

An  
Coimisiún  
Pleanála

# Specialist Report to Inspector

**ABP-321394-24**

## Development

Development consisting of the demolition of the existing two-storey dwelling 'Maple Tree House' and removal of the foundation slab of the previously demolished 'Yonder' and construction of a 104-bedroom nursing home, car and bicycle parking, together with all associated site works.

## Location

Dalkey, Co. Dublin.

## Planning Authority

Dun Laoghaire-Rathdown County Council

## Planning Authority Reg. Ref.

D21A/0304

## Applicant(s)

Bartra Property (Dublin) Ltd

## Type of Application

Normal Planning Appeal

## Inspector

Suzanne Kehely

## Ecologist

Fiona Patterson

## Topic

Specialist ecologist support on badgers

## Report No

R321394\_App 1

## Date

27<sup>th</sup> November 2025

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## **1.0 Introduction**

### **1.1. Background**

- 1.1.1. The subject application is for permission to demolish the existing two-storey dwelling 'Maple Tree House' and remove the foundation slab of the previously demolished 'Yonder' and construct a 104-bedroom nursing home, car and bicycle parking, together with all associated site works, Dalkey, Co. Dublin.
- 1.1.2. Planning authority (PA) case reference: D21A/0304. Application submitted to PA on 12th April 2021. Decision by PA to refuse permission on 3rd June 2021. 1st party appeal (ABP-310677-21) to An Bord Pleanála (as it was called then). The case was granted permission by the Board with conditions on 6th July 2023. Decision was quashed on 15th October 2024 and remitted back to the Board for a de novo assessment. New case number assigned 321394-25.
- 1.1.3. A badger sett was observed to be located within the proposed development boundary. Potential impacts on badgers were raised in third party submissions during the original planning application D21A/0304, in the third-party appeals during the previous case ABP-310677-21 and in the third-party observations during the current case 321394-25.

### **1.2. Scope of Specialist Ecology report to Inspector**

- 1.2.1. Specialist ecological support is requested regarding impacts on badgers, and the previous relevant listed conditions, having particular regard to the "NRA Guidelines for the treatment of badgers, prior to the construction of national road schemes".
- 1.2.2. This report to the Planning Inspector and which is available to the Commission is a written record of my review and examination of the submitted information and will support the assessment regarding impacts on badgers.

### **1.3. Site Visit**

- 1.3.1. I visited the proposed development site on 10th June 2025.

## 2.0 Documentation

### 2.1. Overview

- 2.1.1. I have read the documentation attached to this file ABP 321394-25, the previous case ABP-310677-21 and the original file (planning authority file) D21A/0304 relating to badgers including inter alia, badger reports/memos prepared by the Applicant, third-party observations/submissions and the report of the Planning Authority. I have also reviewed the relevant drawings, plans and reports included in the original planning application.
- 2.1.2. I refer the Inspector to the following memos/reports/plans prepared by the Applicant and third-party submissions/observations in relation to badgers:

### 2.2. Original Planning application documentation (D21A/0304)

- 2.2.1. **Enviroguide: Badger Conservation Plan** dated 14th January 2021, updated 1st April 2021 (including Appendix on ground penetrating radar (GPR) survey). Figures 2 and 6 of the Enviroguide report show the location of the existing sett along the eastern boundary of the proposed development site. Figure 4 of the Enviroguide report shows the possible sett chambers identified during the (GPR).
- 2.2.2. **DMOD Architects:** Drawing (Dwg.) No 021, Proposed Site Plan Level 1 (20009 AP 021 Rev) and Dwg. No 020 Proposed Site Plan Level 0 (20009 AP 020 Rev) and Dwg. No 022 Proposed Site Plan Level 2 (20009 AP 022 Rev) dated 29th June 2020. These drawings indicate the approximate distance between a section of the proposed development (stair core 1) and proposed retaining walls and the south-eastern site boundary in vicinity of the existing badger sett.
- 2.2.3. **Mitchell & Associates:** Landscape Design & Outline Specification report, dated January 2021 (includes detail on boundary treatments). Refer also to Landscape Masterplan drawing (Dwg 100, 26th November 2020), landscape sections (Dwgs 102 & 104, 7th January 2021) and typical planting details (Dwg 103, 7th January 2021). These documents/dwgs provide information regarding retention of existing planting, new landscaping and boundary treatment/fencing and thus informs the assessment on foraging habitat and access for badgers to/from the proposed development site.

