

## Overall strategy

**Footpaths:** The county development plan says it will prioritize walking, cycling and public transport. However, the council has refused, for the past for 14 years, to provide a footpath up the Moycullen Rd. in Bearna, even though the residents of the Cnoc Fraoigh estate paid the council for it through development contributions in 2006.

This makes a mockery of the commitment in the Plan to prioritize pedestrians and cyclists. I am asking the Chief Executive to justify the council's refusal for 14 years to provide a footpath up the Moycullen Rd. and explain how that is compatible with the Plan's aims and policies.

**Flooding:** The Plan aims to "direct developments and zone land uses in accordance with The Planning System and Flood Risk Management Guidelines 2009 (or any superseding document);".

The rezoning of land in Bearna from Flood Zone A to Flood Zone C makes a mockery of this commitment. A High Court judge has ruled that it was bizarre that the Strategic Environmental Assessment (SEA) and Strategic Flood Risk Assessment (SFRA), published as part of the plan, could state explicitly that the plan itself contravened the Flood guidelines.

I am asking the Chief Executive to ensure that the land zoned as Flood Zone A by CAAS in the last LAP is restored to Flood Zone A in this version of the plan, in accordance with the aims of the development plan.

**Water quality:** The policies and aims in the Plan in relation to waste water and water quality are being completely ignored in Bearna. The council is refusing to test water quality, even though it has been told of human waste in the Truskey stream where it enters the sea, directly connected to the Galway Bay SAC, and even though it has been provided with results from water quality tests that show disturbing levels of pollution.

I would ask the Chief Executive to explain the council's disregard for the issue and how it plans to rectify the situation before allowing any more significant residential or infrastructre developments to proceed.

**Amenities:** For years, the LAP has been paying lip service to the area about the provision of amenities. 14 years on from the 2006 LAP, there is still no progress on new primary school, not a single sporting facility added in the village, not a blade of grass for children to play in the school or elsewhere, not a single centimetre of footpath or a single street light added. On top of that, Bearna has the accolade as the most car-dependent community in Ireland. And the council's answer? Build more roads and add more housing...

Can the Chief Executive explain why there has been no improvement in amenities, contrary to the aims and policies of the Plan? And how that is going to change over the next 5-6 years to rectify the situation?

**Bearna Inner Relief Road:** The original Bearna Part 8 from 2006 (LA2706) shows a footpath on the west side of the Moycullen Rd. Unfortunately, the council has decided to ignore their own plan and, instead, have a footpath on the Anne Gibbons Rd. Seeing as the council is once again paying scant regard to the planning regulations, it seems the only way forward is to start a campaign to overturn the original planning and start the process to ensure that all current regulatory requirements are met and that affected parties have an opportunity to contribute to the process.

Given the precedence in Naas and Ardee, where councils have reviewed and rejected old planning for inner relief roads, I would ask the Chief Executive to explain why a similar process should not be undertaken on the Bearna Part 8 from 2006 (LA2706).

**Population density:** The county development plan assumes a population density of 2.6 for all the county, except for Tuam which is assigned a density of 2.4. Given that Bearna (and Oranmore) are treated differently in the plan, I ask the Chief Executive why a more accurate population density is not used for Bearna based on the census. If an exception can be made for Tuam, why not Bearna? Otherwise, the housing calculations for a "metropolitan" area will be based on density for rural locations in the county – that cannot be right.

## **Footpath on Moycullen Rd, Bearna**

I am asking the Chief Executive to justify the council's refusal for 14 years to provide a footpath up the Moycullen Rd. This was a condition of planning for the Cnoc Fraoigh estate in 2004, and was paid for by the residents through development contributions. The council has said it did not have the money to complete the works, even though it received and retains the development contributions.

This makes a mockery of the commitment in the Plan to prioritize pedestrians and cyclists.

Linking the provision of the footpath to a potential future housing development, which may or may not get planning approval, and which then may or may not go ahead for 5-10 years based on the economic environment, is contrary to the original planning and such linking has been highlighted as being invalid by ABP.

