 1 in 100 for river flooding and between 0.1% or 1 in 1000 year and 0.5% or 1 in 200 for coastal flooding); and
- 3. Flood Zone C**– where the probability of flooding from rivers and the sea is low (less than 0.1% or 1 in 1000 for both river and coastal flooding). Flood Zone C covers all areas which are not in zones A or B.

Table 14.4 indicates the types of land uses that are appropriate in each of the Flood Zones identified within the County, in accordance with The Planning System and Flood Risk Management Guidelines (2009). Where developments/land uses are proposed that are considered inappropriate to the Flood Zone, then a Development Management Justification Test and Site-Specific Flood Risk Assessment will be required in accordance with The Planning System and Flood Risk Management Guidelines (2009).

### **FL 1 Flood Risk Management Guidelines**

It is the policy objective of Galway County Council to support, in co-operation with the OPW, the implementation of the EU Flood Risk Directive (2007/60/EC), the Flood Risk Regulations (SI No. 122 of 2010) and the DEHLG/OPW publication The Planning System and Flood Risk Management Guidelines (2009) (and any

updated/superseding legislation or policy guidance) and Department Circular PL2/2014 or any updated / superseding version.

## **FL 2 Flood Risk Management and Assessment**

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

This will include the following:

- (a) Avoid, reduce and/or mitigate, as appropriate in accordance with the Guidelines;
- (b) Development proposals in areas where there is an identified or potential risk of flooding or that could give rise to a risk of flooding elsewhere will be required to carry out a Site-Specific Flood Risk Assessment, and justification test where appropriate, in accordance with the provisions of The Planning System and Flood Risk Management Guidelines 2009 (or any superseding document); Any flood risk assessment should include an assessment of the potential impacts of climate change, such as an increase in the extent or probability of flooding, and any associated measures necessary to address these impacts;
- (c) Development that would be subject to an inappropriate risk of flooding or that would cause or exacerbate such a risk at other locations shall not normally be permitted;

## **FL 8 Flood Risk Assessment for Planning Applications and CFRAMS**

Protect Flood Zone A and Flood Zone B from inappropriate development and direct developments/land uses into the appropriate Flood Zone in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 (or any superseding document) and the guidance contained in Development Management Standard 68.

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

Planning Authority shall have regard to the results of any CFRAM Studies in the assessment of planning applications.

Development proposals will need to be accompanied by a Development Management Justification Test in addition to the site-specific Flood Risk Assessment.

**GCMA 18 Flood Zones and Appropriate Land Uses (Refer to Flood maps for Baile Chláir, Bearna and Oranmore and the Urban Framework Plans for Briarhill and Garraun)**

(a) Protect Flood Zone A and Flood Zone B from inappropriate development and direct developments/land uses into the appropriate Flood Zone in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 (or any superseding document) and the guidance contained in DM Standard 68 Flooding. Where a development/land use is proposed that is inappropriate within the Flood Zone, then the development proposal will need to be accompanied by a Development Management Justification Test and Site-Specific Flood Risk Assessment in accordance with the criteria set out under with The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 and Circular PL2/2014 (as updated/superseded).

**5.1.5 Chapter 10 Natural Heritage, Biodiversity and Green/ Blue Infrastructure**

***NHB 1 Natural Heritage and Biodiversity of Designated Sites, Habitats and Species***

Protect and where possible enhance the natural heritage sites designated under EU Legislation and National Legislation (Habitats Directive, Birds Directive, European Communities (Birds and Natural Habitats) Regulations 2011 and Wildlife Acts) and extend to any additions or alterations to sites that may occur during the lifetime of this plan.

Protect and, where possible, enhance the plant and animal species and their habitats that have been identified under European legislation (Habitats and Birds Directive) and protected under national Legislation (European Communities (Birds and Natural Habitats) Regulations 2011 (SI 477 of 2011), Wildlife Acts 1976-2010 and the Flora Protection Order (SI 94 of 1999).

Support the protection, conservation and enhancement of natural heritage and biodiversity, including the protection of the integrity of European sites, that form part of the Natura 2000 network, the protection of Natural Heritage Areas, proposed Natural Heritage Areas, Ramsar Sites, Nature Reserves, Wild Fowl Sanctuaries (and other designated sites including any future designations) and the promotion of the development of a green/ ecological network.

### ***NHB 2 European Sites and Appropriate Assessment***

To implement Article 6 of the Habitats Directive and to ensure that Appropriate Assessment is carried out in relation to works, plans and projects likely to impact on European sites (SACs and SPAs), whether directly or indirectly or in combination with any other plan(s) or project(s). All assessments must be in compliance with the European Communities (Birds and Natural Habitats) Regulations 2011. All such projects and plans will also be required to comply with statutory Environmental Impact Assessment requirements where relevant.

#### **5.1.6 Section 10.7 Water Resources**

##### ***WR 1 Water Resources***

Protect the water resources in the plan area, including rivers, streams, lakes, wetlands, springs, turloughs, surface water and groundwater quality, as well as surface waters, aquatic and wetland habitats and freshwater and water dependant species in accordance with the requirements and guidance in the EU Water Framework Directive 2000 (2000/60/EC), the European Union (Water Policy) Regulations 2003 (as amended), the River Basin District Management Plan 2018 – 2021 and other relevant EU Directives, including associated national legislation and policy guidance (including any superseding versions of same) and also have regard to the Freshwater Pearl Mussel Sub-Basin Management Plans.

## **5.2 Natural Heritage Designations**

The development site is located within a 15km radius of the following Natura 2000 designations:

- SAC:Galway Bay Complex SAC (approximately 1.1 km from site)
- SAC:Lough Corrib SAC (approximately 6.43 km from site)
- Connemara Bog Complex SAC (approximately 7.95 km from site)

- SAC:Black Head-Poulsallagh Complex SAC (approximately 11.75 km from site)
- Ross Lake And Woods SAC (approximately 12.74 km from site)
- East Burren Complex SAC (approximately 12.84 km from site)
- Moneen Mountain SAC (approximately 13.12 km from site)
- Inner Galway Bay SPA (approximately 1.17 km from site)
- Lough Corrib SPA (approximately 6.73 km from site)
- Connemara Bog Complex SPA (approximately 11.39 km from site)
- Cregganna Marsh SPA (approximately 14.16 km from site)

The Moycullen Bogs NHA is located approximately 2.17 km from the site.

The Proposed Natural Heritage Areas: Galway Bay Complex is located approximately 1.1 km from the site.

### **5.3 EIA Screening**

Refer to Form 1 in Appendix 1 (EIA Pre-Screening). Class 10(b)(iv) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for a development comprising urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. 6.2 Refer to Form 2 in Appendix 1 (EIA Preliminary Examination).

Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), I have concluded that there is no real likelihood of significant effects on the environment arising. The proposed development does not exceed the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10) and I do not consider that any characteristics or locational aspect (Schedule 7) apply. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination (see Form 1 and Form 2 appended to the report).

## **6.0 The Appeal**

### **6.1 Grounds of Appeal**

The First Party, Mr. Shane Kennedy has taken this appeal against Galway Co. Co.'s decision to refuse planning permission for the proposed dwelling house on the Main Street of Bearna for two extensive reasons relating to flooding concerns associated with the site's designation and the constraints of an adjoining unsized culvert.

