



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305147-19

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<b>Development</b>	Demolition and enabling works on a 5.2 hectare site located north of Scholarstown Road incorporating a dwelling known as 'Beechpark'.
<b>Location</b>	Site at Scholarstown Road, Rathfarnham, Dublin 16
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD19A/0088
<b>Applicant(s)</b>	Ardstone Homes Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Dargle Wood Residents Association Glendoher and District Residents Association John Lahart
<b>Observer(s)</b>	Scholarstown Park Residents Association

Maire O'Donnell  
Ballyboden Tidy Towns

**Date of Site Inspection**

30<sup>th</sup> December, 2019

**Inspector**

Stephen Kay

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the northern side of the Scholarstown Road (R113) in Rathfarnham, within c.300 metres of Junction 12 on the M50. The site is large, measuring approximately 5.2 hectares, and is currently undeveloped with a single storey dwelling located approximately in the centre of the site ('Beechpark'). This house has a stated floor area of 172 sq. metres and there is an access driveway from the Scholarstown Road. There is also a disused stable building located at the far north west corner of the site.
- 1.2. The site is surrounded by residential development to the north, west and east and by the R113 Scholarstown Road to the south. To the north and east, this residential development comprises two storey semi detached houses, while to the west there is a four storey apartment development. There is also a house located at the far south west corner of the site as well as a two storey house close to the south east corner of the site ('Maryfield'), which are both excluded from the appeal site. Saint Colmcille's Community School is located to the south of the site on the opposite side of the Scholarstown Road.
- 1.3. The site is characterised by mature trees and hedgerows to the site boundaries and a field boundary with pine trees and a timber fence that runs west to east across the northern part of the site. The two storey house in the south eastern segment which is excluded from the appeal site ('Maryfield') is also bounded by mature trees and hedgerows.
- 1.4. The site has been the subject of on site archaeological investigations undertaken under licence, and these have revealed the presence of a settlement / cemetery which would appear to date from medieval times. The location of this feature is at the north east corner of the site, to the east and north of the linear hedgerow that runs across the northern part of the site. There is also information referred to by the third party appellants to the case that indicate that drone footage, photography and other examinations of the adjoining lands at Dargle Park to the immediate west of the appeal site also indicate the potential for the presence of circular features on this site.

- 1.5. The site is currently accessed from the R113 by an entrance driveway to 'Beechpark' that is controlled by a security gate. The frontage to the Scholarstown Road (R113) comprises a low level concrete wall and there is a footpath and cyclepath along the Scholarstown Road frontage that is set back from the road edge by a grass verge.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the existing house on the site ('Beechpark') and the diversion of an existing foul drainage connection that traverses the site. The proposed demolition is to facilitate a comprehensive development of the site for residential purposes and in this regard it is noted that an application for residential development on the site has been made to the Board under the provisions of the Strategic Housing Act, (ABP Ref. 305878).
- 2.2. The proposed development also provides for the construction of a new foul drain across the site and, on completion of this drain, the decommissioning and removal of the existing private foul drain which serves the dwelling at the south west corner of the site and which traverses the site from west to east. The proposed new foul drain is indicated as having a diameter of 150mm at the south west corner, increasing to 225mm from manhole F10 onwards and connects with an existing 225mm diameter private foul drain that runs parallel to the eastern boundary of the site.
- 2.3. The stated purpose of the development is to facilitate the comprehensive residential development of the site and it is stated that as part of the preparations for an application for such a development that archaeological investigations have been undertaken. It is stated in the Planning Report which accompanies the application that while the site is the subject of the excavations connected with the archaeological investigations, it was '*considered logical and practical to carry out the demolition and enabling works which will allow for a quick commencement period should permission for the future residential application be granted and ultimately will ensure a timely delivery of much needed housing*'.

2.4. The application as submitted to the Planning Authority was accompanied by a number of specialist reports as follows:

- Engineering Technical Note and Preliminary Construction Management Plan, DBFL Consulting Engineers,
- Architectural Heritage Opinion, Molloy and Associates Architects,
- Archaeological Assessment Report prepared by Archer Heritage Planning.
- Arboricultural Assessment prepared by Arborist Associates Limited.

### **3.0 Planning Authority Decision**

#### **3.1. Request for Further Information**

Prior to the issuing of a notification of decision, the planning authority requested further information on the following issues:

- Regarding archaeology and the submitted report, clarification regarding the report status, whether works had ceased on the site when the report was submitted and requesting the submission of further post excavation analysis that supports the findings of medium to high significance of the site. Additional radio carbon dating of artefacts is also required.
- An archaeological impact assessment report is required to be prepared and submitted.
- An ecological impact assessment of the development is required. To include a bird survey of the site and a bat survey.
- Submission of a more detailed tree survey which details the tree protection zones, tree survey, tree schedule and Arboricultural Impact Assessment.

