

Draft Galway County Development Plan 2022-2028 – MATERIAL ALTERATIONS”

We would like to make this submission on behalf of the “A Better Bearna 4 All” community group.

The group represents Bearna residents who want to ensure the proper planning and sustainable development for the local area. In particular, we want to highlight the shocking lack of amenity for a rapidly growing population, and want to ensure that the requisite infrastructure is in place before significant expansion takes place.

We are appalled at the long-term levels of extreme pollution in our bathing waters and streams, and the indifference shown by the authorities (including the County Council, Irish Water and the EPA).

We hope that you give this submission careful attention, and address all the concerns that it raises, before the approval of the new plan.

Cait Noone, [REDACTED]
Gabriel McGoldrick, [REDACTED]

On behalf of “A Better Bearna 4 All”

[REDACTED]

[REDACTED]



Summary

- The Infrastructural Assessment Report in the Material Alterations does not meet the requirements of the NPF, rendering the entire plan invalid. (Infrastructural Assessment Report)
- No assessment of the pollution problems in the Infrastructural Assessment Report in the Material Alterations (Infrastructural Assessment Report)
- The material alterations for Bearna will worsen the already horrendous pollution problem in Bearna, with no plan from the council to fix this problem, only to allow excess development over and above the core strategy. (Infrastructural Assessment Report, MASP LUZ Bearna2.1a, MASP LUZ Bearna2.1b, MASP LUZ Bearna2.4)
- If the material amendments are approved, the Galway County Development Plan 2022 – 2028 will be made contrary to the flood risk management guidelines, as highlighted in the SFRA, SEA etc. (SFRA)
- The change to size of the setback is contrary to the flood guidelines, and ignores the scientific evidence that there will be extensive coastal flooding. (Bearna MA 1)
- Halving (30m→15m setback) of the only possible amenity in the plan from the last 15 years goes against the fundamental plan objectives. (Bearna MA 1)
- No assessment of Bearna Inner Relief Road, which is included as a requirement in the Infrastructural Assessment Report in the Material Alterations. (Infrastructural Assessment Report)
- Infill zoning in Bearna for approx 3ha with default density of 30 units per hectare is missing from core strategy table, rendering it fatally flawed. (If infill is “one or two houses between sites”, there is not a problem) (MASP LUZ Bearna2.1a, MASP LUZ Bearna2.1b, MASP LUZ Bearna2.2, MASP LUZ Bearna2.4)
- There was a clear abuse of the democratic process during the GCDP meetings and in the production of these Material Alterations.

Infrastructural Assessment Report

The Infrastructural Assessment Report published as part of the material amendments is completely inadequate, when judged against the requirements for the same in the NPF.

All sites in Bearna are zoned Tier 1, when it is obvious a lot are not serviced, do not have footpaths or street lighting, and are outside the agglomeration boundary that would allow them to connect to the pumping station. The ongoing brushes with environmental disaster at the pumping station mean that the entirety of Bearna should be Tier 2, not to mention operating way outside the permitted 2000 PE capacity. A compliant Infrastructural Assessment Report would identify these issues and detail how they would be fixed.

There are no plans, no site, no costings for a treatment plant in Bearna, despite it being an objective for 15+ years.

Requirement under NPF

The National Planning Framework (NPF) sets out that

- Planning authorities will be **required** to apply a standardised, tiered approach to differentiate between i) **zoned land that is serviced** and ii) zoned land that is serviceable within the life of the plan (NPO72a).
- When **considering zoning lands for development purposes that require investment in service infrastructure, planning authorities will make a reasonable estimate of the full cost of delivery of the specified services and prepare a report, detailing the estimated cost at draft and final plan stages** (NPO72b).
- When considering zoning land for development purposes that cannot be serviced within the life of the relevant plan, such lands should not be zoned for development (NPO72b).

**Tier 1
Serviced
Zoned
Lands**

- This zoning comprises lands that are able to connect to existing development services, i.e. road and footpath access including public lighting, foul sewer drainage, surface water drainage and water supply, for which there is service capacity available, and can therefore accommodate new development.
- These lands will generally be positioned within the existing built-up footprint of a settlement or contiguous to existing developed lands. The location and geographical extent of such lands shall be determined by the planning authority at a settlement scale as an integral part of the plan-making process and shall include assessment of available development services.
- Inclusion in Tier 1 will generally require the lands to be within the footprint of or spatially sequential within the identified settlement.

