



An
Coimisiún
Pleanála

Inspector's Report ABP-320964-24

Development

Construction Mixed Use building consisting of 2 no. Ground Floor Offices, 2 no. Apartments at first floor level. Carparking & Bike Shelter
Decommission of 1 No. septic tank, connection to main sewer, removal of existing palisade fencing & construction of new front boundary walls Ancillary and associated site works

Location

An Chéibh, Freeport, Bearna, Co. Galway

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

2460943

Applicant(s)

Shane Kennedy.

Type of Application

Permission.

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Shane Kennedy

Observer(s)	None
Date of Site Inspection	29 th of September 2025
Inspector	Caryn Coogan

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1.0 Site Location and Description

- 1.1 The subject site, **0.07Ha**, 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. The village has experienced substantial growth in recent times.
- 1.2 The subject site is a brownfield site, and included a commercial landuse for over 50years. It has immediate access to public transport. There is a bus stop located along the roadside boundary. It is within walking distance of the village centre and has a range of services.
- 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 a level site with hard surfacing.
- 1.4 The subject site originally formed part of a larger site, 0.172Ha, which was previously assessed by the Commission for development under appeal reference **ABP-313843-22**. The overall site has been subdivided into two separate planning applications, one for a dwelling and the other is a mixed-use building with offices on the ground floor and apartments overhead. The second site, 0.08ha to the east, is being assessed concurrently with this appeal under reference ACP 320963-24 (for a single dwelling house).
- 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 is positioned at a higher ground level than the subject site of c.1.6m. It is overgrown with trees. The Truskey East stream bounds the site along its western boundary. The stream is narrow, overgrown and is positioned at a lower ground level to the overall site.
- 1.6 The eastern site boundary is common boundary, with the other site currently under appeal. Further east there are a number of housing units, all single storey accessed from a short cul de sac. Further east, within c.100m of the site, is a school, a Texaco garage and a Centra.
- 1.7 As stated above, the site originally accommodated a supermarket for a long period of time, which relocated elsewhere in the village in 2003. There have 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 2-Storey mixed use building consisting of 2 no. ground floor office units (134.5sq.m.) & 2 no. first floor Apartments (135sq.m.),
- Removal of existing palisade fencing & construction of new front boundary walls with vehicular entrance,
- Provision of Carparking, Bike Shelter and Bin Storage Area,
- Decommission of Septic tank and connection to main sewer, and
- 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 19th of September 2024, Galway County Council refused the proposed development for three 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. The applicant has not submitted a Linguistic Impact Statement and is therefore considered contrary to Policy Objective GA 4 of the Galway County Development Plan 2022-2028 to ensure that permanent residents enhance and reinforce the development of the Irish language as the community's primary language, and would therefore materially contravene a policy objective of 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 18th 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 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).
- The Moycullen Bogs NHA is located approximately 2.14 km from the site. The Proposed Natural Heritage Areas: Galway Bay Complex is located approximately 1.21 km from the site.
- 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 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.
- The principle of the development which comprises of commercial use at ground floor (indicated as office use) is permitted in principle, and residential use (apartments) at first floor is also permitted in principle as per the land use matrix as set out in Volume 2 of the Galway County Development Plan 2022-2028. However, Policy Objective GCMA 19 Constrained Land Use Objective is applicable.
- The subject application for 2 no. units, therefore, at this time, is not considered an exceedance of the Core Strategy figure for housing units alone.
- The applicant has not submitted a Linguistic Impact Statement in accordance with Policy Objective GA 4 to ensure that permanent residents enhance and reinforce the development of the Irish language as the community's primary language.
- There is no designated open space amenity area proposed for the proposed apartment units in the details received aside from the private balcony areas. A high standard of amenity has not been presented in the details received. This could be addressed by means of Further information.
- Policies relating to Constrained Land Use zoning are cited

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
- TII

There were responses received from Údarás na Gaeltachta and TII, with no objection in principle to the proposed development.

3.4 Third Party Observations

There were no third-party submissions on file.

4.0 Planning History

4.1 *Planning Ref. 24/60890 (ABP 320963-24)*

On the contiguous site to the east, the same applicant, Mr Shane Kennedy, applied for planning permission for a two-storey dwelling. Galway Co. Co. refused the application on the 9th of September 2024, and this case is currently under appeal with the Commission. There were two reasons for refusal cited which are the same first two reasons for this current proposal outlined under Section 3.1 of this Report.

4.2 *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’.