The following information was submitted in response to the further information request:

- Archaeological Impact Assessment Report prepared by Archer Heritage dated 7<sup>th</sup> September, 2018.

- Preliminary Archaeological Excavations Report prepared by Archer Heritage Planning dated 21<sup>st</sup> May, 2019
- Archaeological Test Excavations Report by Archer Heritage Planning Limited dated 19<sup>th</sup> June, 2019.
- Ecological Impact Assessment Report prepared by Openfield Ecology and dated June, 2019.
- Invasive Alien Plant Species – Planning Stage Management Plan, report prepared by Invasive Plant Solutions and dated 17<sup>th</sup> June, 2019.
- Invasive Alien Plant Species – Site Assessment Report, prepared by Invasive Plant Solutions and dated 17<sup>th</sup> June, 2019.
- Arboricultural Assessment Report prepared by Arborist Associates Limited and dated 10<sup>th</sup> May, 2019.
- Tree Constraints Plan prepared by Arborist Associates, (Drg. No. BPS001),
- Tree Protection Plan prepared by Arborist Associates, (Drg. No. BPS003).
- Report titled ‘A Bat Assessment of Scholarstown Road and an Evaluation for Potential Impacts of the Proposed Housing on Bat Fauna’ prepared by Wildlife Surveys Ireland and dated June, 2019.

### 3.2. Decision

Notification of Decision to Grant Permission issued subject to 14 no. conditions, the most significant of which are as follows:

- Condition No.2 relates to archaeology and requires the monitoring of all sub surface works by an archaeologist.
- Conditions Nos. 3 and 4 relate to archaeological monitoring and require that any material encountered by recorded and a report prepared.
- Condition No. 5 relates to bats and requires that all mitigation measures set out in the submitted Bat Assessment Report shall be implemented.
- Condition No.8 requires that a suitably qualified ecologist shall be retained for the duration of the works.

- Condition No.10 requires that a professional arborist shall be retained to oversee the proposed works.
- Condition No.11 requires the submission of a bond in respect of trees / tree protection.

### 3.3. Planning Authority Reports

#### 3.3.1. Planning Reports

The initial report of the planning officer dated 7<sup>th</sup> May 2019 notes the fact that recent investigations on the site have resulted in the discovery of features of archaeological value comprising a settlement / cemetery site from the early medieval period. The significant number of objections to the development are noted as are the internal and external technical reports including that of NPWS. Further information consistent with the recommendations of these reports is recommended. A second report subsequent to the further information response recommends a grant of permission consistent with the notification of decision issued.

#### 3.3.2. Other Technical Reports

Environmental Health Officer – No objection subject to conditions.

Water Services – No objection subject to conditions.

Roads Department – No objection subject to conditions.

Parks and Landscape Services Department – Initial report identifies a number of issues regarding the identification of a tree protection zone and the absence of a bat report. Second report subsequent to the submission of FI recommends conditions.

### 3.4. **Prescribed Bodies**

Department of Culture Heritage and the Gaeltacht – Initial report states that there is inadequate information on file to allow for an informed decision on the archaeological issues and recommends that an archaeological assessment should be requested as further information. Second report subsequent to the submission of further information states that on the basis of the results of the archaeological testing associated with the enabling works that a number of conditions are recommended to be attached relating to archaeology. The Report also recommends conditions relating to nature conservation.

### 3.5. **Third Party Observations**

A significant number of third party observations were received by the Planning Authority and the following is a summary of the main issues raised in these submissions:

- That the works are contrary to the provisions of the development plan,
- The purpose of the enabling works has not been set out / justified.
- That the archaeological material on site should be preserved,
- That the full archaeological assessment should be completed before a decision is made.
- That the form of settlement is rare and the preservation by record approach is not agreed with.
- The importance of the site has to be established including radio carbon dating before a decision is made on how to proceed. Due process under the national monuments act should be followed.
- The licence number of the main excavation is not clear.
- That additional archaeological investigations of the surrounding area including Dargle Green are required.
- Bat survey and ecological impact assessment required.
- Loss of trees from development,

- Traffic implications of development (120 journeys daily) during construction and implications for local road network.
- Impact on local residential amenity including from dust / pollution, noise, loss of amenity.
- Historical importance of the site. The house should be retained.
- No EIS submitted,
- Works to facilitate large scale residential development which the local area does not have the capacity to support,

#### 4.0 Planning History

There is no record of any recent decided planning applications relating to the site. As noted in the site description above, an application has been made under the provisions of the Strategic Housing Act for residential development on the site.