<p>Tier 2 Serviceable Zoned Land</p>	<ul style="list-style-type: none"> • This zoning comprises lands that are not currently sufficiently serviced to support new development but have potential to become fully serviced within the life of the plan i.e. the lands are currently constrained due to the need to deliver some or all development services required to support new development, i.e. road or footpath access including lighting, foul sewer drainage, surface water drainage, water supply and/or additional service capacity. • These lands may be positioned within the existing built-up footprint of a settlement, or contiguous to existing developed lands or to tier 1 zoned lands, where required to fulfil the spatially sequential approach to the location of the new development within the identified settlement. • The potential for delivery of the required services and/or capacity to support new development must be identified and specific details provided by the planning authority at the time of publication of both the draft and final development or area plan. • This infrastructural assessment must be aligned with the approved infrastructural investment programme(s) of the relevant delivery agency(ies), for example, Irish Water, or be based on a written commitment by the relevant delivery agency to provide the identified infrastructure within a specified timescale (i.e. within the lifetime of the plan). The planning authority may also commit to the delivery of the required and identified infrastructure in its own infrastructural investment programme (i.e. Budgeted Capital Programme) in order to support certain lands for zoning.
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The NPF sets out that current development or area plans may include zoned lands which cannot be serviced during the lifetime of a development or area plan by reference to the infrastructural assessment of the Planning Authority. This means that they cannot be categorised as either Tier 1 lands or Tier 2 lands, as per the above, and are not developable within the plan period. Such lands should not be zoned for development or included within a development plan core strategy for calculation purposes.

Summary

The Infrastructural Assessment Report in the GCDP, in both the draft and **the material amendments**, fails completely to adhere to the NPF requirement. No audit of

- Footpaths
- street lighting
- Roads
- Sewerage
- Pollution
- Water
- Open Space/Amenity
- Flooding
- Rights-of-way
- CPOs needed for footpaths
- cycle lanes

The sum total of an assessment for Bearna is a single line in the Infrastructure Assessment Report, saying Limited Capacity for water and sewage. This has been the same entry for the last 15+ years in the Bearna LAP and then in 2018 when the Bearna plan was incorporated by variation into the GCDP

Bearna	10	(750)	Limited Capacity	Limited Capacity	Drainage Area Plan will identify network issues and needs. Provision for medium and long-term growth will be considered as part of Greater Galway Area Drainage Strategy. Water supply options will be assessed in the National Water Resource Plan.	Good Road network. Connectivity to all TC and R1 lands Surface Water Drainage design. Completion of the Relief road.	Tier 1
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So, is the waste water system limited to 1 new unit? 10? 100? 1000? Who knows....This deliberate effort on behalf of the council to hide and ignore the fundamental infrastructure deficits in Bearna run counter to the whole purpose of a development plan.

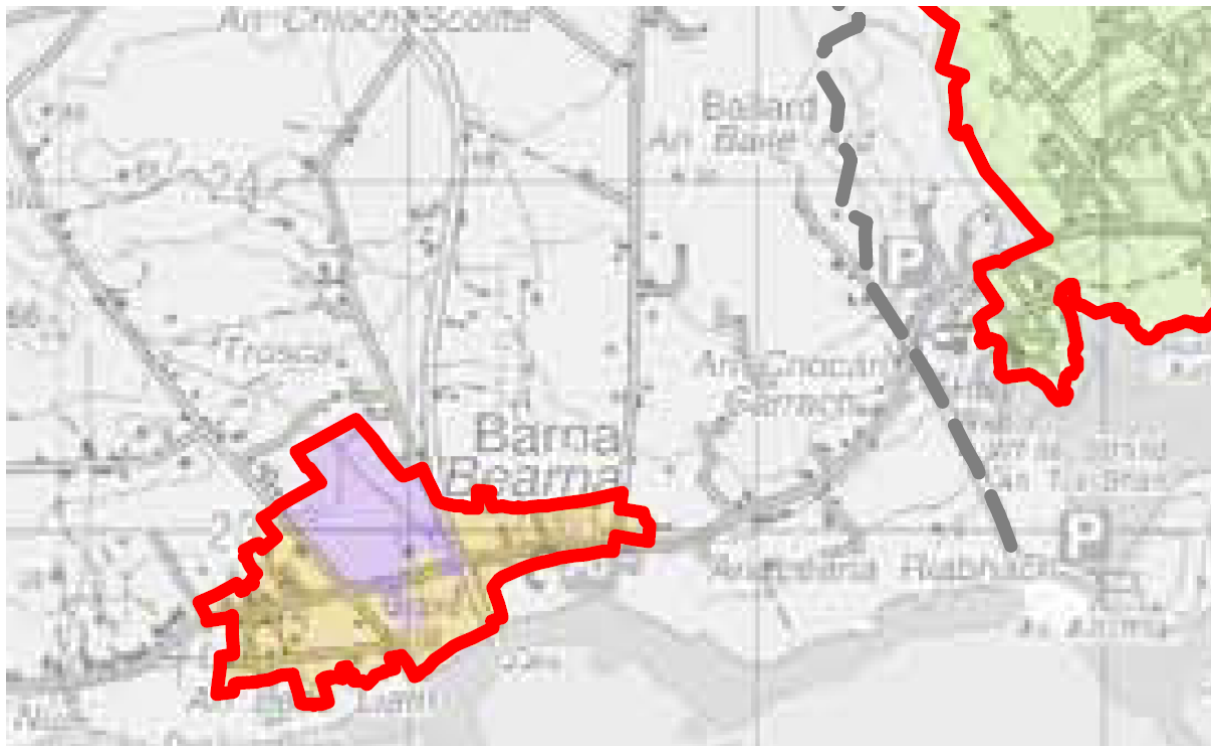
In recent years, the LAP allowed 130 units and another 120 units have been allowed as a material contravention under SHD legislation. This plan allows for another 300 Res Phase 1 + 150 brownfield + 90 hidden "infill" + whatever is allowed in Town Center (again, who knows?).