#### **6.1.1 Introduction**

- The applicant purchased this high-profile site in December 2020. It is brownfield, infill and zoned C1 Town Centre.
- At the time of purchase the property included a derelict cottage on the eastern side and there was a commercial use on the western portion of the site.
- OPW Bearna Flood Map shows indicative A and B Flood Zone cutting diagonally through the site.
- Planning permission to demolish the structures and to construct 3No. ground floor level shops granted planning permission under reference 18/910, which has since expired.
- The flood maps and land use zoning has not changed since Planning Ref 18/910 and zoning remains unchanged as per the development plan and the zoning objectives of Bearna Metropolitan Area Strategic Plan 2022-2028 for lands zoned 'C1'.
- The site was purchased following pre-planning meetings with regards to building two houses on the entire site area. This was subsequently refused on the basis that the proposed density of two dwellings on the entire site, was too low.
- The Site-Specific Flood Risk Assessment, submitted with the planning application determined the entire site area was in a Flood Zone C and suitable for residential development which was accepted by the planning authority.
- In 2022, a revised planning application was submitted consisting of 3No. dwellings. This application was refused due to flooding concerns as the A

and B Flood Zone cuts through the site. This was despite its previous acceptance of the Site-Specific Flood Risk Assessment on the site.

- A more comprehensive Site-Specific Flood Risk Assessment was carried out as part of the current planning application, a detailed river channel survey, culvert survey, 1D and 2D flood mapping and sensitive analysis to examine the impact of the climate change and a culvert blockage on any proposals. AA screening and robust SuDS was also undertaken.
- The Site-Specific Flood Risk Assessment, determine the site to be entirely within Flood Zone C and would not flood in a Q1000 event. The culvert crossing the R336 would be constrained in this event but the stream channel had the capacity to prevent overtopping onto the R336.
- Q1000 plus 20% additional for climate change indicated that any potential overtopping of the culvert onto the R336 would flow across the road in a southerly direction.
- The entire site was split in two with the aim of developing the land with an appropriate mix of uses while addressing the flooding and density issues.
- The detached dwelling proposed under this application is on the eastern half of the site and is 27metres away from the 1.5m stream. The siting of the house was proposed in Flood Zone C as per the Bearna Flood Map and a robust SuDs addressed surface water management.
- There is a mixed use building proposed on the western portion of the site under a separate planning application (24/60943). Commercial was proposed on the ground floor as this is a less vulnerable form of development which is appropriate for Flood Zone B areas and would replace the commercial structure which was knocked in 2016. The application was also refused and is the subject of appeal ABP 320964.
- The site has been vacant since 2016 following a fire and the buildings were demolished.
- Photographs and maps illustrating the historical use of the subject site have been submitted, including a street view in 2009 indicating a dwelling and a supermarket on the entire site area.



- Site Location, planning history and land use zoning are included in this report.

#### 6.1.2 **Bearna Metropolitan Plan 2022-2028**

- A portion of the site is categorised as 'Constrained Land Use' as the indicative zoning cuts across the site. The extent of the 'Constrained Land Use' designation is based on the extent of Flood Zones A and B which is based on the OPW Preliminary Flood Risk Assessment. The carport, tool shed and plant room is located in the Constrained Land Use and the proposed dwelling is located outside of the area.
- Flood Risk Consultancy carried out a comprehensive Hydrology Assessment with both 1D and 2D modelling of the Trusky East Stream which concludes the entire site is located within Flood Zone C.
- The SuDS design incorporates soft landscaping, sedum roof, porous paving, soakaways and attenuation eliminate the surface water runoff from entering the Trusty East Streat, thus reducing the loading as the entire site currently drains into the stream.
- The hydrology assessment has factored in a 20% increase in rainfall for climate change.
- Eire Ecology carried out an AA Screening Report which concluded the development will not have a negative impact on the environment.
- Circular PL 2/2014 gives guidance on the use of PFRA maps and notes that these maps should not be used as the sole basis for defining flood zones or for making decisions on planning applications.
- The extent of Flood Zones A and B in the Bearna Metropolitan Plan 2022-2028 is based on the 2011 OPW Preliminary Flood Risk Assessment. The site-specific flood risk assessment submitted with the application demonstrates that the site is Flood Zone C and is appropriate for residential use. Note the location of the dwelling is outside of the A and B Zones.
- GCMA 19 Constrained Land Use Objective: To facilitate the appropriate management and sustainable use of flood risk within previously developed areas. Development proposals within this zone shall be accompanied by a

detailed Flood Risk Assessment, carried out in accordance with The Planning System and Flood Risk Assessment Guidelines and Circular PL 2/2014 (or as updated), which shall assess the risks of flooding associated with the proposed development.

- The assessment carried out over the entire site area rather than just the eastern portion. The planning authority was critical and said it assessed the entire site rather than just the area the application related to. This is rejected because the SSFRA is highly comprehensive, using the latest modelling tools and flow rates.
- The site is not a flood plain and the development will not impact or impede access to the adjacent watercourse or increase the risk of flooding to other locations. The proposal incorporates SuDS features which eliminates the rainwater entering the stream via surface water runoff, thus reducing the flood risk downstream.
- The site has a history of residential use, the proposed development does not obstruct the flow paths and the proposed development not raise significant flooding issues.. A carport, boot room and plant room are located in the 'Constrained Land Use Zone. The habitable parts of the development are located in Flood Zone C as per the Bearna Flood Map.
- On the previous appeal, the Inspectors report , ABP 313842-22 stated Objective GCMA 19 of the County Development Plan provides policy in relation to Constraint Landuse, including proposals seeking to change use of existing buildings from a less vulnerable use to a more vulnerable use may not normally be considered, and development will only be considered where it is demonstrated that it wouldn't increase the risk of flooding to other locations. Having regard to the conclusion of the SSFRA which indicates the entire site in Flood Zone C, the proposed development is not obstructing flow paths and will not increase flooding on the site or elsewhere. This accords with Objective GCMA 19.

#### **6.1.3 Planner's Report – Grounds for Refusal Addressed**

- The planner's report states the finished floor level of the dwelling will be 9.7m which will entail filling the site circa 0.5m which means it will be half a metre

higher than the adjoining dwelling to the east. The land-raising could adversely affect the neighbouring land by means of displacing potential flood waters. The SSFRA recommended a FFL of 9.55m in the centre of the site, with 9.7m FFL for the dwelling. The proposal is compatible with the recommendations of DM Standard 68 '*Structural and Non-structural Risk Management Measures in Flood Vulnerable Zones – Floor Levels*'.

- The proposed level and associated footpath can be reduced by 150mm as a condition of planning to the recommended 9.55m thus resulting in a floor level difference between the proposal and the cottage to the east of 350mm. Footpaths are shown 150mm higher than landscaping.
- It should be noted the existing levels on the site are 200mm higher than the property to the east, so the finished floor level difference is relative to the topography.
- There is no proposal to fill the site and increase the site levels by 500mm as suggested in the planner's report, therefore there is no potential for flood water displacement as a result of the works.

Existing Site Levels are at 9.15m at the front fence and this tapers to 9.5m at the rear boundary.

Proposed site levels are 9.2m at the front boundary wall, tapering to 9.4m at the rear boundary.

Any minimal deviations <150mm will be due to SuDS features such as importing topsoil for soft landscaping which will reduce surface water runoff from the current non-porous surfaces.

The site is Flood Zone C. The site is not a flood plain and does not act as a flood storage to the Trusky East Stream and there is no recorded flood event on the site.