An Bord Pleanála Ref. ABP-305878-19 – Application for the demolition of all existing structures on site which include a single story dwelling known as ‘Beechpark’ (172 sq m), a 2 No. storey dwelling known as ‘Maryfield’ (182 sq m), with associated garage/shed (33.5 sq m) and associated outbuildings (47.1 sq m); and the construction of 590 No. residential units (480 No. Build-to-Rent apartment units and 110 No. Build-to Sell duplex units and apartments), ancillary residential support facilities and commercial floorspace. The stated site area in this application site comprises the main part of the site which measures 5.35 ha. with an additional area on Scholarstown Road and the Woodfield junction where improvement works are proposed and which brings the total site area up to 6.05 ha. This application was received by the Board on 11<sup>th</sup> November, 2019 and is currently under consideration by the Board. Details of the application are available at [www.scholarstownplanning.ie](http://www.scholarstownplanning.ie)

An Bord Pleanála Ref. ABP-304381-19 – Strategic Housing Development  
Consultation relating to a proposed development of 594 residential units and all associated site works on site located to the north of Scholarstown Road and incorporating dwellings known as Beechpark and Maryfield. The Opinion issued in respect of this consultation states that the Board considers that the documents submitted require further consideration and amendment to constitute a reasonable basis for an application. The specific issue identified relates to the drainage of foul effluent and surface water and the supply of water to the proposed development and that the documentation to be submitted should describe any consultations undertaken with Irish Water and South Dublin County Council.

#### 4.1. **Development Plan**

The appeal site is located on lands that are zoned Objective RES under the provisions of the South Dublin County Development Plan, 2016-2022 which has a stated objective 'to protect and / or improve residential amenity'. Residential development is a use that is Permitted in Principle on lands that are zoned Objective RES.

The appeal site is identified in Map 1.3 of the development plan as one of a number of housing capacity sites located in the county.

None of the structures on the site are included on the Record of Protected Structures. No.304 is located to the west of the site and comprises 'Ros Mor' a house, recessed gateway, gates and outbuildings.

There are no specific local objectives that relate to the appeal site identified on the land use zoning maps.

#### 4.2. **Natural Heritage Designations**

There are no European sites located on or close to the appeal site. The closest such site is the Glenasmole Valley SAC that is located c.6km to the south west of the appeal site.

### 4.3. EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 as amended.

It is noted that the application for residential development on the site under the Strategic Housing Development legislation is accompanied by an EIAR.

## 5.0 The Appeal

### 5.1. Grounds of Appeal

The following is a summary of the main issues raised in the third party grounds of appeal:

- That the process of making a site enabling works application and a separate application for residential development is an unusual one.
- That the site is one of archaeological significance and there are conflicting accounts with regard to the significance of the discovery / significance of the site. Submitted that these discrepancies can only be resolved by an independent review of the findings at the site.
- That there is concern in the local community that a very significant archaeological discovery will be wiped out by development.
- That there has been a failure by the Planning Authority to carry out a full assessment of the archaeological significance of the site.
- That the further information submitted was not submitted to the councils Heritage Officer for comment. The heritage officer had inspected the site, however the Department did not and did not raise any issues regarding the grouped significance of the site (in combination with the green space at Dargle Woods). A geo physical survey of this site (Dargle Woods) was recommended by the Heritage Officer but has not been undertaken.

- That there is no reference to the indications of other circles at the Dargle Wood site in the reports on file from the NPWS
- That no official from the Department inspected the site during the excavation / testing period despite a statement by the Minister that her staff would undertake a full survey.
- Had Archer Heritage Planning assessed the site in combination with the adjoining Dargle Wood site it is possible that the medium – high significance identified would have been upgraded. The archaeologist has failed to have regard to the drone footage of the sites and the photographs collected by Ballyboden Tidy Towns.
- That the Ecology Report submitted as part of the further information response does not contain any new survey information. No new bird survey has been undertaken after May 2019 despite being requested in the further information. The bat survey was undertaken over a very short period.
- That the site abuts Dargle Wood residential development and further consideration of permeability and linkages including cycle connections should have been undertaken by the Roads and Traffic Department. The application will be the parent permission for the development of the site. The setting aside of the north east corner of the site as an amenity space would have the effect of also protecting the archaeology on the site.
- That radiocarbon testing of one sample is inadequate to create a timeline of the use of the site. Full information is required prior to permission being granted.
- That the omission of the site from the Register of National Monuments should not be an obstacle to ensuring ‘preservation in situ’ of this structure. The fact that no attempt has been made to put the structure on the register is remarkable.
- That the council’s conservation officer should have been consulted regarding the significance of the site given that WT Cosgrove and Liam Cosgrove were former owners / residents.