I have made numerous previous submissions to the council highlighting this issue, which have been ignored, on topics such as:

- Traffic survey showing highly dangerous vehicle speeds on Moycullen rd inside 50km speed limit
- Regular, extensive road flooding, including at land owned by the council, which forces pedestrians to have to walk in the middle of the road, into oncoming traffic
- Part 8 planning for Inner Relief Road showing footpath on western side of road, which is ignored in the recent planning application

## **Flooding**

The development plan says:

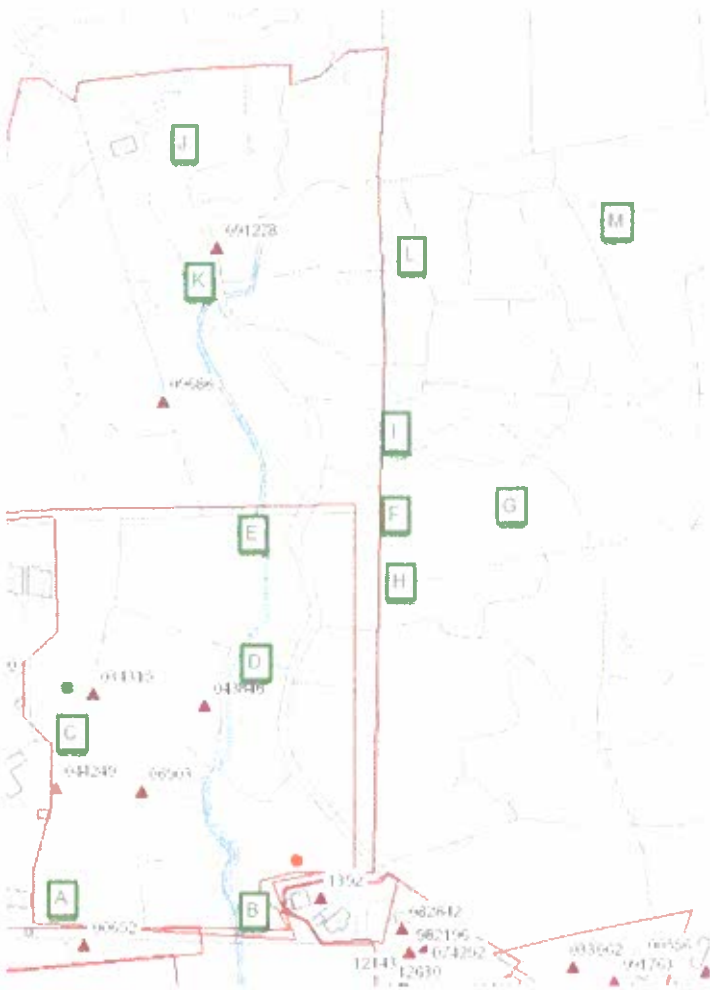
Galway County Council's approach to flood risk management is to avoid, reduce and/or mitigate, as appropriate in accordance with The Planning System and Flood Risk Management Guidelines 2009, the risk of flooding within flood risk areas.

- To promote the sustainable development of the County by ensuring that future development is considered and managed against the risk of flooding;
- To support an iterative process to flood risk management as data and analysis becomes available;
- To minimise the level of flood risk to people, businesses, infrastructure and the environment;

I am asking the Chief Executive to ensure that the land zoned as Flood Zone A by CAAS in the last LAP is restored to Flood Zone A in this version of the plan, in accordance with the aims of the development plan.

For convenience, I have extracted the links to the videos here - there is an index in the image below for the location of each video.

- |   |                     |
|---|---------------------|
| <a href="https://vimeo.com/232382905">https://vimeo.com/232382905</a> | A (Video from 2015) |
| <a href="https://vimeo.com/235946761">https://vimeo.com/235946761</a> | A to C              |
| <a href="https://vimeo.com/235900996">https://vimeo.com/235900996</a> | D                   |
| <a href="https://vimeo.com/232561250">https://vimeo.com/232561250</a> | J to B              |
| <a href="https://vimeo.com/232561176">https://vimeo.com/232561176</a> | E to F to G         |
| <a href="https://vimeo.com/232395027">https://vimeo.com/232395027</a> | E to F to H         |
| <a href="https://vimeo.com/232561176">https://vimeo.com/232561176</a> | E to F              |
| <a href="https://vimeo.com/232561060">https://vimeo.com/232561060</a> | H to I              |
| <a href="https://vimeo.com/249950352">https://vimeo.com/249950352</a> | I                   |
| <a href="https://vimeo.com/249950275">https://vimeo.com/249950275</a> | H                   |



## History:

### **Jan 2018 - Submission of flooding evidence**

The residents made a submission on the Draft Bearna Local Area Plan. This included video and photographic evidence of 2 flood events that occurred in Bearna, in Dec 2015 and Aug 2017.

