

An
Coimisiún
Pleanála

AN COIMISIÚN PLEANÁLA	
LDG-	087071-26
ACP-	
20 MAR 2026	
Fee: €	330 Type: <i>com</i>
Time:	12:10 By: <i>1704</i>

Planning Appeal Form

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name

Peter Horgan

(b) Address

63 Lissadell, Maryborough Hill, Cork

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name

Rory Hanrahan, Coakley O'Neill Town Planning Ltd

(b) Agent's address

NSC Campus, Mahon, Cork, T12 H7AA

Postal address for letters

3. During the appeal we will post information and items to you **or** to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the
address in Part 1

☐

The agent at the address in
Part 2

☒

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Cork City Council

(b) Planning authority register reference number

(for example: 18/0123)

25/44442

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Bessborough, Ballinure, Blackrock, Cork.

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

Please refer to accompanying submission prepared by Coakley O'Neill
Town Planning Ltd.

Supporting material

6. If you wish you can include supporting materials with your appeal.

Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You **must** make sure that the correct [fee](#) is included with your appeal. You can find out the correct fee to include in our [Fees and Charges Guide](#) on our website.

Oral hearing request

9. If you wish to [request the Commission to hold an oral hearing](#) on your appeal, please tick the “yes, I wish to request an oral hearing” box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on [our website](#) or by contacting us.

If you do not wish to request an oral hearing, please tick the “No, I do not wish to request an oral hearing” box.

Yes, I wish to request an oral hearing

☒

No, I do not wish to request an oral hearing

☐

NALA has awarded this document its Plain English Mark

Last updated: April 2019.



APPENDIX 2: CORK CITY COUNCIL SUBMISSION ACKNOWLEDGEMENTS

The Secretary
An Coimisiún Pleanála
64 Marlborough Street
Dublin 1

20th March 2026

Our Ref: CON26050

RE: THE PLANNING AND DEVELOPMENT ACT 2000, AS AMENDED, AND THE STATUTORY REGULATIONS MADE THEREUNDER: FORMAL THIRD PARTY APPEAL IN ACCORDANCE WITH SECTION 127 AGAINST THE DECISION OF CORK CITY COUNCIL TO GRANT PLANNING PERMISSION FOR A LARGE-SCALE RESIDENTIAL DEVELOPMENT (LRD) AT A SITE LOCATED AT BESSBOROUGH, BALLINURE, BLACKROCK, CORK. THE DEVELOPMENT WILL CONSIST OF: THE DEMOLITION OF 10 NO. EXISTING AGRICULTURAL BUILDINGS /SHEDS AND LOG CABIN RESIDENTIAL STRUCTURE AND THE CONSTRUCTION OF A RESIDENTIAL DEVELOPMENT OF 140 NO. RESIDENTIAL APARTMENT UNITS.

**CORK CITY COUNCIL REFERENCE: 25/44442
DATE APPLICATION LODGED: 22ND DECEMBER 2025
DATE OF PLANNING AUTHORITY DECISION: 24TH FEBRUARY 2026**

A Chara,

We, Coakley O'Neill Town Planning Ltd, of NSC Campus, Mahon, Cork, are instructed by our client, Councillor Peter Horgan of 63 Lissadell, Maryborough Hill, Cork T12 N73F, to submit this Third-Party Appeal¹ to An Coimisiún Pleanála against the decision of Cork City Council to grant planning permission to Estuary View Enterprises 2020 Limited, for the above referenced and described planning application subject to 70no. planning conditions.

We confirm that we have visited the subject site and inspected the planning application file, the decision of Cork City Council and the associated technical reports of the Planning Authority.

We would ask An Coimisiún to share our view that the negative impact arising from the development as permitted is inconsistent with the policies and objectives relating cultural and architectural heritage as well as landscape preservation.

¹ Opinions and information provided in this letter, including plates and figures, are on the basis of Coakley O'Neill using due skill, care and diligence in the preparation of same and no explicit warranty is provided as to their accuracy.

Our grounds of appeal are as follows:

- 1. *The Applicant and Planning Authority have failed to adequately address the previous reasons for refusal relating to the potential for a children's burial ground within the site, associated with the former use of the lands as a Mother and Baby Home over the period 1922 to 1998;***
- 2. *Condition No. 10 is not in accordance with the Guidelines for Planning Authorities for Development Management;***
- 3. *The Environment Impact Assessment has failed to adequately consider alternative proposals;***
- 4. *The development represents piecemeal, ad hoc development of a historic landscape.***

At the outset, we wish to advise An Coimisiún that while our client acknowledges, and supports, the need for new housing, he holds the strong view that the subject proposal is not in accordance with the proper planning and sustainable development of the area.

We submit that the full and proper consideration of the proposal presents a robust case for the refusal of planning permission in this instance. Herein, we set out the case supporting this conclusion.

We therefore ask An Coimisiún to overrule the decision of Cork City Council in this instance and refuse permission for the proposed development on the basis that it is inconsistent and incompatible with the character of the area and will have serious detrimental and negative material planning impacts on the established residential amenity of our client and that of residents in the immediate vicinity.