- That the purpose of the application is unclear given the limited extent of the proposed works and the future significant site enabling works that would be required to facilitate the residential development of the site. The Board should therefore consider whether the application is premature. Submitted that the piecemeal approach undertaken is bad planning and should be a basis for refusal.
- Submitted that the application is premature pending the completion of the archaeological excavations set out in Conditions 2, 3 and 4 of the Notification of Decision issued by the Planning Authority. Noted that the further information indicates that the site investigations are predicted to continue up to the spring of 2020.
- That the further information response indicates that the applicant is unwilling to relocate the service lines as it is based on a residential layout. However, this layout does not form part of the current application. The impact on archaeology is therefore being dictated by the layout of a residential development that may or may not be granted permission.
- That the bat survey information is deficient as it is at the margins of the appropriate period, did not specifically examine the roof space of the house to be demolished and does not quantify the numbers of each bat species observed.
- Report from Eoin O'Donnchadha (archaeologist) submitted with one of the appeals raises a number of issues:
  - Casts doubt on the assessment of the Archer report that the site is of medium to high significance on the basis that this assessment is on the basis of the site being a ringfort rather than a settlement – cemetery. Ringforts are significantly more common features and there are very limited numbers of other settlement – cemetery sites in Dublin.
  - The Archer report also focusses on the viability of the feature and does not give a full impression to the reader of the condition of features found.

- The Archer Report also indicates an unwillingness on the part of the developer to consider revisions to the layout of the residential development proposed for the site and a desire to put economic interests and a desire to excavate the archaeology at the site rather than preserve. The proposed development would therefore be contrary to HCL1 Objective 1, HCL2 Objectives 1, 2 and 5 of the *South Dublin County Development Plan, 2016*.
- That the circumstances of the case highlight the need for an independent assessment of significance of such sites prior to a decision being made regarding full excavation.
- That the statement that the site has no amenity value is not agreed with and is contrary to the NRA assessment guidelines which states that regard should be had to the existing and potential amenity value of a monument. The site could be developed as a heritage attraction.

## 5.2. Applicant Response

The following is a summary of the main issues raised in the first party response to the grounds of appeal:

- That the excavation of the site and preservation by record was approved by the Department of Culture Heritage and the Gaeltacht (DCHG). This was given following consultations with the department and where details of the site and the development proposals were fully considered.
- That approval for the preservation by record and the excavation of the site was approved having regard to the fact that there was no practicable alternative to preservation by record.
- That the baseline archaeological data relating to the site has been made publically available.

- That the site has been fully excavated and all archaeological layers and materials have been removed. The statement that the site is a viable candidate for protection as a national monument is noted, however there are no tangible remains on site that could be the subject or a basis for protection whether as a national monument, preservation order, entry on the register of historic monuments or entry on the record of monuments and places.
- It should be noted that the site has no surface expression and is in private ownership.
- Contended that the negative impact of the development on the archaeological remains at the site has been completely mitigated by the full excavation and recording of items. Ultimately knowledge from the excavation and subsequent analysis will enhance the understanding of such settlements.
- Full details and response to the grounds of appeal as they relate to archaeology is provided in a report prepared by Archer Heritage Planning submitted as part of the response submission (Appendix A).
- That the bat surveys were undertaken at the optimal time to assess maternity roosts and breeding populations and there is no need for further surveys in 2020. The surveys included static monitors for the entire night period as well as active survey during the dusk and dawn period. The surveys concluded that there were no bats roosting within the site.
- The calculation of the number of bats within an area / survey is not information that is normally required or collected in a bat survey. Rather bat activity and species are what is focussed on.
- That the attic of the house for demolition was accessed and fully surveyed as set out in the response to further information.
- That bat mitigation in the form of the installation of bat boxes and the future survey of any trees for removal was proposed.
- Regarding ecology, as part of the application a breeding bird survey was undertaken on 25<sup>th</sup> April, 2019. This survey was undertaken as part of the information gathering for the housing development and so pre dated the request for FI.

- That the original planning application documentation included an Architectural Heritage Opinion prepared by Molloy and Associates which recognised that while the house was not of any architectural significance that it had a social connection. The nature of the building is not however such that would warrant its retention or that it would act to impede future residential development at the site.
- That the issues raised regarding site permeability are not relevant to the enabling works application which will utilise the existing access from Scholarstown Road. Permeability issues will be fully dealt with in a future application for residential development.

### 5.3. **Planning Authority Response**

Response states that the Planning Authority confirms its decision and that the issues raised have been addressed in the Planners Report.

### 5.4. **Observations**

The following is a summary of the most significant additional points raised in the observations on the appeals submitted to the Board:

- That the application does not make clear what is the rationale for the diversion of the foul sewer line or the line chosen for the new sewer. Given the lack of information available, it is not clear whether the proposed diversion and route selected makes sense in the context of a future residential development of the site.
- Noted that while the site has been zoned for residential use for a significant period of time, the identification of the archaeological site is relatively recent and is not therefore recorded in the 2016 development plan.