2.2.4. **CMK:** Arboricultural Assessment and Impact Report and accompanying drawings/plans dated 12th January 2021 - provide details on tree condition categories, trees to be removed/retained and tree protection.

2.2.5. **CS Consulting Group:** Outline construction management plan dated 8th April 2021.

### **2.3. Third party submissions (D21A/0304) / ABP-310677-21**

2.3.1. Submission from Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, dated 21<sup>st</sup> May 2021.

2.3.2. Badgers were also referenced in the majority of submissions for D21A/0304 and in the third party appeals to the Commission for ABP-310677-21. I refer the Inspector to submissions (ABP-310677-21) specifically relating to badgers from Billy Flynn, Flynn Furney Environmental Consultants, who was engaged by a number of third parties. His submissions are dated 16th May 2021 and 23rd July 2021.

### **2.4. Applicant Appeal Documentation to the Commission – 321394-25**

2.4.1. Thornton O'Connor (TOC) submission on behalf of Applicant, dated 15th January 2025. The following two documents were enclosed within the TOC submission and are also relevant for badgers:

- Scott Cawley memo dated 14th January 2025 (hereafter referred to in this report as “SC memo”).
- McCann Fitzgerald legal opinion dated 15th January 2025

### **2.5. Third party observations to the Commission – 321394-25**

2.5.1. Flynn Furney Environmental Consultants dated 13th January 2025 which included an Appendix A (containing a previous submission to planning authority on a previous development at the site (D21A/0026) in February 2021).

2.5.2. Flynn Furney Environmental Consultants dated 9th February 2025. Prepared on behalf of observers in response to Applicant documentation (TOC submission dated 15th January 2025).

2.5.3. FP Logue Solicitors legal note dated 11th February 2025. Prepared on behalf of observers in response to Applicant documentation (TOC submission dated 15th January 2025).

2.5.4. Badgers were also referenced individually in many of the other third-party observations to the Commission.

### **3.0 Summary of third-party concerns regarding badgers**

- Legal protection of existing sett at the proposed development site and question on the jurisdiction of the Commission to authorise sett destruction. Derogation required from NPWS to destroy sett.
- Disturbance/damage to existing active main breeding sett on site due to the construction works in close proximity to the sett.
- Badger Conservation Plan (for Applicant) cannot be accepted as realistic given that the proposed development will result in significant negative impacts on badgers.
- Insufficient detail on plans for closure of existing sett. Proposed closure process of the existing sett as described in the mitigation strategy included in SC memo is not within any accepted guidance or best practice. No information on possible encroachment on neighbouring land during sett closure.
- Insufficient details on proposed construction of artificial sett. Artificial sett will be within c 60m of site where rock breaking and piling will be carried out, this is an unsuitable location for replacement of active breeding sett. Artificial setts are not always successful; they may not work on this site.
- No information on local significance of the sett including information on the local population, location of other existing setts, territorial extent of the badgers which use it (both on site and in the wider area) - will the removal of foraging habitat result in death?
- Paving and fencing will represent a permanent barrier to badger movement within, to and from the site. Mammal-proof fencing not appropriate. Restrictions on range and foraging habitat are severe.

## **4.0 Issues examined and suggestions for consideration by the Inspector/Commission**

### **4.1. Best practice guidance**

- 4.1.1. I refer the Inspector to the Transport Infrastructure Ireland (TII) 2006 guidance (previously known as National Roads Authority (NRA)) on the "*Treatment of badgers prior to the construction of national road schemes*". Although this guidance is almost 20 years old, it is generally the accepted best practice guidance in Ireland on the treatment of badger prior to and during construction projects. I have considered the TII 2006 guidance in my assessment of the impacts of the proposed development on badger and the mitigation strategy proposed by the Applicant.