- Site levels were excavated by 1.5m to a level platform for an extension to the supermarket and carparking in the 1960s. This can be seen by the vertical difference in height along the rear site boundary. There is a vertical difference in height ranging from 1.6m-2.5m.

- The floor area of the proposed dwelling is significantly smaller than the supermarket or the development permitted on the site under reference 18/910.
- The Planner's Report states Drawing C101 is absent and there was not a clear correlation between stream levels and the subject site. The Drawing C101 is contained in the SSFR and it shows the maximum flood levels along the stream cross section with associated finished floor levels parallel to this node points. (Page 13, section 7.1). Other drawings included Plate 7.4 Correlation between Flood Zone a and B relative to the overall brownfield site and Drawing 6032/03/24 the proposed site layout showing the correlation between the A and B Flood Zone and the diagonal blur line which defines A and B Flood Zones as per the Bearna Flood Map.
- The Planner's Report notes the proposal is to connect to the surface water network into the foul sewer, and this is not correct. Currently the entire site consists of compacted Ci084 and non-porous surfaces which include the concrete yard from the original supermarket and car wash hard stand areas. All surface water currently drains directly into the Trusky East stream via the existing drainage gullies and onto the R336 from the existing driveway from the supermarket. The new development proposal incorporated sustainable drainage techniques which eliminates the requirement to connect to the public water network as per the planning permission granted under PL 18/910. All surface water can now be dealt with on site and landscaping of the site will reduce the risk of flooding to adjacent properties from surface water run-off.
- **Policy Objectives FL2, FL3 and FL8** The Planner's report states the development will materially contravene these objectives.
- **FL 2 Flood Risk Management and Assessment**  
*Comply with the requirements of the DoEHLG/OPW The Planning System and Flood Risk Management Guidelines for Planning Authorities and its accompanying Technical Appendices Document 2009 (including any updated/superseding documents).*

A Site Specific Flood Risk Assessment in accordance with the Flood Risk Management Guidelines was prepared as part of the planning application,

and it determined the site was suitable for residential, development and in a Flood Zone C.

- **FL 3 Principles of the Flood Risk Management Guidelines**

The Planning Authority shall implement the key principles of flood risk management set out in the Flood Risk Management Guidelines.

A Site Specific Flood Risk Assessment in accordance with the Flood Risk Management Guidelines was prepared as part of the planning application, and it determined the site was suitable for residential, development and in a Flood Zone C. A robust SuDS was undertaken to ensure there was no risk of flooding to adjacent properties. This is a brownfield site with no source control and all run-off currently flows into the stream and onto the R336.

- **FL 8 Flood Risk Assessment for Planning Applications and CFRAMS**

Protect Flood Zone A and Flood Zone B from inappropriate development and direct developments/land uses into the appropriate Flood Zone in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 (or any superseding document) and the guidance contained in Development Management Standard 68.

A Site Specific Flood Risk Assessment in accordance with the Flood Risk Management Guidelines was prepared as part of the planning application, and it determined the site was suitable for residential. The location of the development is in a Flood Zone C.

- The OPW were contacted in November 2022 regarding the accuracy of the CFRAM and the PFRA maps, and the accuracy of their mapping. A copy of the response received is included with the appeal, and it stated the mapping should not be used to assess the flood risk associated with the individual properties or point locations, should not be used as the sole basis for defining flood zones or for making planning policy or development management decisions.

#### 6.1.4 **Policy Objectives NHB1, NHB2, NHB£ and DM Standard 50**

- The Planner's Report notes the proposed development would materially contravene Policy Objectives **NHB1 and NHB2** if permitted (See section 5 above of this report for the relevant policy). This was based on the planner's dismissal of the findings of the SSFRA which determine the site was in a flood zone C and not at risk of flooding.
- The planner mis-interpreted the site layout and site cross section drawings, whereby the planner incorrectly concluded the entire site was to be raised by 0.5m which had the potential to displace flood waters. The site is not to be raised and the non-porous surfaces will be replaced by soft landscaping and other SuDS features.
- This is a brownfield site which was previously developed and is located outside of the designated site to which Objectives NHB1 and NHB2 apply. The existing septic tank is to be removed and the proposed dwelling is to connect to the public sewer, which is environmentally beneficial. Irish Water has confirmed feasibility for the connection. The Planner's Report did accept the development is below EIA threshold. The AA Screening report carried out by Eire Ecology noted the development would not have any significant impact on any Natura 2000 sites. The site was also screened by ANB under appeal reference 3138422 and it concluded the proposal would not likely give rise to significant effects to a European site.
- Planning permission was granted for a petrol filling station within 50m of the proposed development, on the southern side of the road and within 100m of Galway Bay. This development was on a greenfield site, with topsoil stripping on May 20<sup>th</sup> 2024. The petrol filling station was deemed to be acceptable with no environmental risk to Galway Bay.
- It is difficult to see how the construction of a single dwelling on a brownfield site which includes the decommissioning of a septic tank would pose an unacceptable risk to Galway Bay when a petrol filling station in closer proximity to Galway Bay would be acceptable.

#### 6.1.5 Policy Objective WR1 – Water Resources

- The Planner's Report states the proposed development would materially contravene Policy Objective WR1 if permitted (as per section 5.1.5 of this report). The Planner's Report incorrectly stated the development would connect the surface water network into the public sewer. The SuDS report is not referenced in the Planner's Report, therefore it is unclear if this has been reviewed as it comprehensively covers the protection of water resources by surface water management. All the SuDS measures proposed will comply with the EPA's recommendations as set out in '*Guidance on Authorisation of Discharge to Groundwater 2011*'
  
- This is a brownfield site which previously accommodated a commercial building and a dwellinghouse, with a carpark and car wash facility. The stormwater drainage previously discharged to the Trusky East Stream which runs along the western boundary of the site. Foul sewerage discharged into 2No. septic tanks with overflows into the stream. The carwash drainage sumps are still directly connected into the stream. It is proposed to remove these. The proposed development is designed in accordance with SuDS. All surface water will be managed on site with no discharge onto the public road or adjoining stream.
  
- The use of appropriate 'source control techniques' is important as it allows for onsite containment and subsequent distribution of the surface water collected. Piping large volumes of water into streams increases risk of flooding downstream. Source control aims to manage run-off from newly developed areas. The proposed interception storage via drainage kerbs, rain gardens and extensive green roof coverings will eliminate run-off into the stream thus reducing flood risk downstream of the location. Permeable paving allows water to soak into the gravel sub-base below temporarily holding the water until it soaks into the ground.

#### **6.1.6 Trusky East Stream, Culvert Crossing and Bearna Flood Mapping**

- The Trusky East stream runs parallel to the western site boundary approximately 2m behind a high concrete boundary wall. There is no recorded history of flooding at this location. The stream runs in a north to

south direction and crosses beneath the R336 via a 900mm-1200mm culvert, converging with the Trusky West stream and discharges to the sea to the south. The small stream has a catchment area of 2.2km.sq. and has an average width of 1.5m adjacent to the site. The stream runs dry during the Spring/ Summer months.