- That while the archaeological excavation has resulted in a ‘...*systematic removal of all archaeological layers, deposits and their associated archaeological objects including human remains*’, the final excavation report is not expected until February 2020. The recommendation of the final report regarding possible protection of the excavated area will not therefore be known by the date a decision is made on this application.
- That given that a strategic housing application for residential development is proposed it is requested that the decision on this application should not preempt any decision on the SHD application. The Board is therefore requested to either defer a decision on the current application until such time as the SHD application is determined or else to coordinate consideration of the two applications.
- It is agreed with the third party appeals that the proposed development is premature for two reasons, firstly pending the final recommendations on the excavations not being known and it is also premature pending the submission of an application for residential development on the site.
- That it would appear that the first party has not approached the Planning Authority with regard to pre application discussions on a strategic housing application for the site, despite their being an obligation on them to do so.
- That there is concern that the developer was granted a licence from the National Monuments Service to ‘*preserve and record*’ the site rather than preservation in situ. This decision seems to have been premature and appears to have assumed that there was no alternative solution or rerouting of the foul sewer possible.
- That the comments at Page 16 of the Archer report submitted as part of the further information indicate that the decision to run the sewer through the area where the site was identified has been driven by the significant constraints of the site and the very significant revisions required to the development layout were this area to be avoided. The question therefore arises is the nature of the development and the layout proposed the right one.

- That the connection between the site and the protected structure at Ros Mor House is not recognised in the decision to allow the demolition of the existing bungalow on the site. The application should have been referred to the council's Conservation Officer.

## 6.0 Assessment

6.1. The following are considered to be the main issues in the assessment of this appeal:

- Principle of Development,
- Ecology Flora and Fauna
- Archaeology
- Other Issues
- Appropriate Assessment

### 6.2. Principle of Development,

6.2.1. The proposed development is located on lands that are Zoned Objective RES with the objective *'to protect and / or improve residential amenity'* under the provisions of the *South Dublin County Development Plan, 2016*. Residential development is a permissible use on lands that are zoned Objective RES. There is no category of development listed in the use classes under Objective RES that relates specifically to infrastructure development or enabling works. In the case of uses not specifically listed under the relevant zoning objective in the development plan, page 188 of the plan states that *'uses that have not been listed under the land use zoning tables will be considered on a case by case basis in relation to conformity with the relevant policies, objectives and standards contained in the plan...'*. In this regard, I note the fact that the site is zoned for residential development and that the proposed works are enabling works connected with proposals for a comprehensive residential development on the site (ABP-305898-19). I also note that the site is identified as a capacity site on Map 1.3 of the development plan and is therefore a strategic site in the housing strategy for South Dublin County Council. Having regard to these

factors, I consider that the form of development proposed is consistent in principle with the land use Objective RES zoning of the site.

6.2.2. The stated rationale for the application for enabling works the subject of this appeal is that the site was opened up to facilitate archaeological investigations and that it was considered logical and practical to carry out the demolition and enabling works which would ensure quicker delivery of the development of the site for housing. At the time of making of the application to the Planning Authority in March 2019 the rationale set out in terms of timelines did not appear to me to be particularly strong given the nature and extent of the proposed works and their significance relative to the overall residential development proposed on the site. In addition, since the submission of the third party appeals and observations, an application for 590 no. residential units comprising apartment and duplex units as well as the demolition of existing houses 'Beechpark' and 'Maryfield' has been received by the Board (ABP Ref. ABP-305878-19). This application for residential development would appear to be a standalone application which includes proposals for all services and on site demolitions and does not rely on the enabling works which are the subject of the current appeal. It is noted that a comparison of the drainage proposals contained in the application the subject of this appeal with those contained in application Ref. ABP-305878-19 indicates that a foul drainage connection approximately the same alignment as that included in the subject application is included as part of the SHD application. From manhole F10 eastwards, however the SHD application indicates a foul drain of 400mm diameter whereas that indicated in the application the subject of this appeal is 225mm diameter, (see Site Services Layout for ABP-305878-19 prepared by DBFL - Drg. No. SCH-DBF-ZZ-XX-DR-C-3102). Information submitted with Ref. ABP-305878-19 indicates that the change in the diameter of the sewer running through the site from the 225mm diameter proposed in the subject appeal to the 450mm included in the housing application is on foot of discussions undertaken with Irish Water and is part of a local network reinforcement project which is required to facilitate new connections to the existing network. It would therefore appear that the drainage layout indicated in the current application has been superseded by a revised design which has been included as part of Ref. ABP-305878-19.

6.2.3. I note the issues raised by parties to the appeal with regard to the splitting of the applications for the site and the separation of the current application from the main residential development proposal for the site. At the time of submission of the third party appeals and observations, no application for residential development had been made to the Board. In the interim however, an application for 590 no. residential units comprising apartment and duplex units as well as the demolition of existing houses 'Beechpark' and 'Maryfield' has been received by the Board (ABP ref. ABP-305878-19), as a result of which the context of for the infrastructure and enabling works is now know. I do not therefore consider that the comments alleging prematurity pending the submission of a comprehensive proposal for the development of the site can be substantiated. Notwithstanding this, and having regard to the fact that the residential layout proposed under Ref. ABP-305878-19 provides for all aspects of the development of the site, that there are differences in the drainage layout between the subject application and that proposed in the strategic housing development application and the fact that the stated rationale for the current application in terms of co-ordination of works would appear to be superseded, I consider it appropriate that the Board would determine the current appeal in conjunction with the application for strategic housing development (Ref. ABP-305878-19).