### **4.2. Legal Protection of Badgers and requirement for derogation**

- 4.2.1. Badgers are a protected species under the Wildlife Act 1976, as amended (the "Wildlife Acts"). Section 23(5)(d) of the Wildlife Acts states that any person who wilfully interferes with or destroys the breeding place or resting place of any protected animal shall be guilty of an offence.
- 4.2.2. The TII 2006 guidance references the requirement to obtain a licence from NPWS to remove badgers from affected setts and the subsequent destruction of these setts. The guidance states that conditions are usually attached to each wildlife licence granted in respect of badgers. My understanding is that Section 23(7)(iv) of the Wildlife Acts provides that the breeding place or resting place of any protected animal (in this case badger) may be interfered with pursuant to and in accordance with a grant of planning permission. Whilst I note that the requirement for a licence is referenced in the TII 2006 guidance, my understanding is that a derogation to impact/destroy the sett is not legally required from NPWS, that any protection for badger can only be achieved via conditions attached to a grant of planning and that enforcement of such conditions is the responsibility of the planning authority, not NPWS.
- 4.2.3. In relation to the above point, I refer the Inspector to McCann Fitzgerald legal opinion dated 15th January 2025, prepared on behalf of the Applicant and FP Logue Solicitors legal note dated 11th February 2025, prepared on behalf of observers.

4.2.4. I also refer the Inspector to the submission from Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media on 21st May 2021 where it states "*the granting of planning permission for a development which results in damage to or destruction of a badger sett supersedes the protection afforded to such a sett by the Wildlife Acts, 1976 to 2018. Any protection considered appropriate for a badger sett located on a development site can therefore only be achieved by the attachment of the conditions necessary to protect the sett to any planning permission granted for the relevant development. Subsequently the enforcement of any such conditions would be the responsibility of the planning authority rather than the NPWS*".

### **4.3. Status of badger activity and location of badger sett**

4.3.1. The latest badger walkover survey of the proposed development site, carried out on 10<sup>th</sup> January 2025 by Scott Cawley (hereafter referred to as SC memo) on behalf of the Applicant, indicates that badger is active throughout the site with evidence of snuffle holes, trails and guard hairs. The survey was carried out by a Scott Cawley ecologist during the optimum period for badger surveys. The presence of a 3-hole badger sett at the proposed development site was confirmed by the Scott Cawley ecologist. The SC memo states "*based on the short walkover survey, the evidence reflects that badger are active in the area. Whilst the sett did not appear active at this time (by virtue of visual evidence), that is not to say that it is not, and monitoring by trail camera would be required*".

4.3.2. Badger activity and the 3-hole sett was also observed during the previous survey by Enviroguide in November 2020 (refer to Enviroguide Badger Conservation Plan on behalf of the Applicant dated 14<sup>th</sup> January 2021).

4.3.3. Flynn Furney Environmental Consultants (on behalf of third parties) also observed badger activity and the sett at the proposed development site (refer to numerous submissions including those dated 16<sup>th</sup> May 2021, 23<sup>rd</sup> July 2021, 13<sup>th</sup> January 2025 and 9<sup>th</sup> February 2025). Third-party observers consider that the sett is likely to be an active main sett (sett which is generally used for breeding and is inhabited by badgers throughout the year).

4.3.4. I observed the badger sett entrances during my site visit on 10th June 2025. It is located between the vacant Maple Tree house and the south-eastern boundary of

the proposed development site. I observed two of the holes (entrances) located in neighbouring property ("Montpellier"), just outside of proposed development site. The site boundary between the proposed development and Montpellier consists of a low wire fence beneath a tree-shrub hedge line. I observed that that the third hole (entrance) may lie on the site boundary or just outside the site boundary in Montpellier (see also SC memo 2025 where it states "*one hole appears along the site boundary, but as the fence is loose at this point, it may actually lie immediately outside the site*").