4.3 *Pl. Ref. No. 21/1396*

The construction of 2 no. dwelling houses was refused by Galway County

Council due to inadequate density.

4.4 **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.

4.5 **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 are 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. The third reason for refusal relates to a linguistic impact report.

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 portion of the 1.7Ha site, and the subject site was in commercial use up until 2016.
- 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. A burden exists on the site preventing any future use as a shop, grocery store, deli or newsagent.
- 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 applicant purchased the site to build a family home.
- 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.
- To move forward with the development of the site, the overall landholding was split in two to address the concerns of the planning authority.
- The Site-Specific Flood Risk Assessment, determine the site to be entirely within **Flood Zone C**. There is a commercial use proposed for the ground floor which has less vulnerability than residential. The commercial use is also consistent with the historical commercial use of the site. Commercial development is acceptable on Flood Zone B lands.
- The apartments overhead address the density concerns of the planning authority.

6.1.2 Site Location and Former Residential and Commercial Uses.

- The site is a high-profile brownfield site in Bearna village. It is zoned for Town Centre Uses. It is located between a mature residential cluster. There was a supermarket on the site up until 2003 when it relocated to a new site in the village.
- The property had a variety of uses from 2003-2025 which included a tyre centre, car wash, pet shop and lawnmower business.
- The site has been vacant since the buildings were demolished in 2016 following a fire.

6.1.3 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 applicant proposed commercial at ground floor level which is deemed to be acceptable in Flood Zones B and C.
- **GCMA 18 Flood Zones and Appropriate Land Uses**
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).
- 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.
- The nearest part of the stream to the proposed development is 11.5metres and this increases to 14metres at the rear.
- 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 western 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 by the applicant because the SSFRA is highly comprehensive, using the latest modelling tools and flow rates, and assesses the entire area and not just a portion of it.
- The SSFRA is extremely comprehensive and it's the most detailed study on the stream to date using 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 commercial use, the proposed development does not obstruct the flow paths and the proposed development not raise significant flooding issues.
- 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.

6.1.4 Planner's Report – Grounds for Refusal Addressed

- The planner's report notes there was potential for the proposed works associated with the project build to displace future waters to other locations in the site environs. In response it is stated the SSFRA concluded that the site in Flood Zone C is not a flood risk in a Q1000 event therefore flood water displacement is not a risk factor.
- The location of the proposed mixed use structure is similar to that of the original commercial building but with a smaller building footprint, thus not increasing any flood water displacement. Any proposed increase in site levels are minimal and can be seen on site cross section DWG 6033/05/24.

Existing site levels are 9.15m at the front boundary tapering to 9.25 in the centre of the site.

Proposed site levels are 9.2m at the proposed front boundary wall, tapering to 9.4m in the centre of the site which will now have a soft landscaping.

These minimum deviations <150mm at the front of site are due to the implementation of the SuDS features such as importing topsoil for soft landscaping will reduce surface water run-off from the current non-porous surfaces, thus reducing flood risk downstream.

- Levels in the proposed carpark are 9.4m compared to the average existing levels of 9.2m in this location. The proposed level can be reduced to 9.2m, as this is to accommodate the porous paving.
- 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 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).

Response: 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 mixed use, development and in a Flood Zone C. Justification tests are not required in a Flood C zone.

The impact of climate change was factored in and the entirety of the site was shown to be outside the Q1000 + Climate Change Flood Zone. FFL are +500mm above this level as per OPW guidelines.

- **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 development. The site is located 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. The SuDS proposals ensure all run off will be contained within the site.

- **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.

- Response: The SSFRA is in accordance with the provisions of the Planning System and Flood Risk Management Guidelines 2009. The site is entirely within Flood Zone C. The OPW were contacted in November 2022 regarding the accuracy of the NIFM 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.

6.1.5 Access and Egress from site

- This is a brownfield site with an existing entrance and driveway off the R336. **Plate 7.1** represents peak Q100 flood height. **Plate 7.4** represents the peak Q1000 flood height and in accordance with the Flood Risk Management Guidelines. Plate 7.8 represents the sensitive analysis for climate change with the max increase in flood height of 360mm at the culvert. Sensitive analysis is carried out to check finished levels against the impact of climate change and flood waters in this scenario do not impact the proposed development.
- Overtopping onto the R336 public road to approximately depth of 150-200mm adjacent to the culvert and existing driveway is indicated over 2.6hour return period. The proposed entrance, is the same as the previous entrance to the supermarket on the site.
- Due to the representation of Plate 7.8 the applicant proposed to construct commercial office at ground floor level office rather than residential which had previously been applied for.
- Of note Drawings 6033/03/24 the correlation between A and B Flood Zone from the SSFRA and the entrance.