In total an extra $250 + 540 = 790$ units $\Rightarrow 790 * 2.6$ or an extra 2054 PE will be allowed to connect to a system, that was already at full capacity based on the allowed 2000 PE under planning (2006) and agreement with Galway City Council (2001). That is a doubling of the population, even though there is no capacity.

A significant number of units, that are outside the agglomeration boundary, have been allowed to connect to the sewage system. Changes in the material alterations and the draft plan allow Res Phase 1 and "Infill" that are outside the boundary, and therefore cannot be classified as Tier1.

Zoomed in - Mutton Island Discharge License Agglomeration Boundary

It can clearly be seen from this map that much existing and proposed development land in the material alterations is not included within this agglomeration boundary. The pumping station is already accepting waste from estates that the county council has given permission to, even though they are outside the boundary, not to mention others that have not yet commenced.



Saying there is enough capacity in Mutton Island just ignores all the problems in the Bearna Pumping Station and the pollution from the local sewage system.

From: [REDACTED]

To: [REDACTED] >

Sent: Wednesday 11 December 2019

Hi Shay, Pat,

To confirm, the 2 pumps are down. Walsh Waste are tankering the waste water from the inlet sump into Knocknacarra. The inlet sump level has risen from 2.7m this morning to 3.2m this afternoon. At 4m the sump will overflow into the storm tank. In wet weather the capacity of the storm tank is only approximately 2 hours. When this tank is full the waste will spill over into the dry well. Eventually the dry well will flood and the waste water will eventually overflow onto the field. This is a catastrophic situation.

Walsh Waste has confirmed that they cannot continuously tanker the waste overnight and will cease their operation at 6pm.

There is heavy rain forecast tonight and unfortunately the pump has not been repaired or replaced. The consequences is a serious overflow and a serious clean up operation after.

This situation cannot happen.

Regards,
Tony

In particular, a compliant Infrastructural Assessment Report would clearly and unambiguously answer the following questions:

- What is the allowed PE for Bearna under Part 8 planning, and agreement with Galway City?
- What was PE at the start when the Pumping Station was commissioned? Part 8 planning suggested it was almost fully used up from the start
- How many units have been connected to the Pumping Station since 2013 ?
- What is the current operating PE for Bearna Pumping Station?
- What is the expected PE based on the zoned land in GCDP 2022-2028? 300 RP1 + 150 brownfield + 90 infill + town center
- What plans do Irish Water have, if any, for a Bearna Treatment Plant, as highlighted in the GCDP 2022-2028. These plans for a treatment plant should be included in the plan, if they exist.

Other issues with the Infrastructural Assessment Report include:

- No assessment for newly zoned lands in Material Alterations
- Blanket assumption that everything is Tier 1, which is blatantly false. For example, but not limited to:
 - 40 units, Anne gibbons - no footpath, streetlights, no sewage => tier 2
 - 121 units, Moycullen rd - no footpath, streetlights, no sewage => tier 2
- No assessment of the number of existing units in Bearna with independent sewage tanks/treatment plants with no plan to join them up to the existing system as a priority. Instead, allowing new development to get priority will perpetuate this environmental disaster
- No assessment of the footpaths as it would show the vast majority are owned and maintained by private management companies. It would also show that the council received funds and have a legal obligation to provide a footpath up the Moycullen Rd, even though they have been avoiding this for 15 years.
- No assessment of streetlights, as it would show the council have not added a single one in the village since 2006. Again, residents are relying on private management companies to provide street lighting. It would also highlight the holes for streetlights at the side of the Thornberry/Cregan (Bypass) road where an old woman got injured when falling into a hidden one.
- No assessment of roads, as it would show that the Thornberry/Cregan (Bypass) road has not been taken in charge and there is no residential speed limit