- 4.3.5. The Enviroguide Badger Conservation Plan dated 1st April 2021, prepared on behalf of the Applicant, includes the results of a ground penetrating radar (GPR) survey which identified two badger sett chambers north of the entrances to the sett and close to the steps running up past the existing Maple Tree House. This survey also identified probable tunnels running back towards the sett entrances. The concrete paving slabs forming the steps and vegetation prevented the full resolution of the dimensions of the sett chambers, but it appears they do not extend beyond the steps any further towards Maple Tree House.
- 4.3.6. The surveys indicate that badger is active in the proposed development site. The SC memo notes "*with the exception of public access paths, and access roads, the survey did not extend into privately-owned lands outside of those under the ownership of the client e.g. the two properties referred to as Yonder and Maple Tree house*". Refer to Figure 1 of the SC memo which provides information badger site usage based on the January 2025 survey. It shows that badger is active in the proposed development area.
- 4.3.7. Based on my review of the documentation (and in the absence of trail camera monitoring which would have confirmed current sett activity) and based on my own site visit, I have assumed, on a precautionary basis, that badger is active in the area, that the sett is an active main sett and that the majority of the sett is contained within the proposed development boundary, with the exception of the holes (entrances), two of which are located in the neighbouring property (Montpellier) just outside the site boundary and a third which may lie on the site boundary or just outside it in Montpellier. The majority of the site boundary currently allows for badger movement into neighbouring properties.

#### 4.4. Potential Impacts on badger sett

I refer the Inspector to Drawing Nos 020, 021, 022 Proposed Site Plan Levels 0 & 2, prepared by DMOD Architects 29 June 2020. This provides detail on the distance between the proposed development works including retaining walls and the eastern site boundary which is where the current badger sett is located. The proposed development works are located less than 10 metres from the badger sett entrances as outlined in the sections below.

- 4.4.1. This point is made in a number of the third-party submissions and in the submission from Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media on 21 May 2021 *"according to the plans submitted in support of this development proposal there is only to be a distance of 9.5 m between the badger sett entrances located on the boundary of the development site with the garden of Montpellier and the nearest section of the nursing home, which houses a stair well connecting the four storeys of the home's southern wing. The new stairway which is to provide external access to the nursing home's elevated garden area together with its retaining wall will occupy at least another 2 m of this space between the sett entrances and the nursing home building"*.
- 4.4.2. The TII 2006 document provides guidelines for site works in the vicinity of badger setts. It states that *"Badger sett tunnel systems can extend up to c. 20m from sett entrances. Therefore, no heavy machinery should be used within 30m of badger setts (unless carried out under licence); lighter machinery (generally wheeled vehicles) should not be used within 20m of a sett entrance; light work, such as digging by hand or scrub clearance should not take place within 10m of sett entrances. During the breeding season (December to June inclusive), none of the above works should be undertaken within 50m of active setts nor blasting or pile driving within 150m of active setts"*.
- 4.4.3. The Department of Tourism submission goes on to state: *"Further, the plan of this section of the nursing home indicates the presence of a pile driven foundation. It seems very unlikely therefore that these various elements of the nursing home scheme can be constructed as presently proposed without encroachment on, and at least the partial destruction of the badger sett, probably including its main chambers. Even if direct encroachment on the sett is not necessitated by the plans as*

*proposed, the undertaking of construction works in such close proximity to a sett, including excavation and pile driving, would appear almost certain to lead to vibrations and soil movements causing the collapse of sett chambers and tunnels".*

- 4.4.4. The sett entrance, tunnels and chambers are all located within 10m of the proposed development works. Given the proposed works at this location include the construction of retaining walls and taking into consideration the TII 2006 guidance, the information provided by both the third-party observations and the Department of Tourism submission, I consider there is a substantial risk that direct encroachment of this active sett and/or collapse will arise.

#### **4.5. Justification for closure of sett and construction of artificial sett**

- 4.5.1. The SC memo acknowledges the direct impact on the badger sett and sets out a mitigation strategy to permanently close the sett and to construct an artificial sett within the proposed development boundary. In relation to direct impacts on the sett and mitigation to address same, I consider that the SC memo supersedes the earlier Enviroguide Badger Conservation Plan (2021) which did not propose sett closure/artificial sett construction.
- 4.5.2. The TII 2006 guidance provides guidelines on the exclusion of badgers from development sites. It allows for the exclusion under certain circumstances: *"exclusion should only be considered where a development would unavoidably destroy a badger sett (or part of its underground tunnel and chamber system), or its immediate surroundings, making it unsuitable for continued occupancy. In some circumstances, it is possible to exclude badgers on a temporary basis and allow them to return when the site works have been completed". Exclusion of badgers from any currently active sett should only be carried out during the period of July to November (inclusive) in order to avoid the badger breeding season".*
- 4.5.3. The TII 2006 guidance states that *"knowledge of identifying alternative setts within the particular social group's territory is required to ensure that excluded badgers are able to relocate to a suitable alternative refuge. The objective is to allow the badgers to remain within their territory, even though a portion of their current territory may be lost as a result of a particular development"*. The TII 2006 guidance also states that