### 6.3. Ecology Flora and Fauna

- 6.3.1. The appellants raise a number of issues with regard to the potential impact of the proposed development on ecology, in particular on bat species that may be present on the site. As part of the response to the request for further information issued by the Planning Authority, the first party submitted a number of documents relating to ecology, including a Bat Assessment, an Ecological Impact Statement and an Invasive Species Report.
- 6.3.2. With regard to **bats**, the bat assessment report submitted (undertaken by Brian Keeley), sets out the survey undertaken at the site which included an assessment of existing structures and trees as well as a survey undertaken on 31<sup>st</sup> May / 1<sup>st</sup> June 2019. The results of the assessment of the site indicates that the existing structure proposed for demolition comprising the house 'Beechpark' and the small stable block

at the north west corner of the site do not display any indication of use as roosts. The results of the bat survey undertaken over the night of 31<sup>st</sup> May – 1<sup>st</sup> June, 2019 indicated that the site was used by Common and Soprano Pipistrelles and Leislars bat for foraging. Based on the survey information, bats recorded at the site exited before sunrise and there is no clear evidence of bats roosting on the site. Two mature oak trees on the site are identified as potential bat roosts, however these trees are in poor condition and have been identified by the arborist for removal. New roosts in the form of bat boxes are recommended as part of mitigation measures that include checks on trees and structures prior to felling / demolition, the planting of new vegetation and the avoidance of lighting. On the basis of the information presented as part of the bat assessment report I would agree with the conclusions reached that the proposed development would not have any direct impact on the bat species.

6.3.3. I note that the third party appellants raise a number of issues with regard to the methodology used in the bat assessment and these are responded to in the first party response to the grounds of appeal. In this regard, the comments of the first party regarding the survey being undertaken at an appropriate time and for an appropriate period are noted and agreed with. The fact that both static and active survey methods were used is also noted as is the focus on bat activity rather than an assessment of bat numbers as considered necessary by the third party appellants. For these reasons, I consider that the bat assessment undertaken is appropriate and is such as to indicate that there is no significant potential for an adverse impact on bat species arising as a result of the proposed enabling works.

6.3.4. As part of the information initially submitted with the application, a **breeding bird survey** of the site was undertaken. While there is reference to a bird survey in the request for further information, and the third party appellants note that no new bird survey information was submitted as part of the response to further information submitted, bird survey information was collected in February and April of 2019 and so pre dated the request for FI. This information is presented in the Ecological Impact Statement prepared by Padraic Fogarty and submitted as part of the further information response. The species observed in these surveys are not such as to be of significant conservation significance and boundaries and on site treelines would be retained in the proposed enabling works to provide suitable nesting habitat.

- 6.3.5. The site was also surveyed for other mammal species and no species of conservation significance were observed. Specifically, no evidence of the use of the site for badger was found and there is no suitable habitat on the site for otter. A survey of flora on the site indicates that the majority of the site is dry meadow with a number of mature trees located within the site boundary. The main treeline within the site as well as the western site boundary is predominately made up of leylandii species and so is of low biodiversity value. On the basis of the survey results no species of conservation significance are present on the site. I note the content of the Invasive Alien Plant Species – Site Assessment Report also submitted as part of the response to further information and specifically the identification of three cornered garlic, Spanish bluebell and hottentot fig species. The location of these specimens on the site are such that the proposed enabling works would not directly impact on these areas, however in the event of a grant of permission it is considered appropriate that the mitigation measures set out at section 9 of the above report should be required to be implemented by way of condition.
- 6.3.6. On the basis of the information presented, I do not consider that the proposed enabling works would have a significant negative impact on flora or fauna at the site including bat species.