### **Feb 2018 - Land zoned highest Flood Risk A**

Galway County Council (GCC) used CAAS, the independent flooding consultants, to prepare a Strategic Environmental Assessment for the Bearna Local Area Plan. CAAS accepted that the video and photographic evidence, submitted by the residents, provided "undeniable" evidence of flooding. As a result, they zoned 1.807ha (4.46 acres) of land across six separate sites as Flood Zone A (the highest flood risk) in the draft Strategic Flood Risk Assessment. They also re-instated 2 tributaries of the Truskey Stream that had been omitted on the flood maps.

Based on the draft Strategic Flood Risk Assessment produced by CAAS, Galway County Council proposed to change the land use zoning of these lands from Residential to Open Space/Recreational.

### **Feb 2018 - Councillors re-zone highest flood risk land as residential**

At the monthly GCC meeting on 26th Feb 2018, all the councillors present (including 9 FG and 10 FF out of a total of 33) decided to revert the entire 1.807ha from Flood Zone A - the highest risk category back - to Flood Zone C, the lowest risk category. They also voted to revert the land use zoning from Open Space back to Residential Phase 1, for immediate development. In doing so, they went against the recommendations of the GCC planners, the GCC Chief Executive's report and the independent flooding experts CAAS.

### **May 2018 - Council publish material alterations to plan**

On the 26th of February 2018, at the Council Meeting, the elected members proposed a number of alterations to Variation No.2 (a) to the Galway County Development Plan 2015-2021, which were deemed to be material alterations.

SEA and AA Screenings of the proposed material alterations were published, as well as Appropriate Assessment Natura Impact Report on Material Alterations No's 1-6 and the Strategic Environmental Assessment Environmental Report on Material Alterations No's 1-7.

### **June 2018 - Submissions on material alterations to plan**

As part of the review process for these material alterations, a number of state agencies and individuals made submissions. The Environmental Protection Agency and the Minister for Housing objected to the proposed rezoning.

The Minister explicitly stated that:

the zoning of lands MA1 - MA7 for village centre and residential phase 1 & 2 development on lands identified as being within flood zones A and B do not comply with the planning guidelines published by the Minister under Section 28 of the Act titled "The Planning System and Flood Risk Management"

the submitted Environmental Reports indicate that the implementation of the seven proposed Material Alterations, (MA1 - MA7) would be likely to result in the significant adverse environmental effects and in particular increased risk of flooding within these lands

The Minister indicated he was prepared to use his powers to overrule the councillors and re-instate the Flood Zone A zoning.

#### **July 2018 LAP approval**

At the monthly GCC meeting on 23rd July 2018 to finalize the Bearna LAP, the representative from independent flooding experts CAAS, Mr Skehan highlighted :

... that there was a consistent stream of evidence, from a number of different sources, all coming to the same conclusion that this land will flood. He said "everyone is entitled to their opinion but not their own fact". He highlighted that these were not matters of speculation they were matters of fact. He advised members to remember that it was very important what they were doing today regarding the maps. He stated that if the maps are produced today showing the lands are suitable for development when it's actually not, then it will cost people a lot of money in the future, he explained that it was not just a matter of wetting the carpet, **it will bring sewerage up, it will destroy a person's home.**

At the same meeting, the (Interim) Chief Executive of the Council, Kevin Kelly, stated that:

... he had looked at all the documentation provided and all the reports submitted agreed that there were possible flood risks on the lands..... He stated that if the floor levels were raised it would help fight against flooding, however, under the legislation, once it is stated that there are issues and works are required then it's a flood risk area and legislation does not allow for works to be done to prevent flooding. He agreed that it may be a cautious approach but he believed that the cautious approach was necessary as he did not want to see an issue of flooding in the future in this area.

The councillors voted to ignore the submissions from the prescribed bodies and local residents and, against the advice of the planners, the Chief Executive and the flood experts, they zoned the flood risk areas for immediate Phase 1 Residential development. 9 FF and 3 FG councillors voted in favour, while 6 FG and 2 FF absented themselves from the room for the vote. 3 FG and 1 FF councillors voted against the proposal.