*"where no alternative setts are available within the territory of the animals, an artificial sett will need to be constructed within the affected group's territory".*

4.5.4. Having regard to the TII 2006 guidance, I consider that exclusion of the sett is required given the proximity of the works to the badger sett and potential encroachment/collapse of sett due to the works. Alternative setts within the badger territory have not been identified by the Applicant. Therefore, I consider it necessary mitigation that an artificial sett must be constructed within the proposed development boundary so that the badgers can remain within their territory, even though a portion of their current territory will be lost as a result of the proposed development.

#### **4.6. Process for sett closure and construction of artificial sett**

- 4.6.1. The SC memo sets out a mitigation strategy to permanently close the sett and construct an artificial sett within the proposed development boundary. The mitigation strategy states that sett exclusion shall only be carried out during the period of July to November (outside of the breeding season). This is in accordance with the TII 2006 guidance.
- 4.6.2. The TII 2006 guidance suggests installing one-way gates at the sett entrances to allow the badgers to exit but not re-enter the sett. The process for exclusion can take a number of weeks to ensure badgers have safely left the sett prior to sett destruction. The exclusion process proposed in the SC memo acknowledges that the sett entrances are outside the proposed development boundary and thus it would not be possible to install a gate directly at the sett entrance. Therefore, it proposes an alternative approach of excavating a trench, under ecological supervision, along the length of the sett area, whereby all three tunnels would be intersected (within the proposed development boundary) and thereafter one-way gates would be installed as per the guidance. I consider that this is an acceptable approach to ensure that badgers can still safely exit the sett, under ecological supervision and that neighbouring properties are not affected.
- 4.6.3. The SC memo provides details on the proposed artificial sett location (SE corner of the site), construction timing (to be constructed at least 6 months in advance of sett exclusion) and process for attracting badgers to use the new sett. It notes that notwithstanding the construction of the artificial sett, no further construction works

should take place within the proposed development site until such time that the sett is closed. The artificial sett construction strategy proposed in the SC memo is generally in line with the TII 2006 guidance. I consider the above approach regarding artificial sett construction is acceptable.

4.6.4. The SC memo notes that there is nowhere within the proposed development site that is outside the 150m buffer zone of active setts that is recommended by the TII 2006 guidance in relation to piling (See Section 4.4.3 above for further details on the restrictions). The distance from the proposed artificial sett (to be located in the south-eastern corner of the site) to the area where piling is proposed has not been specified in the SC memo, however, from my review of the drawings, I estimate that it may be within 60-65m of proposed piling activities. Therefore, as per the guidance, I consider that any piling/rock breaking will need to be carried out outside of the breeding season (December – June) as per the TII 2006 guidance to minimise disturbance to badger in the new artificial sett. I note this seasonal restriction has not been specifically highlighted in the SC memo for the artificial sett. In the event of a grant of permission, I consider that it is reasonable that a condition could be added that any piling/rock breaking will need to be carried out outside of the breeding season (breeding season is December – June) as per the TII 2006 guidance to minimise disturbance to badger in the new artificial sett.

4.6.5. The SC memo recommends regular monitoring of the construction site by an Ecological Clerk of Works, with expertise in implementation of badger mitigation measures, retained by the client for the duration of the construction period. It states that monitoring would be important to ensure no further establishment of sett within the construction site. This approach is generally in line with the TII 2006 guidance. I consider the above approach regarding monitoring is acceptable. Furthermore, the SC memo notes the additional mitigation approach during construction (as described on page 18 of the Enviroguide Badger Conservation Plan) would apply including allowing nocturnal badger access across the site, with large excavation covered or fenced off to ensure no potential for fatality. This approach is generally in line with the TII 2006 guidance. I consider the above approach regarding monitoring is acceptable.