#### 6.4. **Archaeology**

- 6.4.1. The main basis for the third party appeals relates to the potential impact of the proposed development on archaeology and specifically on the medieval settlement identified as being located in the north east corner of the appeal site. Additional related issues are raised regarding the assessment of the application by the Planning Authority, including the lack of referral of the further information to the Heritage Officer, the potential of the site to be identified for protection and the fact that the archaeological appraisal of the site is ongoing and that a decision on the application would therefore be premature pending the completion of such an assessment.
- 6.4.2. Prior to the request for further information, the application was accompanied by an Archaeological Assessment Report for demolition and Enabling Works prepared by Archer Heritage Planning. This document sets out the background to the

assessment of archaeology at the site and details how the site was the subject of a geophysical investigation which was undertaken under licence and in conjunction with the National Museum of Ireland (NMI). The results of this survey indicated the presence of what appeared likely to be an enclosure structure in the north east corner of the site measuring c.50 metres north - south and c.45 metres east – west. This area was the subject of archaeological test excavations in August, 2018, also under licence by NMI and Department of Culture Heritage and the Gaeltacht (DCHG), which confirmed the presence of a ringfort type enclosure and human remains with a limited number of items discovered within the interior of the enclosure structure. On foot of these discoveries additional trenches were excavated giving a total of 19, and a report on these excavations was submitted to the DCHG and NMI in September, 2018. Following further consultations with the DCHG and NMI, consent was given for a full archaeological excavation of the site. Information submitted as part of the response to further information indicates that the full archaeological investigation of the site has now been completed, and this was confirmed at the time of inspection and the current condition of the area at the north east corner of the site can be seen in the photographs attached with this report. The response to further information states that two testing reports have been submitted to the department and that the final report on the post excavation programme is scheduled for completion in February, 2020.

- 6.4.3. From the information presented it is apparent that the initial site investigations, test trenching and final excavation and analysis of the site has been undertaken in full knowledge of and under licence from the Department of Culture Heritage and the Gaeltacht. As stated by the first party in their response to the grounds of appeal, no elements of the identified archaeological feature at the north east corner of the site now remain and all known material has been excavated from the site. It is also stated by the first party that through the undertaking of test trenching across the balance of the site, that approximately 15 percent of the area that would be impacted by the proposed enabling works have been excavated and no archaeological material of interest has been recorded in these areas. On the basis of the information presented with the application and in the first party response to the grounds of appeal, I do not consider that there is likely to be any significant archaeological material remaining on the site or that the groundworks proposed as

part of the current application would have any material additional impact in terms of archaeology.

- 6.4.4. With regard to the specific archaeological concerns and issues raised by the third party appellants and observers to the appeal I would note the following. The issues raised regarding the merits of preserving the site in situ and whether the categorisation of the site and assessment of significance are such that protection in situ is warranted have in my opinion been rendered moot by the consent obtained by the first party to firstly undertake surveys and test excavations at the site and subsequently obtain the approval of the department to the full excavation of the site. As highlighted by the first party response to the appeal, the material discovered on the site has now been removed and given the extent of test excavations and geo physical survey undertaken it is likely that little if any material remains. Refusal of permission would not therefore in my opinion address the issues raised regarding possible connections with archaeology off site and the significance / rarity of the material on the appeal site. Similarly, I note the rationale presented by the first party as to how the preservation in situ of the burial site would have had a significant impact on the potential development layout and services layout on the site. Whatever the justification for changes to the proposed development layout to facilitate preservation in situ, given the removal of the archaeological material from the site I do not consider it appropriate that permission would now be refused on the basis of a potential impact that the residential layout may have on archaeology.
- 6.4.5. Third party submissions also highlight the conflicting assessments between the report of Archer Archaeology and Mr Eoin O'Donnchadha for the third parties with regard to the significance of the discovery / significance of the site and contend that these discrepancies can only be resolved by an independent review of the findings at the site. As stated by the first party, a final report on the excavated material which would include additional radio carbon dating of excavated material is anticipated to be produced in February, 2020 and on completion of this report it may be open for further discussion of the findings. Given the excavation of the material from the site, I do not see what would be the beneficial impact of refusing permission or deferring a decision post production of the final report.

6.4.6. Concerns raised by third parties that the further information submitted was not submitted to the councils Heritage Officer for comment are noted. The internal processing and referral of the application is a matter for the planning authority however the issue raised by the Heritage Officer regarding potential grouped significance with the green space at Dargle Woods) and recommendation for a geo physical survey of this site (Dargle Woods) does not change the fact that the site has now been excavated and will be the subject of preservation by record. The fact that the site has been excavated and is being preserved by record means that no issue of prematurity arises.

## 6.5. Other Issues

- 6.5.1. Third party appellants have raised concerns with regard to the principle of the demolition of the existing house on the appeal site ('Beechpark') and have highlighted the social and historical importance of the building as justification for the retention of the building. The original planning application documentation included an Architectural Heritage Opinion prepared by Molloy and Associates which recognised that while the house was not of any architectural significance that it had a social connection. The report however concluded that this social or historical significance was not such as to justify its retention. I note also that the building is not included on the record of protected structures.
- 6.5.2. From an inspection of the site and reference to the submitted Architectural Heritage Opinion report, it is my opinion that the nature of the building is of no clear architectural merit comprising a mid 20<sup>th</sup> century single storey dwelling that is not of any particular significance in terms of its design, layout or materials. The building is not therefore in my opinion such that its retention is justified on architectural grounds. The fact that the house proposed for demolition was the former home of Liam Cosgrove TD is noted, however I do not consider that this fact in isolation is such as to justify the retention of the house on the basis of social or historical significance. I also note that the location of the existing house at the centre of the site is such that its retention would significantly compromise the future development potential of the site for residential purposes and that any existing context which the house has to the lands would be lost on redevelopment of the balance of the site. Having regard to all

of these factors, I do not consider that the retention of the existing house 'Beechpark' is justified and that the proposed demolition of this structure is acceptable in principle.