6.1.4 Policy Objectives NHB1, NHB2, NHB3 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 **NHB3** – Protection of European sites. **DM Standard 50** – Environment Assessments.
- This is a brownfield site, it was previously developed. The existing septic tank is to be removed, and connections are to the public sewer. The Planning Report

states there is no real likelihood of significant impacts on the environment arising from the proposed development.

- Under planning reference 22/60311 for the construction of three dwellings, the planner's report noted there was no direct ecological conduit between the subject site and the Natura 2000 designation. Note the inspectors report was quoted from ABP-3138422.
- It should be noted planning permission was granted on a site within 80m of this proposal, on the southern (sea side of the road) and within 100m of Galway Bay. This was on a greenfield site, with topsoil stripping commenced on 20/05/2024. The petrol filling station was deemed to be an acceptable form of development with no environmental risk to Galway Bay despite the principle activity on site being refuelling of vehicles with the ongoing risk. That site is Flood Zone C with the adjoining site being designated Flood Zone A and B.
- It is difficult to see how a small infill mixed use building on a brownfield site which includes decommissioning of septic tanks and connection into the foul sewer would pose an unacceptable risk to Galway Bay when a petrol filling station in closer proximity to Galway Bay is 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. The proposed works will eliminate surface water run-off.

6.1.6 DM Standard 69

- The Planner's Report notes the proposed would materially contravene DM Standard 69 of permitted.

The table below indicates the types of land uses that are appropriate in each of the Flood Zones identified within the Plan area, in accordance with the 2009 Flood Risk Management Guidelines for Planning Authorities and Departmental Circular PL2/2014 (or any updated/superseding legislation or policy guidance).

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

- The proposed development complies with DM standard 69. The SSFRA concluded the site is located in Flood Zone C and is suitable for a residential development. Due to the recent refusal the applicant proposed a less vulnerable landuse. Commercial is appropriate for Flood Zones B and C.
- In terms of the floor levels, the location of the proposed mixed use block in Flood Zone C and this is not impacted by flooding during a Q1000 Flood event. The finished floor level of the proposal is circa 900mm + above this max flood level an 500mm + above Q1000 + Climate Change.

6.1.7 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. Any potential overtopping onto the R336 flows away from the site, towards the south following the natural topography.

6.1.8 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.
- The freeboard above Q1000 flood levels was 1.106m.
- 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.

6.1.9 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.
 - (vii) Removed trees from stream bank to reduce the risk of a potential culvert blockage.

6.1.10 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, and the driveway and parking area was in Flood Zones A and B.

- The building footprint from PI18/321 has now been removed from the Bearna Flood Zone as per the Bearna Metropolitan Plan 2022-2028 Flood Map Extract.
- This highlights the coarse nature of the PFRA Flood Maps and to explain why there is a need to carry out flood risk assessments.
- *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.

6.1.11 Linguistic Impact Report

- The planning application noted the development would comply with the requirements under Chapter 13 policies GA4 and GA 5 with the proportion of homes to which a language inurement clause would apply, and this would be agreed by a condition of planning. With just two residential apartments proposed, the allocation of these apartments would represent 50%. This is acceptable as a condition.

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
- Services
- Flooding
- Linguistic Impact
- 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. (current appeal)

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

7.2.2 The applicant, Mr. Shane Kennedy, has made two previous planning applications on the entire site area. Prior to 2020, when the applicant purchased the site, there were two relevant planning permissions associated with the site. Under Planning Ref. 16/294 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 tyre 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 The applicant 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 Bearna 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 Bearna 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 226031(ABP 313843). 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.

7.2.5 It should be noted the planning histories of the lands in close proximity to the subject site are as follows:

ABP 319685-24 -Planning permission for 51No. dwellings on the opposite side of Main, Street to the subject site was refused planning permission because the site is partially within Flood Zone A and B and it was not demonstrated that the upgrade of the culvert under R336 would adequately address the fluvial flood risk of the site, especially in relation to the monitoring and management of the culvert.