4.6.6. Having had regard to all of the information provided and to best practice guidance, I consider that the mitigation strategy proposed in the SC memo for closure of the existing sett and construction of artificial sett is acceptable to ensure that significant impacts on badgers will not arise. I consider that sufficient detail has been provided at this stage. In the event of a grant of permission, in addition to the above condition regarding seasonal restriction for works when the new artificial sett is constructed (see Section 4.6.5 above), I consider that a condition could be added to ensure compliance with the SC memo mitigation strategy with details to be agreed with Planning Authority to ensure no significant impacts on badgers.

4.6.7. There is a possibility that the badgers may return to the original sett location when site works have been completed. As noted in the SC memo, *"the landscape design should be amended such that the slope under which the original chambers occurred would be regraded with additional topsoil before planting, so that this area might be in the future reused by badgers"*. In the event of a grant of permission, I consider that it is reasonable that a condition could be added such that the landscaping details at the original sett location can be agreed with Planning Authority to ensure no significant impacts on badgers.

#### **4.7. Access routes from sett to foraging grounds and wider territory**

4.7.1. According to TII 2006 guidance: *"the Badger is one of the larger wild mammals in Ireland and is relatively common and widespread throughout most of the country. Badgers are omnivorous, feeding on insects, small mammals, grains and wild fruits - but the main component of their diet is earthworms. Consequently, their density is often higher in landscapes of agricultural pasturelands and lower in areas where habitats provide poorer food supply, such as bogs, moors and upland areas. Badgers live in social groups, usually comprised of between two and six adults and their young. Each group defends territory, which varies in size between 25 and 200ha (with mean territory size of c.80ha). The average density of Badgers in the country is one social group per 2km but in many lowland areas is often as much as one or more social groups per square kilometre.*

4.7.2. In addition, the Enviroguide Badger Conservation Plan (Section 3.2, page 2) notes that *"some badgers have adapted to urban living and setts tend to be located on sloping ground in places that provide good cover marginal lands, parks and private*

*gardens. Studies of urban Badgers in Bristol, England.....found that badgers tend to have a smaller territory, less setts within their territory, smaller social group and more varied diet than their rural counterparts”.*

- 4.7.3. According to the Atlas of Mammals in Ireland (2010-2015)<sup>1</sup>, badgers usually make movements of 1-2km during night foraging.
- 4.7.4. The proposed development site is 0.6Ha, some of which will be retained/landscaped as an amenity garden. Having regard to the TII guidance, the various surveys undertaken by the Applicant and the Atlas of Mammals in Ireland in relation to badger activity, territory size and typical distances for night-time movements, I do not consider that the territory of the badger group associated with the existing sett on the site is restricted to the proposed development site alone.
- 4.7.5. Section 6.2 (pgs 15-16)) of the Enviroguide Badger Conservation Plan discusses measures to preserve access routes from the existing sett to foraging grounds.
- 4.7.6. I refer the Inspector to the landscape drawings/masterplan prepared by Mitchell & Associates and the CMK Arboricultural Assessment/Report (as listed in Section 2.2 above) for details on the proposed landscaping, trees to be removed/retained and proposed boundary treatment.
- 4.7.7. The existing site boundaries along the south west, south and south east will be retained (type 2) thereby facilitating access routes by badger into its territory in neighbouring gardens. The eastern boundary will consist of metal railing (type 4) and thus access can be maintained. Type 3 within the landscaped area in the garden will consist of timber post and sheep wire with a 400mm opening at the base to allow for wildlife access. Whilst the new buildings & infrastructure will limit badger movement northwards through the site, badger could still travel northwards along the eastern boundary of the site. I note that the northern boundary (type 5) does not facilitate mammal access due to the presence of a base concrete panel, however this could be overcome with very minor design modifications. In the event of a grant of permission, I consider that it is reasonable that a condition could be added such that boundary treatment details are amended along the northern boundary and that these

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<sup>1</sup> Lysaght, L. and Marnell, F. (Eds) (2016) Atlas of Mammals in Ireland 2010-2015, National Biodiversity Data Centre, Waterford

are agreed with Planning Authority to facilitate badger access north of the proposed development site.