- The OPW Flood Maps do not indicate a recorded flood event on the site or along the R336. In July 2011, the OPW completed a preliminary flood risk assessment and highlighted potential Fluvial and Coastal flooding zones which included a portion of the subject site. These were prepared on a national scale to assist planning, as opposed to be fine-tuned at a local scale and can only be treated as a course of indicative mapping of flood hazards.
- The Flood Zone on the site was created by drawings a line diagonally through the site from corner to corner. It is distinctly angular and does not reflect the topography as it includes an area which are +2m higher than areas outside of the flood zone.
- The extent of Flood Zones A and B in the Bearna Metropolitan Plan 2022-2028 is based on the 2011 OPW Preliminary Flood Risk Assessment. In 2020, the OPW updated mapping to include National Indicative Fluvial Mapping (NIFM). The site of the planning application was not included in the NIFM zone.
- ***R336 Culvert Crossing:*** A study of the Trusky East Stream in 2018 noted the culvert crossing the R336 was undersized and a constraint. The original piped culvert was replaced by Galway Co. Co. in 2010 during the Bearna Main Drainage Scheme. A UV pipe with circa 900mm was installed on the upstream half of the crossing and a 1200mm installed on the downstream. The increased capacity upstream and downstream, has suggested the culvert has an increased capacity of 40%. During a Q1000 flood event, the culvert and the stream channel has been shown to have the capacity to prevent any overtopping onto the R336. The SSFRA has shown that the site is not at risk of flooding from a Q1000 or a Q1000 + Climate Change event.

#### 6.1.7 Site Specific Flood Risk Assessment



- In April 2021 the applicant employed Hydro S Hydrologists to carry out a SSFRA on the land to accompany the planning application for two dwellings on the site. It concluded the entirety of the site is within Flood Zone C.
- Due to the planning authorities concern regarding potential flood risk at the site, the applicant commissioned a second and more comprehensive AAFRA in December 2023 which included 1D and 2D river channel modelling. The objective was to find the extent of the site which was at risk of flooding and to base the planning application on the findings. The Flood Risk Consultancy concluded the site was within Flood Zone C and suitable for residential use.
- Freeboard of the proposed finished floor levels against Q1000 flood event is 870mm which is higher than the recommended 500mm freeboard. The planner expressed concerns around the height of the proposed FFL of the dwelling. This can be reduced by condition by 150mm if deemed necessary.

#### **6.1.8 Flooding and Planning Concerns Addressed**

- Following the refusal of Planning Ref. 21/1396 for 2No. detached dwellings due to inadequate density and the refusal of Pl. Ref 22/60311 due to flooding concerns, a decision was made to split the overall brownfield site and to submit two separate planning applications which comprehensively addressed all of the planner's concerns. Splitting into two applications would facilitate the construction and financing of the house as a private development, and the other application as a commercial entity.
- The house is located on the eastern half of the site, its entire footprint in Flood Zone C, as per the Bearna Flood Zone Map. The landscaping and carport are proposed within Flood Zones A and B.
- The flooding concerns have been sufficiently addressed by the applicant by:
  - (i) Commissioning two SSFRA reports which both show the entirety of the site within Flood Zone C
  - (ii) Locating the proposed dwelling within Flood Zone C as per Bearna Flood Map
  - (iii) Locating the house 27m away from the 1.5m stream

- (iv) Carrying out robust SuDS to protect water courses and to eliminate surface water runoff
- (v) Carrying out AA screening to ensure the proposal does not have a negative ecological impact
- (vi) Proposing to decommission septic tanks and connect to the fowl sewer.

#### 6.1.9 **Residential Developments granted on Zoned C1 lands which are located in Flood Zones A and B**

- Pl. Ref: 18/321 Permission granted for 3No. dwellings on Pier Road Bearna. Access road, footpath and front and rear of site adjacent to Trusky Stream, and are Zoned Constrained Land Use and shown in Flood Zone A/B. The Flood Risk Assessment submitted with the application stated the site was in a Flood Zone C
- *Residential Developments granted planning permission that were the subject of Flood Risk Assessment:*  
  
ABP 308431-20 Burkeway Developments granted planning permission for 121 No. dwellings in Trusky East, Bearna. The Trusky stream flows through the site, and parts of the development are located in Flood Zone A and B.  
  
Pl. Ref. 23/60752 2No. dwellings granted PP in Oranmore within Flood Zone A and B.

## 6.2 **Planning Authority Response**

There were no further issues raised by the planning authority in respect of the appeal.

## 7.0 **Assessment**

7.1 Having visited the site and considered the content of the planning application and the appeal file, and having regard to the relevant national and local planning policy and guidance, I consider the issues to be assessed under this appeal are as follows:

- Planning History
- Planning Policy and Principle of the Development

- Design/ Siting
- Access
- Services
- Flooding
- Appropriate Assessment (Section 8.0 below)

## 7.2 Planning History

7.2.1 The subject site was originally part of a larger site area of 0.172Ha which has now been subdivided in two sites, to accommodate two separate planning applications, which are both currently under appeal with the Commission.

(i) **ABP 320963- 24** (Pl. Ref. 2460890) for the construction of a dwelling house, with carport, new front boundary walls and vehicular access with the removal of palisade fencing and septic tank.

(ii) **ABP 320964-24** (Pl. Ref. 2460943) for the construction of a two storey mixed use buildings consisting of 2No. groundfloor office units, and 2No. first floor apartments, construction of new front boundary wall, provision of a new vehicular access, carparking, bike storage and bin storage area, removal of palisade fence and septic tank.

Both of the above planning applications were refused by Galway Co. Co. for similar grounds. I am the reporting inspector on both cases, to safeguard consistency.

7.2.2 The applicant, Mr. Shane Kennedy, had made two previous planning applications on the entire site area. Previous to purchasing the site in 2020, there were two relevant planning permissions associated with the site. Planning Ref. 16/294 was permission granted to demolish a fire damaged building and to erect a palisade fence. The site had previously included a supermarket and a dwellinghouse. When the supermarket relocated to a different location in Bearna village, the site became used as a trye centre, a car wash facility, and it also included a single storey dwelling. Under planning reference 18/910, permission was granted for the demolition of the existing dwelling on the site, and the construction of a two-storey mixed use building consisting of 3No. ground floor retail outlets and 3No. first floor offices. This permission was not executed and has since expired.

7.2.3 After purchasing the site, the applicant applied for planning permission for two dwellings on the entire site area under planning reference 21/1396. In September of 2021, Galway Co. Co. refused planning permission for the two dwellings on the site, for one reason only which stated the density was too low.

*The site is located in a street contributing position on serviced lands zoned village centre in the Beara Plan Area - Variation No.2 (a) of the Galway County Development Plan 2015-2021; where the nature of the proposed low density residential development would not be in accordance with and contrary to the Land Use Zoning objective LH1 and DM Guideline 1 as outlined in the Beara Plan - Variation No.2 (a) of the Galway County Development Plan 2015-2021 and the Galway County Development Plan 2015-2021. The proposed development would accordingly be contrary to the proper planning and sustainable development of the area.*

7.2.3 Mr. Kennedy re-applied for outline planning permission for 3No. dwellings in 2022 under planning reference **2260311**. Although the planning authority did welcome development on the site, it was concerned the proposal for residential development on this site did not comply with the *Planning System and Flood Risk Management Guidelines 2009* and did not comply with Development Management Guideline FL1 – *Flood Zones and Appropriate Land uses as per the Beara Local Area Plan (Variation No.2 (a) of the Galway County Development Plan 2015-2021)*. The subject site was located within a Flood A and Flood Zone B as set out in the zoning map of Beara Plan -Variation 2a of the Galway County Development Plan 2015-2021. The proposed residential development was considered to be a highly vulnerable use in this flood zone. The planning authority was not satisfied that the proposed site was not at risk of flooding in the future. The planning application was refused because it was considered the proposed development would materially contravene Objective LU8 and DM FL1 of the Galway County Development Plan 2015-20. The Commission upheld the refusal following a First Party appeal under reference **ABP-313843-22**, citing a similar reason for refusal.