ABP. Ref. PL07.243912 – Permission **GRANTED** for filling station. An extension of duration was granted under PA. Ref. 19/966. (Flood Zone C)

ABP ref. 319686-24- Permission refused for Demolition of 4 no. existing buildings; construction of a 2.5 storey building comprising 18 no. apartments and 1 no. retail unit; because it has not been demonstrated that there is adequate collection/conveyance capacity in the foul sewer network in Bearna to cater for the effluent generated by the proposed development. (Flood Zone C)

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 supermarket and parking area, as per the Google Maps 2007, and mapping presented with the planning application (Photo Plate 15). 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 mixed use development 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 has been a commercial development associated with the subject site since the 1960s. Following the closure of the of supermarket, the site was used for a number of commercial developments. The site is located in the middle of Bearna village on the Mian street. It is currently vacant contributing nothing to the vitality of the village, and historically has a commercial use. I favourably inclined to encourage the redevelopment of the site with a modest mixed-use development, and an interesting streetscape deisgn. Overall, the consider the proposed development complies with the general principles of the development plan and is in line with the Galway Metropolitan Area policies.

7.4 Design and Siting

- 7.4.1 The front facade articulation is an innovative contemporary design that will make a positive contribution to the character of the neighbourhood and streetscape. The legibility is consistent with the proposed contemporary design on the eastern portion of the entire site. The existing site creates a vacant inactive appearance along a prominent location on the Main Street of Bearna. The proposed footprint of the building is setback into the site and in line with the proposed dwelling to the east.
- 7.4.2 There is a cedar façade at first floor level and a dry-stone wall at ground level. The building will have a zinc roof. The ground floor includes 2No. offices and the first floor contains two apartments. By utilizing a carefully selected material palette, the building will integrate with its natural surroundings, particularly the mature trees behind the site and will enhance the overall sense of place and contribute to the revitalization of the area.
- 7.4.2 The parking provision, 8No. spaces, is along the northern site boundary. The access road to the rear is along the western site boundary, and the entrance is off the Main Street, from an existing entrance located on the western extremity of the roadside boundary. There is soft landscaping proposed to the front of the site and along the eastern site boundary.

7.5 Services

7.5.1 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..

7.5.2 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. This should be noted the existing stormwater network on site discharges into the Trusky East Stream and this will be discontinued under the proposals.

Paved areas – 393sq.m. run-off co-efficient 0.25

Roof areas – 140m², run-off coefficient 0.9,

Total: 480sq.m.

Soft Landscaping – 169m², run-off coefficient 0.25

Total 522.5m.

Maximum storage required is 43.14sq.m.

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 tank 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 site.

7.7 **Flooding**

7.7.1 Two reasons for refusal cited 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 includes a new and more detailed Site-Specific

Flood Risk Assessment which was prepared by Flood Risk Consultants in December 2023.

- 7.7.2 The subject site is located within Flood Zone A and B in the Bearna Metropolitan Plan 2022-2028 is based in the 2011 OPW Preliminary Flood Risk Assessment (PFRA) as opposed to the designation been based on hydraulic modelling of the river channel. 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. As stated, the total site area has been designated within Flood Zone A and B, this corresponds with the 'Constrained Land Use' zoning in Bearna Plan.
- 7.7.3 The objective of this SSFRA is to identify and address the Flood Zones at the proposed development by undertaking hydraulic modelling to determine the more accurate site-specific flood extents. This flood study has involved the construction of Infoworks ICM hydraulic models. 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 local watercourse.
- 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 According to the National Indicative Fluvial Mapping Q1000 flood plain map, a portion of the western site boundary is included within the designation. The NIFM flood mapping for mid and high-end future climate change scenarios were also assessed. It is a slightly larger flood plain than NIFM and includes a larger portion of the subject site, as per Plate 3.3 page 17 of the SSFRA. According to the OPW's

coastal flood plain maps, the Truskey East stream will not be affected in the vicinity of the subject site. There has been no past flood events recorded at the proposed site.

7.7.6 AA summary of the findings from the SSFRA submitted with the planning application are as follows:

- 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 OPW's 2009 guidelines, Flood Zones A (1 in 100 year) and B (1 in 1000 year) were examined for the watercourse.
- The resulting Q100 and Q1000 design flows for the watercourse are predicted using the FSU 4.2A method, in combination with the higher, more conservative EV1 distribution, to be 2.90m³/s and 3.67m³/s respectively. As defined by OPW's 2009 Guideline, Flood Zone A and B were examined.
- 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). In addition, Plate 7.82 indicates the profile of the maximum predicted flooding Q1000, and the overtopping does no result in the predicted flooding within the site. In addition, Plate 7.3 indicates the upstream face of the culvert beneath the Barna Road during the 100 year flood event is not surcharged.
- 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. Also in terms of the profile plot, the flood levels are predicted to exceed both banks of the watercourse adjacent to the site, but the overtopping does not encroach onto the subject site.