### **July 2018 Strategic Flood Risk Assessment**

The Strategic Flood Risk Assessment that is now published as part of the adopted County Development Plan clearly states:

**These Material Alterations provide for a range of incompatible uses within areas that are at elevated risk of flooding and are contrary to The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) and Circular PL2/14. Consequently, the Variation is contrary to these Guidelines and associated Circular.**

It was identified that it would be irresponsible and reckless to zone lands for vulnerable uses in these areas.

Elected Members decided to select zoning as proposed by the Material Alterations. This zoning is contrary to The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) and Circular PL2/14. Consequently, the Variation is contrary to these Guidelines and associated Circular.

### **July 2018 Objective CCF6 - Inappropriate Development on Flood Zones**

It was pointed out to the councillors that this would require approval of the Bearna Local Area Plan in Europe. So, an alternative was introduced, namely "Objective CCF6 - Inappropriate Development on Flood Zones" specifically to avoid this scenario. Even though this was a major change from the draft plan that had been put out for review, it was not called out to be a Material Alteration, which would have required another review period to allow public bodies and individuals to make more submissions.

### **July 2018 Excess zoning**

In total, the councillors zoned 14.36ha of land for Residential Phase 1 development. This was 2.24ha excess land zoned than was legally allowed under the County Development plan. This meant that the plan contravened Section 13 of the Planning Act (2000) and was not legal from the very first day it was adopted.

In total, out of the excess 2.24ha of residential zoning, 1.807ha (80%) was the land that was previously Flood Zone A, with the zoning deemed irresponsible and reckless by the experts.

Given a build density of 35 residential units per hectare, as required by the Minister in Bearn, this 1.807ha would equate to the possibility of 63 new residential units being built on the land where the Strategic Flood Risk Assessment says it would be irresponsible and reckless to zone for housing.



## Water Quality

The council have known since 2006 that the Truskey stream is seriously polluted - it is even mentioned in the Bearn LAP 2007:

<https://www.irishtimes.com/news/barna-at-a-crossroads-as-council-looks-at-plans-for-change-1.97688>

A memorandum from the county council's environmental section is included in the planning file for the application. It is dated July 2nd and says the development is unacceptable as there is not proper provision for the final discharge of treated effluent. "The Barna stream is already seriously polluted and this development will add to the problems," the memo states.

Earlier this year, the council was made aware of reports that human waste was observed in the stream near the pier.

Despite this, the council has refused to do water quality testing on the stream and bathing areas, despite the legal requirement to do so. Instead, it expects the public to do surveys and reports to convince the EPA to take on the task.

Even after the council was presented with disturbing results of water quality tests performed by the Public Health Microbiology Laboratory, it still refuses to test the water quality itself. One has to wonder what exactly is the council's motivation in refusing to confront the public health and environmental issues involved.

## Bearna Inner Relief Road

In 2006, the council pushed through proposals for the Bearna Inner Relief Road, against the wishes of the vast majority of the residents of Bearna. There were no detailed plans or costings, no environmental impact assessment, and no intention to deliver the road except on a piecemeal basis for the benefit of developers and land owners. The plan does not stand up to any modern standards, has fundamental flaws, and is not fit for purpose.

The precedent set by the Naas Inner Relief Road, sets out the case for revisiting the Bearna Part 8:

Naas Inner Relief Road

<http://www.kildare.ie/CountyCouncil/RoadsandTransportation/NaasInnerReliefRoad-RouteSelectionReport/RPT17169002%2017169%20NIRR%20Route%20Selection%20Report.pdf>

The process is being undertaken in accordance with Transport Infrastructure Irelands' (TII's) 2010 NRA Project Management Guidelines.

On the 27th of February 2006, the original Naas Inner Relief Road Scheme attained full Part 8 planning approval in line with the Planning and Development Act 2000 and the Planning and Development Regulations 2001 Part 8. Due to funding constraints, Kildare County Council postponed the delivery of this project. The route of this scheme is shown in Figure 1.1.

**Due to the elapsed time since the permitting of the original Part 8 Scheme in 2006, and the changed regulatory environment, Kildare County Council have now requested that the scheme be subjected to the entire scheme development process commencing with the route selection stage. This is being undertaken to ensure that all current regulatory requirements are met and that affected parties have an opportunity to contribute to the process.**

### 1.3.3 Safety

**The original Part 8 approved Naas Inner Relief Road scheme was designed in 2005, prior to the publication of several design guidance documents such as the Design Manual for Urban Road and Streets (DMURS) in 2013 and the National Cycles Manual in 2011.**