7.2.4 The current planning applications as cited above, aim to address the previous reason for refusal under planning reference 2260311. Each new planning application submitted in 2024, includes An Appropriate Assessment Screening Report, Planning

Report, Site Specific Flood Assessment Report (December 2023), Architectural Design Statement, and a full set of drawings. Galway Co. Co. refused both planning applications citing it was not satisfied that the proposal will not adversely affect the integrity of a European site in light of its conservation objectives. The planning authority was not satisfied that the subject site is not at risk of flooding considering the lacunae associated with an adjoining culvert in conjunction with the proposal for the land raising would cause displacement of potential flood waters onto adjoining sites. These issues are assessed later in the report.

### **7.3 Planning Policy and Principle of the Development**

7.3.1 The subject site is a strategic, high profile, brownfield site is located on the Main Street in Bearna in the heart of the village. The planning authority was favourably disposed towards the principle of the proposed development in terms its compliance with local planning policy. Bearna Village is within the Metropolitan Area of Galway City. It is zoned C1 (Town Centre) in the Bearna Metropolitan Plan 2022-2028 (Volume 2 of the Galway County Development Plan 2022-2028). A dwelling house is compatible and permissible under the Town Centre zoning. The site originally contained a dwelling hose, as per the Google Maps 2009, and mapping presented with the planning application. There is a dwelling to the east of the site along the R336, and other dwellings, northeast of the site.

7.3.2 The redevelopment of the site is in line with local policy and the National Planning Framework (NPF) which is the strategic plan for shaping the future growth and development of the country. The NPF includes a national planning objective NPO 67 to prepare a Metropolitan Area Strategic Plan (MASP) for Galway through the Regional Spatial and Economic Strategy (RSES) process. The designated Galway Metropolitan Area extends to Bearna village, whereby Section 1.9 of Volume 2 of the Galway County Development envisages 90No. new dwellings within the town centre zoning. The population census of 2016 stated Bearna had a population of 1998, and in 2022 this has increased to 2336, indicating the projected population growth is in line with the development plan projections outlined in Table 1.9. The planning principle of a dwelling on the subject site accords with the zoning of the subject site, the settlement strategy of the development plan and the National planning Framework.

- 7.3.3 The development of this brownfield site is in line with two of the main objectives of the Bearna Metropolitan Settlement Plan 2022-2028:

**BMSP 1 Sustainable Residential Communities**

Promote the development of appropriate and serviced lands to provide for high-quality, well laid out and well landscaped sustainable residential communities with an appropriate mix of housing types and densities, together with complementary land uses such as community facilities, local services and public transport facilities, to serve the residential population of Bearna.

**BMSP 2 Sustainable Town Centre**

Promote the development of Bearna, as an intensive, high quality, well landscaped and accessible environment, with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses as appropriate, that provide a range of retail services, facilities and amenities to the local community and visitors. The town centre and associated main street shall remain the primary focus for retail and service activity within these plan areas.

- 7.3.4 Historically, there was a dwelling on the site, and a new dwelling is in line with current planning policy.

**7.4 Design and Siting**

- 7.4.1 The proposed dwelling is a contemporary two storey dwelling. Although design is a subjective issue, I consider the front facade articulation to be an innovative contemporary design that will make a positive contribution to the character of the neighbourhood and streetscape. The existing site creates a vacant inactive appearance along a prominent location on the Main Street of Bearna. The proposed footprint of the dwelling is setback into the site and not in line with the contiguous cottage to the east. The reason for the setback is to ensure the dwelling is located within a Flood Zone C area. The ample setback allows for easy exit and entering of the site, and onsite parking. There is a bus stop along the front boundary of the site, therefore, the proposed layout enables safe traffic turning movements into and out of the site which should not interfere with pedestrian safety.
- 7.4.2 There are a number of windows on the eastern gable of the proposed dwelling. There is a block wall proposed along the common boundary with the dwelling to the

east, this would need to be a minimum height 2m to ensure the privacy of the existing dwelling to the east is not compromised. The first-floor windows are associated with bathrooms and a walk-in-wardrobe, and these should include obscure glass.

7.4.3 The rear garden area extends to the rear boundary of the site, and there is section jutting to the west which is indicated to be a 'vegetable garden'. The existing mature trees and existing rear stone wall to the north of the site, is to be retained. There is ample private amenity area associated with the dwelling.

7.4.5 The proposed siting and design will ensure the existing residential amenities associated with the adjoining dwelling will not be seriously impacted upon in terms of loss of privacy and overshadowing. The design and layout will make a positive impact on the streetscape and enhance the visual amenities of the area.

## 7.5 Access

7.5.1 The access to the dwelling is at the eastern extremity of the streetside boundary. The dwelling is setback sufficiently to ensure there will be no interference with traffic movements into and out of the site. The access is directly off the Main Street (R336) of Bearna.

## 7.6 Services

7.6.1 It is proposed to connect to the public sewer and the public water mains. Bearna is served by the public wastewater treatment plant located in Mutton Island. Uisce Eireann is agreeable to the connections, in its letter of Confirmation of Feasibility..

7.6.2 Integrated SuDS features are to be incorporated into the structural and landscaping design and these will include the use of Permeable Paving, Rain Gardens / Soft Landscaping, extensive green roof covering, site soakaways and attenuation.

Paved areas – 136m<sup>2</sup>, run-off coefficient 0.9

Roof areas – 133m<sup>2</sup>, run-off coefficient 0.9,

Total: 242sq.m.

Soft Landscaping – 326m<sup>2</sup>, run-off coefficient 0.25

Total 323.5m.

According to the engineering report on the planning file, the proposed interception storage via drainage kerbs, rain gardens and extensive green roof coverings will eliminate run-off into the stream thus reducing the flood risk downstream of this location. Currently on site, there is no control of surface water into the existing stream to the west of the site. The proposed source control aims to manage run-off from newly developed areas of the subject site.

- 7.6.3 There is currently a septic on the subject site which has no identifiable percolation area. The septic tank will be decommissioned and removed from the subject site under the proposed development. There will be a gravity connection into the public sewer which runs parallel along the front of the front of the site.

## 7.7 **Flooding**

- 7.7.1 The two reasons for refusal citing by the planning authority in its decision, relate to flooding concerns. This issue is the crux of the appeal and formed the crux of the appeal under the previous appeal relating to the subject site, ABP 313843-22. The planning application documentation include a new and more detailed Site-Specific Flood Risk Assessment which was prepared by Flood Risk Consultants in December 2023.
- 7.7.2 There is a watercourse running along the western boundary of the entire site is known as the Trusky East Stream. According to section 2.10 *Climate Change and Flooding*, a stage 2 Flood Risk Assessment has been carried out on the Bearna settlement plan which has identified areas at risk of flooding, including fluvial, coastal, pluvial and groundwater flooding. The total site area has been partially designated within a Flood Zone A and B, which is based on the OPW Preliminary Flood Risk Assessment, this corresponds with the 'Constrained Land Use' zoning in Bearna Plan. A portion of the total site is also within Flood Zone C, to the east and northeast. It should be noted the proposed carport/ toolshed and plant room associated with the proposed dwelling are located within the designated 'Constrained Landuse Zone' (Flood Zones A and B). The footprint of the proposed dwelling is positioned outside of the Constrained Land Use Zone, within Flood Zone C.
- 7.7.3 Under the Site-Specific Flood Risk Assessment the Consultants carried out a study using a much higher stream flow rate than the previous study, and used modern



hydraulic modelling techniques. The predicted return period flows for the watercourse were determined using industry established methods based on catchment characteristics. This study also included a photographic record and a topographical survey of the Truskey East Stream bounding the entire larger site along the western boundary. This stream is 27metres from the proposed dwelling.