- 6.5.3. I note reference made in the third party appeals to issues regarding site permeability and connections with surrounding existing residential areas. The current application relates to enabling works and the application documentation indicates that construction access for these works would be via the existing access from Scholarstown Road. As such therefore issues relating to permeability and the design of future residential development on the site and connections with the surrounding residential areas are not appropriate issues for the current appeal but would be fully dealt with in any application for residential development of the site.
- 6.5.4. The form of development is such that no financial contribution is payable under the provisions of the adopted s.48 development contribution scheme. No financial contribution condition was attached by the Planning Authority to the Notification of Decision to Grant Permission issued.

## 6.6. **Appropriate Assessment**

- 6.6.1. The proposed development comprises demolition of an existing house on a c.5.2ha. site and the undertaking of site enabling works comprising the layout of a new foul sewer across the site that would form part of a proposed housing development.
- 6.6.2. The appeal site is not located within any European site and there are no European sites located in close proximity to the site boundary. The closest European sites to the appeal site are the Glenasmole Valley SAC located c.5km to the south west of the appeal site at the closest point and the South Dublin Bat SAC and the South Dublin Bay and Tolka Estuary SPA which are located c.10km to the north east of the site at the closest point. There are no clear hydrological or other pathways between the appeal site and these European sites.
- 6.6.3. The nature of the proposed development is such that it will have no impact on the volume or nature of foul effluent from the site which will draining to the public foul drainage system. The construction of the foul sewer on the site will involve excavations, however the nature of these excavations are relatively minor and are

not proposed to be undertaken in the immediate vicinity of any watercourses that are tributaries of rivers leading to any European sites.

- 6.6.4. Having regard to the above, the proposed development is not likely to have significant effects on any European site in light of the conservation objectives of the site.

## 7.0 Recommendation

- 7.1. Having regard to the above, it is recommended that permission is granted based on the reasons and considerations set out below and subject to the attached conditions:

## 8.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and the pattern of development in the area, and proposal for comprehensive development of the site for residential purposes under Ref. ABP- 305878-19, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would not have a significant negative impact on archaeology or the ecology of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 9.0 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 submitted on the 25<sup>th</sup> day of June 2019 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. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works (including ground disturbance associated with demolition works),
  - (c) should archaeological material be discovered during the course of the archaeological monitoring, the archaeologist may have work stopped pending a decision as to how to best deal with the archaeology. The developer shall inform the local authority and the Department of Culture Heritage and the Gaeltacht of the discovery and shall prepare to be advised by the Department of Culture Heritage and the Gaeltacht with regard to any necessary mitigating action (e.g. preservation in situ or excavation) and should facilitate the archaeologist in recording any material found/ shall comply with the requirements of the Department with regard to mitigation measures considered necessary and
  - (d) the Planning Authority and the Department of Culture Heritage and the Gaeltacht shall be provided with a report describing the results of the monitoring.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

3. Mitigation measures, including those relating to tree felling, lighting and the erection of bat boxes, set out in the Bat Assessment Report prepared by Brian Keeley, dated June 2019 and received by the Planning Authority on 25<sup>th</sup> day of June, 2019 shall be implemented in full in the development.

**Reason:** to protect bat species which use the site.

4. Clearance of vegetation from the site shall only be undertaken in the period September to February inclusive.

**Reason:** To ensure the protection of birds.

5. Mitigation measures, set out in the Invasive Alien Plant Species - Site Assessment Report, dated 17<sup>th</sup> June 2019 and received by the Planning Authority on 25<sup>th</sup> day of June, 2019 shall be implemented in full in the development.

**Reason:** To avoid the spread of invasive species in the development.

6. The following shall be complied with in the development#:

- (a) An arborist shall be retained for the full duration of the works and shall oversee the implementation of the recommendations of the Arboricultural Assessment received by the Planning Authority on 25<sup>th</sup> day of June, 2019. The recommendations of this report including tree protection measures shall be implemented in full in the development.
- (b) Prior to the commencement of development, the developer shall agree with and submit to the Planning authority a tree bond to be used to ensure the protection of trees proposed for retention on the site. In default of agreement on this requirement, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the protection and retention of trees to be retained on the site.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of Irish Water and the planning authority for such works and services.

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

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, construction traffic access to the site and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

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Stephen Kay  
Planning Inspector

February, 2020