An Coimisiún will note this appeal is by someone who made a submission at the application's initial public consultation stage. His submission on the application is appended herein. (Appendix 3).

We enclose the correct fee of €270 (including €50 fee for the request of an oral hearing) and the written acknowledgement by Cork City Council of the receipt of submission made by our client at the planning application stage.

Our appeal and the reasons, arguments, and considerations upon which it is based are detailed hereunder. It begins with an overview section, which outlines the context of the planning application and proposed development.

Emphasis, where added, is ours.

We note the deadline to submit an appeal under this application as the **23rd March 2026**.

1.0 LEGISLATIVE PROVISIONS: PLANNING AND DEVELOPMENT ACT, 2000, AS AMENDED

Section 127 of the 2000 Act provides for the appeal of the decision of a Planning Authority.

127. — (1) An appeal or referral shall—

- (a) be made in writing,*
- (b) state the name and address of the appellant or person making the referral and of the person, if any, acting on his or her behalf,*
- (c) state the subject matter of the appeal or referral,*
- (d) state in full the grounds of appeal or referral and the reasons, considerations and arguments on which they are based,*
- (e) in the case of an appeal under section 37 by a person who made submissions or observations in accordance with the permission regulations, be accompanied by the acknowledgement by the Planning Authority of receipt of the submissions or observations,*
- (f) be accompanied by such fee (if any) as may be payable in respect of such appeal or referral in accordance section 144*
- (g) be made within the period specified for making the appeal or referral.*

- (2) (a) An appeal or referral which does not comply with the requirements of subsection (1) shall be invalid.*
- (b) The requirement of subsection (1)(d) shall apply whether or not the appellant or person making the referral requests, or proposes to request, in accordance with section 134, an oral hearing of the appeal or referral.*

- (3) Without prejudice to section 131 or 134, an appellant or person making the referral shall not be entitled to elaborate in writing upon, or make further submissions in writing in relation to, the grounds of appeal or referral stated in the appeal or referral or to submit further grounds of appeal or referral and any such elaboration, submissions or further grounds of appeal or referral that is or are received by the Board shall not be considered by it.*

- (4) (a) An appeal or referral shall be accompanied by such documents, particulars or other information relating to the appeal or referral as the appellant or person making the referral considers necessary or appropriate.*

- (b) Without prejudice to section 132, the Board shall not consider any documents, particulars or other information submitted by an appellant or person making the referral other than the documents, particulars or other information which accompanied the appeal or referral.*

(5) An appeal or referral shall be made—

- (a) by sending the appeal or referral by prepaid post to the Board,*
- (b) by leaving the appeal or referral with an employee of the Board at the offices of the Board during office hours (as determined by the Board), or*
- (c) by such other means as may be prescribed.*

2.0 PLANNING APPLICATION OVERVIEW AND CONTEXT

2.1 Site Location and Description

The subject site is the site of the former Bessborough Mother and Baby Home (Sacred Heart Home), located in Mahon, Cork City.

The overall site of the proposed development comprises of 5.08 hectares, with the wider landholding associated with the site comprising of 25 hectares. The site currently comprises of a number of buildings including the Former Mother and Baby Home which was built c. 1755 – 1765, initially in use as home prior to its use as a Mother and Baby Home. The House was purchased in 1922 and given over to the Congregation of the Sacred Hearts of Jesus and Mary as accomodation for unmarried mothers and their children. The Home is identified as National Monument and Site (Ref. CO074-077), on the National Inventory of Architectural Heritage (Ref. 20872005), in which it is identified as being of not only Architectural significance but also of social and historical significance.

The site also comprises of a c.1870-1890 farmyard complex which is identified on the National Inventory for Architectural Heritage (Ref. 20872006). The Bessborough Folly is located to the southeast of the wider site, comprising of three-bay two-storey folly built in c. 1870 – 1890 (NIAH Ref. 20872007). Additionally, an Icehouse is recorded on the National Monuments Services to the south west of the subject site (Ref. CO074-051).

There are a number of buildings located on the northern area of the site which have been built in recent years including the Sacred Heart Convent and Day Care Centre.

The remainder of the wider site comprises of lawn areas as well areas of mature trees along the western and southern areas of the site.



Figure 1. Site Location generally outlined in red.

2.2 Nature of Proposed Development

The proposed development, as submitted to Cork City Council on the 22nd December 2025 and as stated in the statutory notices, is to comprise of a Large-Scale Residential Development (LRD) at a site located at Bessborough, Ballinure, Blackrock, Cork.