7.7.4 According to Circular PL2/2014 from the Department of Environment, Community and Local Government, the use of the OPW Flood Mapping is assessing planning applications states the maps provide indicative areas that may be prone to flooding. They are not necessarily locally accurate and should not be used as a sole basis for defining Flood Zones. It is strongly recommended that a Stage II Flood Risk Assessment is undertaken when making planning decisions. The planning authority used the OPW mapping to determine the Flood Zones in the Bearna Metropolitan Plan 2022-2028.

7.7.5 A summary of the findings from the SSFRA submitted with the planning application are as follows:

- The subject site is partially covered by an 'indicative flood plain'. This designation is not necessarily locally accurate and should not be used as a sole basis for defining the flood zones.
- The site is outside of the National Indicative Fluvial Mapping Q1000 floodplain. Furthermore Map 3.5 determined the area is not at risk of flooding in a Q1000 event indicating it's a Flood Zone C or in a Q1000 + Climate Change event, therefore flood water displacement is not a risk factor.
- There have been no flood events recorded at the subject site. Flooding was recorded some distance north of the site.
- The extent of the upstream and downstream channel of the Truskey Stream was determined in the report, and the control points in the vicinity of the site, a local culvert was included in the hydraulic modelling. The design hydrograph (Plate 6.4) was applied as the upstream boundary condition for the Q1000 hydraulic model. A similar hydrograph was applied for the Q100 model to reflect the associated design flow. As defined by OPWs 2009 guidelines, Flood Zones A (1 in 100 year) and B (1 in 1000 year) were examined for the watercourse.

- In terms of the Q100 hydrograph, a minimal amount of bank flooding was predicted to the west of the site, but no flooding was predicted within the site. Therefore, the findings concluded the subject site is located outside of Flood Zone A. (See Plate 7.1, page 35 of SSFRA)
- As regards Flood Zone B Plate 7.4 indicates the predicted peak flow depths and extents from the Q1000 hydrograph, and although a certain amount of flooding is predicted on the banks of the adjoining watercourse to the west, there is no flooding predicted for the site.
- There were predicted flood levels assessed when an increase of 20% for climate change is applied both within and downstream of the site, and the increase in flood levels results in flooding at the western boundary as well as Bearna Road. This does not include the subject site of the proposed dwelling. Based on these findings the minimum finished floor levels should range from 9.4m OD for the southern boundary to 9.8m OD at the northern corner.
- There is no Justification Test required for the proposed development because it has been demonstrated the site is located the subject site is located in Flood Zone C.
- As long as no infilling occurs within the peripheral Q1000 floodplain along the western boundary of the site, the proposed development will not increase flood risk beyond the site. There is no infilling of the site proposed.
- Proposals for surface-water management should be applied to the development according to sustainable drainage principles to ensure that surface water runoff from the proposed development does not increase beyond that which would discharge from the pre-development site conditions. Measures such as the use of on-site storm water storage, with appropriate approved storm discharge, are recommended to ensure that the proposed development will not have a negative impact on pluvial flooding elsewhere.
- The primary pluvial risk is that the local storm network is exceeded during an extreme storm rainfall event and a surcharge may occur. It is predicted that exceedance waters would generally flow southward, given the topography of the area, as per Drawing C101 page 42 of SSFRA.

- 7.7.6 I refer to the Planning Report on file dated the 9<sup>th</sup> of August 2024, which informed the basis of the decision to refuse planning permission for the development. The report stated the finished floor level of the proposed dwelling is 9.7m which will entail filling the site by 0.5m which will result in the development being a half a metre higher than the property to the east which could potentially impact on the neighbouring lands by displacing potential flood waters. The applicant has submitted on appeal, there is no infilling of the site proposed, this was an incorrect assumption by the planning authority. The existing levels on the site are currently 200mm higher than the adjoining property to the east due to the topography. The existing site levels as per the cross section are 9.15m at the front boundary tapering to 9.5m at the rear boundary. The deviation at the front of the site is due to the implementation of the SuDS features which will reduce surface water run-off compared to the current non-porous site. It should be noted that the SSFRA has determined the site is not at risk of flooding in a Q1000 event or in a Q1000 + Climate Change event, in addition no flooding event has been recorded at the site. It is submitted, in the 1960s, the site levels were excavated by circa 1.5m to a level platform to accommodate a supermarket on the site and carparking. This is evident from the vertical level difference of 1.6-2.5m between the subject site and the field to the north (rear) of the site. The rear boundary wall is a retaining wall.
- 7.7.7 Having studied the OPW mapping, I am satisfied the bulk of the subject site is within a Flood Zone C, whereby a dwelling, which is considered to be a vulnerable development, is acceptable. The Bearna Flood Zone Map is indicative only. The floor plan of the proposed dwelling is located outside of the diagonal line through the site apart from the proposed carport/ shed area positioned along the western boundary of the site. In addition, all the surface water on site will be controlled under a detailed SuDS system, which will reduce any risk of flooding onto adjacent properties from surface water run-off. In addition, the proposed interception storage on site via drainage kerbs, rain gardens and extensive green roofs will eliminate run-off into the Truskey East Stream thus reducing flood risk downstream of the site location.
- 7.7.8 The first reason for refusal also cited concern regarding the existing culvert adjoining the site which considered to be hydrologically constrained. The Planner's Report referred to a lack of conveyance capacity in the existing culvert under the R336,

which represents a hydraulic constraint. The Planner's Report also stated '*a replacement of the culvert has been recommended for consent by the OPW but in the absence of the replacement culvert being installed and tested as effectively working and being cognisant of the precautionary principle, the Planning Authority is not satisfied that the subject proposal is in accordance with Policy Objective FL 8 of the Galway County Development Plan 2022-2028*'. The field on the opposite side of the R336 to the subject site, was refused planning permission for an in-depth housing scheme by the Commission under appeal reference ABP-319685-24. A replacement culvert has been approved Galway County Council on the basis that meets with the hydraulic design standards of the OPW. A Section 50 application had been approved by the OPW.

- 7.7.9 The appeal acknowledged the FRA carried out on the Truskey East Stream in 2018, which noted the culvert crossing the R336 was undersized and a constraint. Subject to extreme flood flows in the Truskey East Stream, the bridge becomes surcharged and floodwater spills across the road and flows south into the field on the opposite side of the R336. I note on appeal the applicant submits the original culvert of 750mm in diameter, was replaced in 2010 during the Bearna Main Drainage Scheme with a UV Cured CIPP approximately 900mm in diameter on the upstream crossing, and 1200mm on the downstream stream half of the crossing. The 900mm pipe has a 44% increased capacity compared to the 750mm diameter pipe. However, it is acknowledged the culvert diameter remains undersized. In the event of a surcharge due excessive stormwater inflow or a blockage, there could be an overspill onto the banks of the watercourse running alongside the western site boundary of the landownership. I note the previous appeal relating to the subject site, ABP-313843-22 did not refer to the culvert, this issue would appear to have arisen in the FRA reports accompanying larger developments in the immediate area. In my opinion and based on planning histories in the immediate area of the site, the issue of the need to upgrade the culvert remains outstanding. However, the entire site area for the dwelling house is located within a Flood Zone C (Drawing C101 Flood Zone A/B relative to the site shown in red), the proposed dwelling is 27m east of the stream, there will be no infilling, and the freeboard of the finished floor levels against the Q1000 flood event is 870mm which is higher than the recommended 500mm freeboard.