Real examples of compliant Infrastructural Assessment Reports

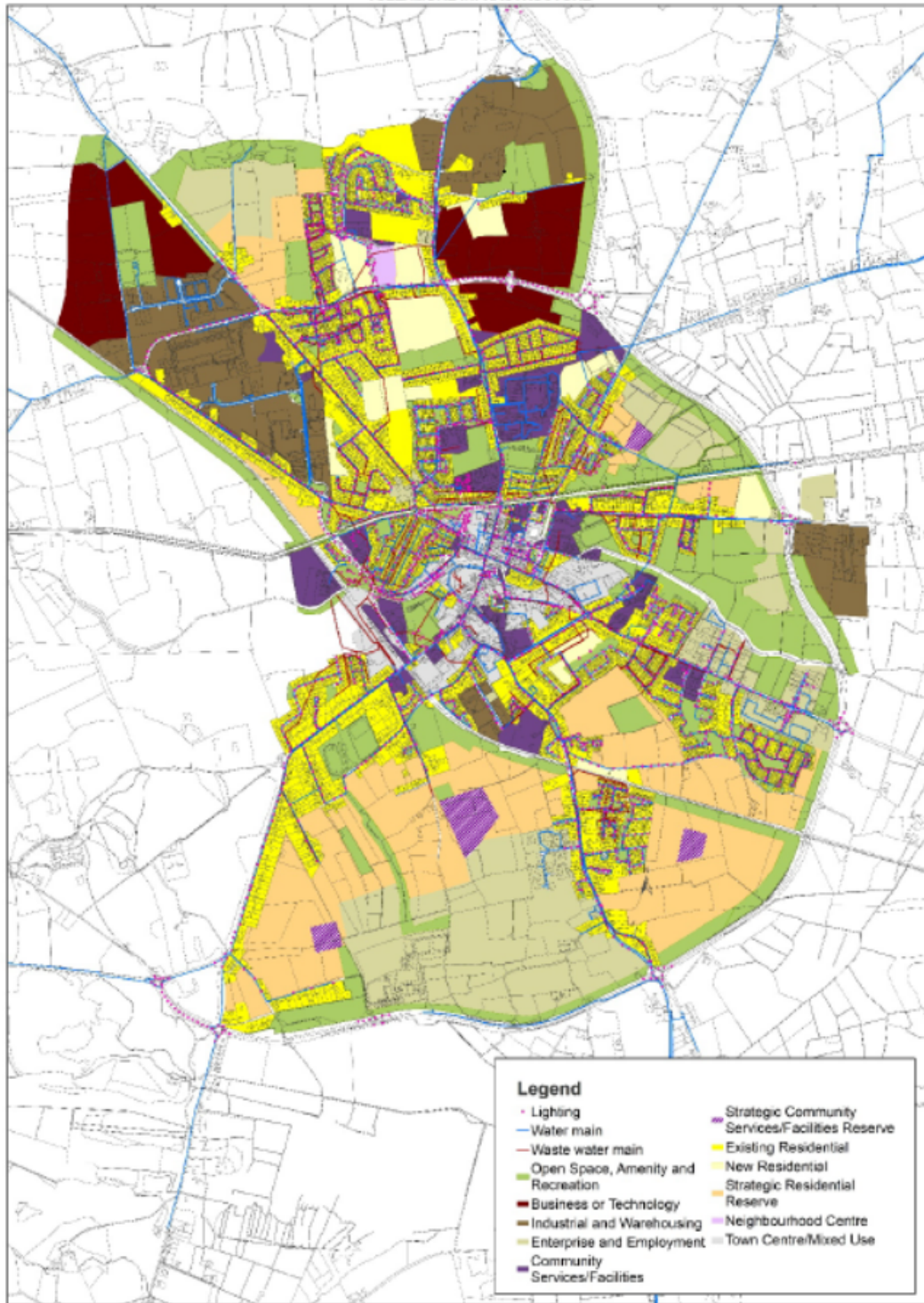
Offaly - shows current and future PE capacities for sewage, assesses footpaths, streetlighting, etc...

<https://www.offaly.ie/eng/Services/Planning/County-Development-Plan-2021-2027/Stage-4-Final-Plan/Appendix%20-%20Infrastructural%20Assessment%20Report.pdf>

Wastewater Deficiencies

Settlement	Proposed Additional Population 2021-2027	Current Wastewater treatment capacity headroom	Investment up to the year 2027
Birr	1263	Headroom for approximately 900 persons	Currently after heavy rain the incoming flow to the plant overflows to the river. The proposed wetlands will prevent this occurring and will pump the effluent to the Plant when storm subsides. Also, this wetland will prevent the Plant from washing out. It will not increase the capacity of the Plant. No current proposals to expand the plant. In the event of no remaining headroom, any proposed development would require developer investment.
Edenderry	721	Headroom for approximately 512 persons	Capacity will be increased on completion of upgrade to the treatment plant during the plan period. The expectant plant design capacity is for a population equivalent of 12,500. IW are in the process of appointing a consultant to design the new extension.
Daingean	172	Headroom for approximately 90 persons	Surface water getting into the network is a problem. Offaly County Council proposing it under the IW Small Towns and Villages Growth Programme for rectification.
Walsh Island	35	No capacity	An alteration of the treatment plant through improved aeration and improved sludge rates would increase it to 500 PE which is sufficient to cater for the proposed village growth.