#### **4.8. Loss of foraging habitat**

- 4.8.1. The landscape masterplan presents the proposed landscaping of the site. There is a considerable amount of landscaping proposed in the southern section of the site in order to provide a garden and amenity space for the residents of the nursing home. As noted on the drawings, the south eastern area of the site will be protected, some trees will be retained (as shown on the arboricultural report and other areas where necessary, replanted with boundary hedge planting mix (refer to planting schedule on the landscape masterplan for details). The artificial sett will be located in the south eastern area of the site.
- 4.8.2. The proposed development site is 0.6Ha, some of which will be retained/landscaped as an amenity garden. I do not consider that the loss of foraging habitat from a 0.6Ha site is significant in terms of permanent loss of foraging habitat to the badger social group associated with the existing sett on the site. Badger are highly adaptable animals. Modification of the boundary treatment will ensure that badger can continue to access its territory and foraging grounds beyond the proposed development site.
- 4.8.3. Whilst I acknowledge that some foraging habitat within the site will be removed due to the construction of the proposed development, based on the information provided and having regard to the proposed conditions set out below, I consider that sufficient badger commuting routes and access to foraging habitat in the southern area of the site and into neighbouring properties can be maintained.

#### **4.9. Local significance of sett, local population, other existing setts and territorial extent**

- 4.9.1. Some of the third-party submissions note that no information is provided by the applicant on local significance of the sett including information on the local population, location of other existing setts, territorial extent of the badgers which use it (both on site and in the wider area). The submissions indicate that they have a concern regarding the impact of loss of foraging habitat on the local population. I have addressed the impacts on the existing sett and mitigation for same in Sections 4.4-4.6 above). I have addressed the impacts on badger movement and mitigation

for same in Section 4.7 above. I have addressed the loss of foraging habitat in Section 4.8 above. I do not consider the lack of specific information on local population and territorial extent provided by the applicant is necessary to undertake an assessment in relation to this case based on the available information as set out above in the previous sections.

4.9.2. Furthermore, in terms of red list status, badger are of “*least concern*”. According to the Atlas of Mammals in Ireland (2010-2015)<sup>2</sup>, the most recent estimate of the badger population is 84,000 individuals, made up of 19,200 social groups, for the Republic of Ireland. According to the Biodiversity Data Centre<sup>3</sup>, the latest number of records for badger in the island of Ireland is 45,792.

**4.10. In the event of a grant of permission, suggested conditions to ensure no significant effects on badgers**

4.11. The landscape design shall be amended such that the slope under which the original badger sett chambers occurred will be regraded with additional topsoil before planting, so that this area might be in the future reused by badgers. The amended landscape design shall be submitted to, and agreed in writing, with the Planning Authority.

4.12. The boundary treatment design along the northern boundary of the site shall be amended such that badger access to foraging grounds can be maintained. The boundary treatment design shall be submitted to, and agreed in writing, with the Planning Authority.

4.13. The proposed development shall be constructed in compliance with the badger mitigation strategy as outlined in the Scott Cawley memo (dated January 2025), with details to be submitted to, and agreed in writing, with the Planning Authority.

4.14. In addition, prior to the commencement of any construction works, a detailed badger survey shall be conducted by a qualified Ecologist in accordance with the Chartered Institute of Ecology and Environmental Management (CIEEM) guidelines. The results of the survey report shall also inform the above badger mitigation strategy.

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<sup>2</sup> Lysaght, L. and Marnell, F. (Eds) (2016) Atlas of Mammals in Ireland 2010-2015, National Biodiversity Data Centre, Waterford

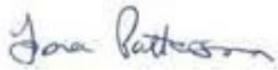
<sup>3</sup> <https://maps.biodiversityireland.ie/Species/119470>

- 4.15. Furthermore, once the artificial sett has been constructed, any piling/rock breaking will need to be carried out outside of the breeding season (breeding season is December – June) to minimise disturbance to badger in the new artificial sett.

## 5.0 Conclusion

- 5.1.1. Having had regard to all of the information provided and to best practice guidance, I consider that the mitigation strategy proposed in the SC memo for closure of the existing sett and construction of artificial sett is acceptable to ensure that significant impacts on badgers will not arise. I consider that sufficient detail has been provided at this stage. In the event of a grant of permission, I consider that the above suggested conditions should be provided to ensure no significant impacts on badgers arise.

**Signed:**



Fiona Patterson, BSc, MSc, MISEP CEnv

Senior Ecologist Inspector

27<sup>th</sup> November 2025