7.7.10 The Planning Report referenced section 7.3.3 of the SSFRA whereby the existing culvert is considered to be hydrologically constrained. The drawing indicates the culvert surcharging during the 1000 year event, however the flooding does not overtop the bridge. On appeal it is submitted the original culvert of 750mm in diameter was replaced in 2010 during the Bearna Main Drainage Scheme with a UV Cured CIPP approximately 900mm in diameter on the upstream crossing, and 1200mm on the downstream stream half of the crossing. The 900mm pipe has a 44% increased capacity compared to the 750mm diameter pipe. It is stated that during a Q1000 flood event, the culvert and the stream channel have the capacity to prevent any overtopping onto the R336. This was modelled using a flow rate of 4.06cubic metres per sec compared to the previous study on the stream which was modelled on a flow rate of 2.34cubic metres per second. As stated above, the SSFRA has demonstrated the site is not at risk of flooding from a Q1000 or a Q1000 + Climate Change Event even using the higher flow rate.

7.7.11 I am satisfied with the findings of the SSFRA report and consider the proposed development would not materially contravene Policy Objectives FL2, FL3 and FL8 of the County Galway Development Plan 2022-2028 because there is no infilling of the site proposed, the proposal will not have an adverse effect in relation to flood risk to adjacent properties and it will not interfere with existing flow paths.

7.7.12 Having regard to the second more comprehensive SSFRA which found

- the subject site is within a Flood Zone C,
- the appropriate finished floor levels of the proposed dwelling without infilling,
- the SuDS proposals,
- the freeboard recommendations against the 0.1% chance flood level for fluvial flooding,

the proposed development is not affected by the predicted Q100 and only small peripheral areas along the banks of the Truskey East Stream will be affected by a Q1000 fluvial floodplain, and not within the subject site. Providing no infilling occurs within the Q1000 floodplain, the proposed development will not increase flood risk beyond the site. The applicant has suggested on appeal that the finished floor level

of the dwelling can be reduced by 150mm of necessary to combat the concerns of the planning authority.

## **8.0 AA Screening**

### **8.1 Stage 1 Screening**

8.1.1 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.

8.1.2 The applicants submitted an Appropriate Assessment Screening report for the proposed development with the planning application. This was prepared by Eire Ecology. There 11 no. European sites were examined in the Stage 1 Appropriate Assessment Screening report. Following this screening exercise, 2 no. European sites were identified on the basis of there being potential for polluted run-off during construction and operational phase from the appeal site to reach Galway Bay Complex SAC and Inner Galway Bay SPA via the Truskey Stream, which in turn enters Galway Bay Complex SAC and Inner Galway Bay SPA. Potential adverse impact was identified in the Planner's Report on the planning application file, in that it was not satisfied with the lacunae identified in the hydrological report on file, may not adversely impact the qualifying interests and conservation objectives of the European site. (The Commission should note the actual site the Planner's Report refers to is not clear and it is not clear how the lacunae would impact on the unstated European site).

8.1.3 The applicant's 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 development, alone, or in combination with other plans and projects on European sites.

8.1.4 A Stage 3 Site Specific Flood Risk Assessment was submitted with the application. Flood risk on the site is attributable the subject site been located within a designated

Flood Zone A and B, and to a lack of conveyance capacity in a culvert under the R336. The assessment included detailed site-specific hydraulic modelling. Based on the SSFRA the site is estimated to be within Flood Zone C on the basis of the existing culvert and the FFL's on the site being a minimum of 15 mm above the 0.1% AEP Mid-Range Future Scenario flood level for coastal flooding. The SSFRA notes that there is no evidence of pluvial or groundwater flooding on the site.

#### 8.1.5 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.

#### 8.1.6 The Proposed Development

The proposed development comprises of the following:

Construction of 1 no. Detached dwelling on the east site

Removal of existing palisade fencing & construction of new front boundary walls with new vehicular entrance

Provision of Carparking

Decommission of 2 No. septic tanks and connection to main sewer, and all associated site works.

#### 8.1.7 Submissions and Observations.

There were none received from the prescribed bodies or third parties.

#### 8.1.8 European Sites and Connectivity.

A summary of European sites that occur within a possible zone of influence of the proposed development is presented in the Table below, Table 8.1. 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 11 No.

European sites in their initial screening consideration with sites within 15km of the development site considered (Table 2.1 Page 6 Appropriate Screening report). 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.

**Table 8.1- Summary Table of European Sites within a possible zone of influence of the proposed development.**

European Site (Site Code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor	Considered further in screening Y/N
Galway Bay Complex SAC (Site Code: 000268)	<ul style="list-style-type: none"> <li>▪ Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>▪ Coastal lagoons [1150]</li> <li>▪ Large shallow inlets and bays [1160]</li> <li>▪ Reefs [1170]</li> <li>▪ Perennial vegetation of stony banks [1220]</li> <li>▪ Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</li> <li>▪ Salicornia and other annuals colonising mud and sand [1310]</li> <li>▪ Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330]</li> <li>▪ Mediterranean salt meadows (Juncetalia maritimi) [1410]</li> </ul>	<b>c. 1.3 km east of appeal site</b>	The Trusky Stream runs along the western boundary of the appeal site. This stream discharges to the sea at Barna Pier, c. 200 metres south of the appeal site. Having regard to the scale of the proposed development, the distance between the point of discharge into the sea and Galway Bay Complex SAC, and the	<b>No</b>



	<ul style="list-style-type: none"> <li>▪ Turloughs [3180]</li> <li>▪ Juniperus communis formations on heaths or calcareous grasslands [5130]</li> <li>▪ Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</li> <li>▪ Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]</li> <li>▪ Alkaline fens [7230]</li> <li>▪ Limestone pavements [8240]</li> <li>▪ Lutra lutra (Otter) [1355]</li> <li>▪ Phoca vitulina (Harbour Seal) [1365]</li> </ul>		consequent dilution effect on any contaminated run-off from the appeal site, I do not consider a likelihood of significant effects.	
Inner Galway Bay SPA (Site Code 004031)	<ul style="list-style-type: none"> <li>▪ Black-throated Diver (Gavia arctica) [A002]</li> <li>▪ Great Northern Diver (Gavia immer) [A003]</li> <li>▪ Cormorant (Phalacrocorax carbo) [A017]</li> <li>▪ Grey Heron (Ardea cinerea) [A028] • Light-bellied Brent Goose (Branta bernicla hrota) [A046]</li> </ul>	c. 1.3 km east of appeal site.	The Trusky Stream runs along the western boundary of the appeal site. This stream discharges to the sea at Barna Pier, c. 200 metres south of the appeal site. Having regard to the scale of the proposed	<b>No</b>

	<ul style="list-style-type: none"> <li>▪ Wigeon (<i>Anas penelope</i>) [A050]</li> <li>▪ Teal (<i>Anas crecca</i>) [A052]</li> <li>▪ Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</li> <li>▪ Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</li> <li>▪ Golden Plover (<i>Pluvialis apricaria</i>) [A140]</li> <li>▪ Lapwing (<i>Vanellus vanellus</i>) [A142]</li> <li>▪ Dunlin (<i>Calidris alpina</i>) [A149]</li> <li>▪ Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</li> <li>▪ 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]</li> </ul>		development, the distance between the point of discharge into the sea and Inner Galway Bay SPA, and the consequent dilution effect on any contaminated run-off from the appeal site, I do not consider a likelihood of significant effects	
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8.1.9 Following an examination of sites within the zone of influence, and upon an examination of the connectivity between the appeal site and these sites (see Table 8.1 above), Galway Bay Complex SAC (Site Code: 000268) and Inner Galway Bay SPA (Site Code: 0004031) have been screened out having regard to the small scale of the proposed development, and the distance between the point of discharge into the sea, the consequent dilution effect on any contaminated run-off from the appeal site.