TULLAMORE INFRASTRUCTURE



Wicklow - shows current and required PE capacities for sewage

<https://consult.wicklow.ie/en/consultation/draft-wicklow-county-development-plan-2021-2027/chapter/appendix-9-infrastructural-assessment-report>

<https://consult.wicklow.ie/en/system/files/materials/6/Appendix%209%20Infrastructural%20Assessment%20report.pdf>

Draft Wicklow County Development Plan 2021-2027

Town / Village	Plan Name	Infrastructure			Zoning Tier
		Waste water	Water	Transport (Roads, lighting footpaths etc)	
Carnew	Level 5 Small Town Plan	Serviced by the Carnew Waste Water Treatment plant currently operating below design capacity (2,300pe, operating at c. 1,600pe)	Supplied by the Tinahely regional water supply scheme with water sourced from the Derry River north of Tinahely. This supply has significant spare capacity and no shortage problems have arisen in the scheme.	Local level supporting infrastructure to be provided in accordance with the implementation of relevant local planning permissions and the Council's capital investment programme.	Tier 1
Dunlavin	Level 5 Small Town Plan	Serviced by Dunlavin Waste Water Treatment Plant currently operating below design capacity (2,400pe, operating at c. 1,400pe)	Serviced by a well to the south of the town centre operating at capacity, with limited headroom to accommodate future development. Issues also arise with regard to access to the source and water storage. Improvements to this supply are required, and funding has been sought for same under Irish Water's Small Town and Villages Growth programme, part of IW's investment programme 2020-2024.	Local level supporting infrastructure to be provided in accordance with the implementation of relevant local planning permissions and the Council's capital investment programme.	Tier 2 pending delivery of Water Infrastructure upgrades.
Enniskerry	Bray Municipal District LAP	Serviced by the Enniskerry Waste Water Treatment Plant currently operating below design capacity (6,000pe, operating at c. 2,500pe)	Supplied with potable water from the Vartry water supply and is well within operational capacity. Upgrade to increase capacity is due for completion in 2021	Local level supporting infrastructure to be provided in accordance with the implementation of relevant local planning permissions and the Council's capital investment programme.	Tier 1

Louth - Every site rated and ranked

<https://www.louthcoco.ie/en/publications/development-plans/louth-county-development-plan-2021-2027/appendix-2-final-land-evaluation-and-infrastructure-assessment-oct-2020.pdf>

Settlement - Drogheda			
Tiered Assessment Analysis			
Land Use	RES	RES	RES
Infrastructure Type	Site 1	Site 2	Site 3
Roads			
Footpath			
Public Lighting			
Water			
Wastewater			
Tier 1 or Tier 2			
Land Use Evaluation			
Proximity to Town Centre	5	5	5
Contribute to Consolidated/compact growth	4	5	3
Proximity to shops and services	5	1	3
Proximity to schools	1	4	3
Infill/Backland	5	5	1
Availability to public transport	1	3	1
Flooding	2	1	1
Total	23	24	17

Kildare - Every site rated and ranked

<https://consult.kildarecoco.ie/en/system/files/materials/1069/Sustainable%20Planning%20%26%20Infrastructure%20Assessment.pdf>

RESIDENTIAL SITES

Scoring Range	10	20	30	40	50	60	70	80	90	100	110	120	130	140	150	160	170	180	190	200
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Stage 1: Planning Criteria: Residential Sites

Table 1.3: Infrastructural Assessment Matrix for Residential Sites

		Naas Local Area Plan 2021-2027 - Planning Criteria Weighted Matrix																						
Criteria	A (1)	A (2)	A (3)	A (4)	C (1)	C (2)	C (3)	C (4)	C (5)	C (6)	C (7)	C (8)	C (9)	C (10)	C (11)	C (12)	C (13)	C (14)	C (15)	C (16)	C (17)	C (18)	C (19)	
Kildare County Development Plan 2017-2023																								
Does the Site adhere to the National Planning Framework Strategic Outcomes																								

Stage 2: Infrastructural Criteria: Residential Sites

Table 1.4: Infrastructural Assessment Matrix for Residential Sites

		Naas Local Area Plan 2021-2027 - Infrastructural Assessment Weighted Matrix																						
Criteria	A (1)	A (2)	A (3)	A (4)	C (1)	C (2)	C (3)	C (4)	C (5)	C (6)	C (7)	C (8)	C (9)	C (10)	C (11)	C (12)	C (13)	C (14)	C (15)	C (16)	C (17)	C (18)	C (19)	
Roads & Transportation																								
Water Supply																								
Wastewater																								
Drainage, SuDS & Flooding																								

EMPLOYMENT SITES

Table 1.7 Residential Site Categorisation

Site Categorisation			
Site Category	Site Ref	Site Name	Ranking
Tier 1	A (3)	Corban's Lane	
Tier 1	C (6)	Rathasker Road West	
Tier 1	C (19)	Sallins Road	
Tier 1	C (2)	Devoy Barracks	
Tier 1	C (9)	Oldtown Demense	
Tier 1	C (5)	Kilcullen Road	
Tier 1	C (1)	Caragh Road	
Tier 1	C (13)	Dublin Road	
Tier 1	A (4)	Devoy Quarter	
Tier 1	C (11)	North of Edmondale	
Tier 2	C (10)	Craddockstown Road	
Tier 2	A (2)	Castle Quarter	
Tier 2	C (15)	North of Craddockstown Golf Course	
Tier 2	C (16)	Kingsfurze	
Tier 2	C (7)	Ballymore Eustace Road	
Tier 2	A (1)	Canal Quarter	
Tier 2	C (12)	Tipper Road	
Tier 2	C (3)	Northwest Quadrant	
Tier 2	C (14)	Northwest Quadrant	
Tier 2	C (8)	Blessington Road	
Tier 2	C (17)	Northwest Quadrant	
Tier 2	C (18)	Northwest Quadrant	
Tier 2	C (4)	Northwest Quadrant	