- Plate 7.6 presents the upstream face of the culvert beneath Barna Road during the 1000 year flood event, where the culvert is surcharged during this flood event, but with a maximum flood level of 8.59m OD, flooding does not overtop the bridge. The surcharging of the culvert causes localised flooding, but that flooding does not rise to a sufficient elevation to either cross the Barna Road (indicatively presented on Plate 7.7) or to flow through the proposed 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, onto the entrance of the site, as well as overtopping onto the Barna Road, leading to flooding downstream of the site.
- It has been determined based on the results that the minimum development levels should range from 9.40m OD for the southern boundary to 9.80m OD at the northern corner of the site. The recommendation results in a proposed dwelling Q1000 freeboard that ranges from 190mm to 810mm from the northern to the southern boundary of the site. Drawing C101 on page 42 of the report presents the predicted Q1000 floodplain and flood levels at the site (indicated in blue) along with the recommended minimum development levels (indicated in purple).
- There is no Justification Test required for the proposed development because there are commercial units on the ground floor of the proposed development which are not considered to be a vulnerable landuse.

7.7.6 I refer to the Planning Report on file dated the 18th of September 2024, which informed the basis of the decision to refuse planning permission for the development. The report stated the Flood Risk Assessment submitted with the planning application was not site specific and relates only to the adjoining site currently been assessed under appeal ABP 320963-24. I considered the report submitted with the planning application and it is relevant to the subject site. The existing site levels are 9.15m at the front boundary fence tapering to 9.25m in the centre of the site. The proposed site levels are only marginally higher at 9.2m at the front rising to 9.4m at the rear site boundary. These minimal deviations are due to

the implementation of SuDS features. It should be noted that during the 1960s the site levels were excavated by 1.5m to provide a supermarket and parking on the site which is evident from the difference in ground levels on the contiguous property to the north.

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 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.

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 floor 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 and is not impacted by flooding during a Q1000 Flood event. The FFL is circa 900mm+ above this max flood level, and 500mm+ above Q1000 + Climate Change levels.
- the appropriate finished floor levels of the proposed development without infilling,
- the SuDS proposals,
- the proposed less vulnerable form of development on the ground floor
- 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 at the existing/ proposed entrance to the site. I consider the applicant has provided sufficient evidence to support granting the planning permission and to resolve the reason for refusal cited under ABP 313843-22.

7.8 Linguistic Impact

- 7.8.1 The planning authority's third reason for refusal stated the proposed development should comply the requirements of Chapter 13 policies GA 4 and GA 5 with a proportion of the proposed dwellings should include a language enurement clause. The appeal site is located within a Gaeltacht area. Objective GA 5 of the Galway County Development Plan 2022 – 2028 requires the submission of a Linguistic Impact Statement for housing proposal for two or more houses in the Gaeltacht area. A Linguistic Impact Statement has not been submitted with the planning application or the appeal documentation.
- 7.8.2 To refuse a small-scale development proposal on this basis is, in my opinion, unreasonable. Given that the proposal includes 2No. apartments only. I consider it reasonable that this issue be addressed with a planning condition with a language enurement clause should be applied in respect of 1 no. unit.

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 Mixed Use Building consisting of 2No. offices on the ground floor and 2No. bedrooms on the first floor

Removal of existing palisade fencing & construction of new front boundary walls with vehicular entrance. Provision of Carparking. Decommission of a septic tank 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 11No.

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"> ▪ Mudflats and sandflats not covered by seawater at low tide [1140] ▪ Coastal lagoons [1150] 	c. 1.3 km east of appeal site	The Trusky Stream runs along the western boundary of the	No