#### 8.1.10 Conservation Objectives of European Sites

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/protectedsites/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>

#### 8.1.10 Identification of Likely Effects.

During the construction phase, there is potential for surface water run-off from site works to temporarily discharge to groundwater and surface water. However the site is a small brownfield urban site, which was developed previously. Apart from removing a decommissioned septic tank, there are very limited site development works required during the construction phase. In addition, the proposed dwelling is 27m from the stream to the west of the landholding. There is no 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.

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. 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.

#### 8.1.11 Likely significant effects on the European sites in view of the conservation objectives

The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of the SACs due to separation distance and lack of meaningful ecological/ hydrological connections. There will be no changes in ecological status of the European sites due to construction related emissions.

#### 8.1.12 In combination effects

The proposed development will not result in any effects that could contribute to an additive effect with other developments in the area. No mitigation measures are required to come to these conclusions.

#### 8.1.13 Overall Conclusion – Screening Determination

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site and is therefore excluded from further consideration. Appropriate Assessment Stage 2 is not required.

The determination is based on:

- Having regard to the absence of any direct hydrological connection from the subject site to any European Site.
- Having regard to the distance of the site from the European Sites regarding any other potential ecological pathways.
- Having regard to the screening report submitted by the applicant.

\*\*\*\*\*

8.1.14 I should be noted I did not agree with the planning authority's screening Appropriate Assessment Screening Determination. I could find no basis for how the lacunae identified in the hydrological report as stated in the Planner's Report, could adversely affect the integrity a European site in light of their conservation objectives. There would appear to be no rationale presented by the planning authority for determining this outcome.

## 9.0 Water Framework Directive

- 9.1 The subject site is located at An Cheibh, Main Street, Bearna, Co. Galway which is located 27m east of the Truskey East Stream which flows in a north-south direction towards the sea, south of the village.
- 9.2 The proposed development comprises the construction of a dwelling house. A septic tank onsite is to be decommissioned and removed from the site. The development will connect to the public sewer. There will be robust SuDS systems will be implemented on site. No water deterioration concerns were raised in the planning appeal.
- 9.3 I have assessed the development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

- 9.4 The reason for this conclusion is as follows:
- Small scale and nature of the development;
  - The removal of the old septic tank onsite
  - Distance from nearest water body and lack of hydrological connection.
- 9.5 I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## **10.0 Recommendation**

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

## **11.0 Reasons and Considerations**

Having regard to the pattern of development in the area, and to the zoning of the site as Town Centre, and objectives BMSP 1 and BMSP 2 in the Galway County Development Plan 2022-2028 incorporating the Bearna Metropolitan Plan 2022 - 2028, the siting and design of the proposed development, the Site Specific Flood Risk Assessment, and the conclusion of the Appropriate Assessment Screening, which was undertaken by the Commission , the proposed development would provide a high-quality residential dwelling on a brownfield site, an acceptable layout on an infill site, would not seriously injure the character of the area or the amenities of property in the vicinity, and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

## **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 18<sup>th</sup> of July 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** in the interest of clarity.

2. Prior to the commencement of the development the finished floor level of the proposed dwelling shall be agreed in writing with the planning authority.  
There shall be no infilling of the subject site.

**Reason:** In the interests of the proper planning and sustainable development of the area.

3. The proposed external finishes to the dwellings, hard and soft landscaping, the surface water drainage system and boundary treatments shall be in accordance with the drawings submitted with the planning application.

**Reason:** in the interests of visual amenity and traffic safety.

4. Prior to the commencement of development, the developer shall enter into a Connection Agreement(s) with Uisce Eireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

**Reason:** in the interest of public health and to ensure adequate water/wastewater facilities .

5. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

**Reason:** in the interest of public health

6. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.

(b) Only clean, uncontaminated storm water shall be discharged to the onsite surface water drainage system .

**Reason:** in the interest of public health.

7. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

8. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including noise and dust management measures and offsite disposal of construction/demolition waste.

**Reason:** in the interest of public safety and amenity.

9. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed FqWMP shall be made available for inspection at the site office at all times.

**Reason:** in the interest of reducing waste and encouraging recycling.

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

**Reason:** in the interest of visual and residential amenity.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to



commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** it is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

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.

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Caryn Coogan  
Planning Inspector

17<sup>th</sup> of November 2025

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	320963-24
<b>Proposed Development Summary</b>	Construction of a dwelling house
<b>Development Address</b>	Freeport, Bearna, Co.Galway
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.  <div style="border: 1px solid black; height: 150px; width: 100%;"></div>
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input checked="" type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	Class 10(b)(i) & 10(b)(iv)  Class 14
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	10(b)(i) - Construction of more than 500 dwelling units 10(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. 14 – Works of demolition carried out in order to facilitate a project listed in Part 1 or Part 2 of this Schedule where such works would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

<b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	<b>State the Class and state the relevant threshold</b>
<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	The proposed development is for one dwelling unit and does not exceed the 500 unit threshold. The proposed development has a site area of 0.160ha and does not exceed the 10ha threshold.

<b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>	
<b>Yes</b> <input type="checkbox"/>	<b>Screening Determination required (Complete Form 2)</b>
<b>No</b> <input checked="" type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	ABP 320963-
<b>Proposed Development Summary</b>	Construction of a dwelling house, carport with tool shed, remove palisade fence, new front boundary wall, decommission a septic tank and connection to public sewer.
<b>Development Address</b>	Freeport, Bearna, Co. Galway
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The site is a brownfield site in Bearna village. The site is zoned for town centre uses (inc. residential and commercial development). SEA undertaken as part of Development Plan. The proposed development is for a contemporary dwelling (268sq.m.) on a site area of 0.085Ha. The existing development pattern is residential developments to the east, with the Truskey East Stream to the west and the built up village of Bearna further west. The site originally included a dwelling a partially included a supermarket. The buildings were damaged by fire in 2016 and the site was cleared.
<b>Location of development</b>  (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The site is 1.3km east of Galway Bay. Although there is a stream 27m west of the proposed dwelling, the Appropriate Assessment Screening has determined the proposal will not adversely affect the integrity of Galway Bay Complex SAC and Inner Galway Bay SPA, in view of the Conservation Objectives of the sites.
<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration,	There is no real likelihood of significant effects on the environment arising from the proposed development. There is no real likelihood of significant cumulative effects having regard to existing or permitted projects

cumulative effects and opportunities for mitigation).	
<b>Conclusion</b>	
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_