Kilkenny - every site rated and ranked

https://consult.kilkenny.ie/en/system/files/materials/2915/Appendix%20N%20Infrastructure%20Assessment_0.pdf

Key to the traffic Light System to Assessment Criteria:

- **Green :** Lands are serviced
- **Orange :** Lands are likely to be serviced within Plan period
- **Red:** Not Serviced and unlikely to be serviced within the Plan period

Table 1: Housing Lands Assessment Matrix - Kilkenny City 2021-2027

	Criterion A: Compact Growth	Criterion B: Infrastructure & services	Criterion C: Physical Suitability			Note: This matrix has been prepared to assist the preparation of the City Development Plan for Kilkenny City (2021-2027).
	Within or adjacent to existing settlement, priority area for Infill/consolidation Proximity to town centre Promotes sustainable mobility Access to health, education & childcare	Water Supply Wastewater Capacity Roads/Footpath/Cycle Surface Water	Topography Flood Risk Built & Natural Heritage	Resultant Classification	Permissions	
MAP REF Colour coded Former Phase 1 Residential						Justification Rationale
Site 1 (8.33ha)				Tier 1	10/15 = 267 Units	Tier 1 serviced Spatially sequential
Site 2 (1.55ha)				Tier 1	16/593 = 30 Units	Tier 1 with permission
Site 3 (0.88ha)				Tier 1	18/830 = 58 Units	Tier 1 with permission

Pollution

The material alterations will worsen the already horrendous pollution problem in Bearna

- Using Infill to hide ~90 extra units, thereby “blowing through” the core strategy, to quote the words of High Court Judge Simons in the Heather Hill ruling
- A totally inadequate Infrastructural Assessment Report published as part of the material alterations does not assess the impact the 450 units (+90 hidden Infill, + whatever residential/commercial development in Town Center) will have on pollution
- A totally inadequate Infrastructural Assessment Report published as part of the material alterations does not assess the capacity of the Bearna Pumping Station in relation to the 450 units (+90 hidden Infill, + whatever residential/commercial development in Town Center). The permitted capacity of 2000 PE, which has already been broken in 10 years of development since the capacity was reached, will be further extended by $540 \times 2.6 = 1400$ PE, along with a further 40 + 120 units that already have permission as part of the previous plan, but have not commenced.
- The rezoning of land from Flood Zone A to Infill (effectively Residential Phase 1), particularly in the vicinity of the Truskey stream
- The zoning of more lands in the material alterations that are outside the boundary for the Galway City agglomeration and thus cannot connect to the existing sewage system
- No assessment of the number of existing units in Bearna with independent sewage tanks/treatment plants and no plan to join them up to the existing system as a priority. Instead, allowing new development to get priority will perpetuate this environmental disaster

The material alterations, including the non-compliant Infrastructural Assessment Report, will guarantee even more pollution in the Truskey Stream. This is a clear health risk for children and adults using the bathing areas, and pets drinking from the stream.

While the headline ecoli reading of 198636 in May 2021 was shocking, what may be even more concerning is the worsening enterococci readings >20,000 over the course of the summer. It looks like it is exceeding the highest reading possible for the technology the scientists are using. These reading would not be seen at the location of a piggery, but

It is clear that there is a fundamental issue with the water quality and sewage in Bearna and that the council and Irish Water have been fully aware of this for many years, but have done nothing to rectify the problem. The tankering of waste by road from Bearna to Knocknacarra is simply unacceptable (and maybe unlawful - is there a licence required for this?) and has been going on for 2 years with no end in sight.

It is also clear that farming runoff is not a source of the pollution as the testing outside the village centre does not show a problem. It looks like this is purely down to bad urban development.

I have included a map below to make it easy to identify the test locations.



Flooding and the SFRA

Once again, the material amendments for the GCDP zones multiple Flood Zone A lands for residential development.

If this material amendments are approved, the Galway County Development Plan 2022 – 2028 will be made contrary to the flood risk management guidelines

Based on bitter experience, it is highly likely that the planning authorities (both the council and the Board) will allow planning on these lands, ignoring the underlying flood risk.

Such an approach will require the public to launch Judicial Reviews against development, rather than being able to rely on a development plan to do the right thing.

The SFRA itself calls out the fact that the material alterations mean the GCDP is contrary to flood guidelines:

These alterations would potentially conflict proper flood risk management and not comply with the Flood Risk Management Guidelines. There would be potential risk to environmental components including human health and material assets

SFRA Recommendation

Do not adopt as part of Draft Plan where non-compliance with the Flood Risk Management Guidelines has been advised.