	<ul style="list-style-type: none"> ▪ Large shallow inlets and bays [1160] ▪ Reefs [1170] ▪ Perennial vegetation of stony banks [1220] ▪ Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] ▪ Salicornia and other annuals colonising mud and sand [1310] ▪ Atlantic salt meadows (<i>GlaucoPuccinellietalia maritima</i>) [1330] ▪ Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] ▪ Turloughs [3180] ▪ <i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130] ▪ Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210] ▪ Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davalliana</i> [7210] ▪ Alkaline fens [7230] 		<p>appeal site. This stream discharges to the sea at Barna Pier, c. 200 metres south of the appeal site. Having regard to the scale of the proposed development, the distance between the point of discharge into the sea and Galway Bay Complex SAC, and the consequent dilution effect on any contaminated run-off from the appeal site during construction, and the limited site development works required, I do not consider a likelihood of significant effects.</p> <p>There will be no surface water discharge during the operations</p>	
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	<ul style="list-style-type: none"> ▪ Limestone pavements [8240] ▪ Lutra lutra (Otter) [1355] ▪ Phoca vitulina (Harbour Seal) [1365] 		phase, all surface water to be disposed off on site.	
Inner Galway Bay SPA (Site Code 004031)	<ul style="list-style-type: none"> ▪ Black-throated Diver (<i>Gavia arctica</i>) [A002] ▪ Great Northern Diver (<i>Gavia immer</i>) [A003] ▪ Cormorant (<i>Phalacrocorax carbo</i>) [A017] ▪ Grey Heron (<i>Ardea cinerea</i>) [A028] • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] ▪ Wigeon (<i>Anas penelope</i>) [A050] ▪ Teal (<i>Anas crecca</i>) [A052] ▪ Red-breasted Merganser (<i>Mergus serrator</i>) [A069] ▪ Ringed Plover (<i>Charadrius hiaticula</i>) [A137] ▪ Golden Plover (<i>Pluvialis apricaria</i>) [A140] ▪ Lapwing (<i>Vanellus vanellus</i>) [A142] ▪ Dunlin (<i>Calidris alpina</i>) [A149] 	c. 1.3 km east of appeal site.	The Trusky Stream runs along the western boundary of the appeal site. This stream discharges to the sea at Barna Pier, c. 200 metres south of the appeal site. Having regard to the scale of the proposed development, the distance between the point of discharge into the sea and Inner Galway Bay SPA, and the consequent dilution effect on any contaminated run-off from the appeal site during the construction phase will be minimal due to very limited site	No

	<ul style="list-style-type: none"> ▪ Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] ▪ Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162] • Turnstone (<i>Arenaria interpres</i>) [A169] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Common Gull (<i>Larus canus</i>) [A182] • Sandwich Tern (<i>Sterna sandvicensis</i>) [A191] • Common Tern (<i>Sterna hirundo</i>) [A193] • Wetland and Waterbirds [A999] 		development works work required on the brownfield 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. 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 11m 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 small mixed use development building. 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 26th 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. One of the apartments hereby permitted by the permission shall be restricted to use as a dwelling unit by those who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht, unless otherwise agreed in writing with the planning authority, for a period of 15 years.

Prior to commencement of development, the developer shall enter into a legal agreement with the planning authority (under the provisions of section 47 of the Planning and Development Act, 2000, as amended), the purposes of which shall be to restrict or regulate a portion of the residential elements of the development for the use of occupants who have an appropriate competence/fluency in Irish. Details of the standard of Irish to be achieved and method of evaluating this shall be submitted to and agreed in writing with the planning authority prior to the finalisation of the agreement hereby conditioned. (Qualification for the Sceim Deontais Tithe will automatically qualify). No house shall be occupied until an agreement has been entered into with the planning authority pursuant to section 47 of the Planning and Development Act, 2000, as amended.

Reason: To ensure that development in the area in which the site is located is appropriately restricted.

3. Prior to the commencement of the development the finished floor level of the proposed development 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.

4. The proposed external finishes of proposed development, 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.

5. 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 .

6. 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

7. (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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

Caryn Coogan
Planning Inspector

17th of November 2025

Form 1 - EIA Pre-Screening

Case Reference	320964-24
Proposed Development Summary	Construction of a 2 storey mixed use development
Development Address	Freeport, Bearna, Co.Galway
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (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>
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input checked="" type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	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	
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?	
<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.

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

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)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 2)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ **Date:** _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP 320964
Proposed Development Summary	Construction of a mixed use building with 2No. offices on the ground floor and 2No. apartments on the first floor, with a total floor area of 270sq.m., remove palisade fence, new front boundary wall, decommission a septic tank and connection to public sewer.
Development Address	Freeport, Bearna, Co. Galway
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (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 two storey building (270sq.m.) on a site area of 0.07Ha. 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.
Location of development (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.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary,	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

intensity and complexity, duration, cumulative effects and opportunities for mitigation).	
Conclusion	
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ Date: _____