It probably means that another objective such as “Objective CCF6- Inappropriate Development on Flood Zones” is going to be re-introduced:

Where such proposals are being adopted it is recommended that the proposal is modified in order to integrate the following requirement, with explicit notification provided on zoning maps:

“Inappropriate Development on Flood Zones: Where a development/land use is proposed within any area subject to this objective the development proposal will need to be accompanied by a detailed hydrological assessment and robust SUDS design which demonstrates the capacity to withstand potential flood events to maintain water quality and avoid potential effects to ecological features.

- Any development proposals should be considered with caution and will be required to comply with The Planning System and Flood Risk Management Guidelines for Planning Authorities/Circular PL2/2014 & the associated Development Management Justification Test.
- Climate Change should be duly considered in any development proposal.
- Protect the riparian zones of watercourse systems throughout the plan area through a general 10 metre protection buffer from rivers within the plan area as measured from the near river bank, (this distance may be increased and decreased on a site by site basis, as appropriate).

- Any development proposals submitted for this site will require a detailed ecological report (s), carried out by suitably qualified personnel for the purposes of informing Appropriate Assessment Screening by Galway County Council, the competent authority.
- The relevant lands will be outlined and flagged with a symbol on the land use zoning map and on the GIS system of Galway County Council so that staff and the public are aware of the special conditions/constraints attached.
- A briefing will be provided to relevant staff within Galway County Council on the special conditions and constraints on relevant lands.”

A high court judge has already highlighted the how the current plan breaches the guidelines:

https://www.courts.ie/acc/alfresco/18aaa760-8913-4719-8ef9-f66f2afd9385/2019_IEHC_450_1.pdf/pdf

15. The making of the Bearna Plan was also subject to a strategic flood risk assessment (“SFRA”) as recommended under the statutory guidelines issued in respect of flood risk management. As appears from the board inspector’s report, following on from the adoption of the material alterations, the final version of the SFRA, most unusually, expressly states that the Bearna Plan was made in breach of the guidelines on flood risk management.

98. This last statement from the SFRA is striking. In effect, the SFRA concedes that the Bearna Plan, more properly known as Variation 2 (a) of the Galway County Development Plan 2015 – 2021, has been made contrary to the flood risk management guidelines. This conflict between the plan and the guidelines came about as a result of a decision of the elected members on 23 July 2018 to adopt as part of the final plan a number of “material alterations” to the original draft of the Bearna Plan. As appears from the extract from the SFRA as set out in the board inspector’s report (above), the SEA, i.e. the strategic environmental assessment, carried out in respect of the “material alterations” had recommended that the zoning as proposed by the material alterations not be selected. The elected members chose not to follow this recommendation, and the plan as adopted included the altered zoning objectives. One of these “material alterations” related to the lands now subject to Objective CCF 6.

It is simply incomprehensible that the new GCDP will also be allowed to breach the guidelines in the same manner.

Bearna Inner Relief Road (BIRR)

Contrary to what the planners stated during the GCDP meetings, not a single inch of the Bearna Inner Relief Road has been built since it got planning in 2006, and the record should be corrected. (The Bearna bypass, between Thornberry and Creagan is a separate planning, has not been taken in charge by the council, and has no speed-limit)

Now that the Galway City Ring Road has been approved, there is no justification for the BIRR, except for facilitating even more development and enriching landowners.

The deficient and invalid Infrastructure Assessment Report, published as part of the Material Alterations, lists the completion of the Inner Relief Road as a requirement.

Bearna	10	(750)	Limited Capacity	Limited Capacity	Drainage Area Plan will identify network issues and needs. Provision for medium and long-term growth will be considered as part of Greater Galway Area Drainage Strategy. Water supply options will be assessed in the National Water Resource Plan.	Good Road network. Connectivity to all TC and R1 lands Surface Water Drainage design. Completion of the Relief road.	Tier 1
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There is no acknowledgement or assessment of:

- The costs involved
- The source of funding
- The omission of the road from TII plans
- The traffic need for the road - it is not a "Relief" road anymore, seeing as the Galway City Ring Road has been approved
- The original planning consists of a single page of paper, with no detail
- The original planning crosses a flood zone, and is not essential infrastructure, so is not allowed under the Open Space/Amenity zoning in a Flood Zone A
- The change in environmental legislation since 2006, requiring new assessments for existing planning permissions
- The fact that the vast majority of residents were against the road in 2006, and still are
- The fact that one of the principal landowners made a submission to the GCDP stating they were opposed to the BIRR, and there are no CPOs, so the road is not a reality

Infill

Summary

- Multiple sites were rezoned in Bearna as “Infill” in the Material Alterations
- The planning authority clearly recommended against this zoning at the planning meetings as it was not appropriate
- Infill is officially supposed to be 1 or two houses between existing development
- Material Alterations are hiding Residential Phase 1 zoning as Infill, solely to avoid breaking and having to redo the core strategy
- Approx 3ha in total zoned Infill in Bearna => 90 more units unaccounted for in core strategy if MASP town density applied
- Continuous "Infill" all the way from Pier Rd to Mags Boreen even though there is not an existing residential unit in sight most of the way
- Council tacitly approved Infill for what is actually high-density Res Phase 1 in site at Mags Boreen in original draft
- Councillors then used this example to rezone multiple other sites in Bearna as Infill in the material alterations - the council must take the some of the blame here
- No assessment of infrastructure requirements for these additional 90 units, which are not included in core strategy
- No differentiation of infill sites between tier 1 and tier 2, as required by NPF
- The Chief Executive contends that the original Infill at Mags Boreen is bordered by an “Amenity zone” thus making it “infill”. This is preposterous, bizarre, laughable - whatever word you use, it is clearly not an example of proper planning, as the layman would understand it.
- <https://www.eastmeath.org/wp-content/uploads/2020/12/Highlands-Residents-Association-Anor-v-ABP-FINAL-30-November-2020.pdf>

“Furthermore, it is clear from the decision of Simons J. in *Redmond v. An Bord Pleanála* [2020] IEHC 151 that, in the context of development plans, **the labels adopted by a planning authority are not to be treated by the court as conclusive**. The court will consider the substance of the relevant development plan

policy or objective in order to determine its true nature.”

Just because the council **labels** these sites as ”Infill” does not mean that they are.

- “The provisions of the plan fall to be interpreted as they would be understood by a reasonably intelligent person, having no particular expertise in law or town planning.”

Heather Hill ruling:

https://www.courts.ie/acc/alfresco/18aaa760-8913-4719-8ef9-f66f2afd9385/2019_IE_HC_450_1.pdf/pdf#view=fitH

33. The board accepts that the correct interpretation of a development plan will normally involve a question of law for the court.

36. Before turning to consider the provisions of the County Development Plan in detail, it is necessary first to say something about the standard of review which the court is required to apply in interpreting a statutory development plan. The parties all agree that the general rule is that the interpretation of a plan is a question of law, and, accordingly, the court is not required to show deference to the views of An Bord Pleanála (or even to the views of the local planning authority who is the author of the plan).

GALWAY COUNTY DEVELOPMENT PLAN 44. The approach to be adopted in interpreting a development plan is well established. **The provisions of the plan fall to be interpreted as they would be understood by a reasonably intelligent person, having no particular expertise in law or town planning.** See Tennyson v. Dun Laoghaire Corporation [1991] 2 I.R. 527 at 535.



Infill Housing

Housing which **fills gaps** in otherwise **continuous built-up frontage** and is appropriate to the character of the street and/or village.



The “Amenity” zone that borders the “Infill” sites



Definition of Infill - Notes from Jan 5th 2022 GCDP meetings

The discussion came up in relation to a large site in Bearna, where some councillors wanted it to be rezoned from Res Phase 2 -> Res Phase 1.

It was pointed out that this would exceed the 10ha that is allowed in the core strategy, thereby exceeding the population allocation.

A councillor asked if it could be zoned infill instead.

A planner said infill is only for very small sites, and this section of land was very large.

The councillor asked for a definition of infill.

The planner replied that infill sites are for one or two residential units, and were not a bypass of Res Phase 1 lands

The principle behind infill was determined last January at the pre-draft council meeting with councillors. It allows 1 or 2 units within town centres, as an alternative for the need for 1-off housing out at the extremities of those towns/villages.

It is literally "infill" - a mechanism to allow for the alternative to one-off housing.

A director stated that a legal definition of the terms "infill" and "brownfield" will be circulated to the councillors shortly.

Planner said infill is basically "spaces between sites".

Legal definition of infill

From: Forward Planning

Please see definitions below as per below:

Brownfield Land

Any land which has been subjected to building, engineering or other operations, excluding temporary uses or urban green spaces, generally comprise of redundant industrial lands or docks but may also include former barracks, hospitals or even occasionally, obsolete housing areas.

Greenfield Site

Potential open development land on the periphery of urban settlements having no previous building on it. Development on such lands will generally require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment and community facilities.

Infill Housing

Housing which fills gaps in otherwise continuous built-up frontage and is appropriate to the character of the street and/or village.

Regards,
Brendan

Abuse of democratic process

There was a clear abuse of the democratic process during the GCDP meetings and in the production of these Material Alterations:

- There are different zonings in the material alterations compared to what was voted on in the meetings. If the minutes had been available, these discrepancies would be apparent.
- The council withheld the minutes of the meetings until after the closing date for submissions on the material alterations. As a result, the public could not use any of the information in the minutes as part of their submissions.
- Members of the public, who had been legitimately attending the GCDP Meeting calls online, were dis-invited only after councillors became aware of the presence of the public on the calls.
- Submissions from the public that raised awkward questions were simply “noted” by the Chief Executive, without any analysis or response to the submissions.