The development will consist of:

- a) The demolition of 10 no. existing agricultural buildings /sheds and log cabin residential structure and the construction of a residential development of 140 no. residential apartment units over 2 no. retained and repurposed farmyard buildings (A & B) with single storey extension and 3 no. new blocks of 3-5 storeys in height, with supporting resident amenity facilities, crèche, and all ancillary site development works.
- b) The proposed development includes 140 no. apartments to be provided as follows: Block C (9 no. 1-bedroom & 25 no. 2-bedroom over 3 storeys), Block D (34 no. 1-bedroom & 24 no. 2-bedroom over 3-4 storeys), Block E (27 no. 1-bedroom, 20 no. 2-bedroom & 1 no. 3-bedroom over 4-5 storeys).
- c) It is proposed to use retained Block A and Block B for resident amenities which include home workspace, library, lounge and function space.
- d) The proposal includes a new pedestrian/cycle bridge over the adjoining Passage West Greenway to the east, connecting into the existing down ramp from Mahon providing direct access to the greenway and wider areas, as well as new pedestrian access to Bessborough Estate to the north including upgrades to an existing pedestrian crossing on Bessboro Road.
- e) The proposed development provides for outdoor amenity areas including publicly accessible parkland, landscaping, surface car parking, bicycle parking, bin stores, substation, public lighting, roof mounted solar panels, wastewater infrastructure including new inlet sewer to the Bessborough Wastewater Pumping Station to the west, surface water attenuation, water utility services and all ancillary site development works.
- f) Vehicular access to the proposed development will be provided via the existing access road off the Bessboro Road.

Part of the proposed development is situated within the curtilage of Bessborough House which is a Protected Structure (Reference: RPS 490).

An Environmental Impact Assessment Report and a Natura Impact Statement has been prepared in respect of the proposed development.

2.3 The Planning Authority Assessment and Decision

Summary of Pre-planning Consultation

As the subject planning application comprises of a Large Scale Residential Development, the development was subject to 2no. statutory pre planning consultations.

A S.247 Pre Planning Meeting was held on the 16th July 2024. As per the S.247 Meeting Minutes, the key items arising from the consultation are as follows:

- Elements of Building C are not acceptable such a positioning and scale;
- Development within the former pleasure gardens is not acceptable and Block C is located in an area of the site forms part of a significant section of the historic landscape.

A S.32C Pre Planning Meeting was held on the 29th October 2025. As per the S.32C Pre Planning Meeting Minutes, the key items arising from the consultation are as follows:

- Concern in relation to the height of buildings – Blocks D and E would be advised to be reduced by one-storey;
- Block C encroaches on the woodland area and the setting of Bessborough House and Block C and associated roads and parking should be omitted;
- Concerns in relation to the visual amenity and the principle of the development
- Block C would damage historic garden setting;

The LRD Opinion Report was issued by the Planning Authority on the 26th November 2026, which stated that the Planning Authority were of the view that the documents submitted did not constitute a reasonable basis on which to make a planning application.

The Opinion identified a number of items which would be required to be addressed in the LRD application. This included:

- The omission of Block C owing to its impact on the historic landscape;
- A reduction in height of both Blocks D and E by one storey as the proposed heights would undermine the setting of Bessborough House;
- A comprehensive cultural heritage assessment in relation to archaeology, built heritage, and cultural heritage legacy should be submitted;

Assessment of Application by Cork City Council

The Planning Application was submitted to Cork City Council on the 22nd December 2025.

There were 2no. submissions from members of the public on the application, the submission made by the appellant, Councillor Peter Horgan and a submission by Carmel Cantwell on behalf of the Bessboro Mother and

Baby Home Support Group. The submission by the Appellant is enclosed in Appendix 1 of this appeal along with the appellants acknowledgment of submission.

The concerns raised by Carmel Cantwell on behalf of the Bessboro Mother and Baby Home Support Group are summarised as follows:

- The subject site is a site of profound national significance, containing a landscape of trauma, loss and unmarked burials;
- The full extent of burial grounds are unknown – with survivor testimony indicating burials across the site including the locations of the proposed development;
- The site of the development, the farm yard, was used by the Mother and Baby Home with mothers made to work on the farm yard;
- The Housing Mix is not appropriate and materially contravenes the policies and objectives of the Cork City Development Plan;
- The development is contrary to the policies and objectives of the National Planning Framework;

The assessment of the application by the Planning Authority included a number of internal staff reports including an Archaeologists Report dated the 19th February 2026. This report notes that the development is in lands which formed part of the demesne associated with Bessborough House. The Bessborough Estate/landholding has two structures listed in the Record of Monuments and Places (RMP) - Bessborough House (CO074-077---) and associated Icehouse (CO074-051---).

The assessment notes the following in relation to the EIAR which was submitted:

'The chapter assesses both the tangible (archaeological and architectural heritage) and the intangible (history, traditions etc) heritage. In my review of the EIAR I focused on the archaeological heritage and the Mother and Baby Home 'Legacy'.

The historic and cartographic detail is well researched. In addition, a building record survey has been prepared.

The Mother and Baby Home 'Legacy' has also been addressed in the EIAR. The applicant engaged with the Cork Survivors and Supporters Alliance (CSSA) and the potential sensitivities of the site have been addressed in consultation with the group. Based on the CSSA understanding of the overall site from cartographic evidence, and ABP's decision on the adjacent site the applicant has concluded that there is no evidence to suggest that the proposed development site contains any burials associated with former Mother and Baby Home.

The mitigation proposed to address the potential for unrecorded burials has been well considered and researched'.

Owing to the above, a grant of permission is recommended with conditions as the *'impact of the proposed development site on possible sub-surface archaeological remains is considered low'.*

The Conservation Report prepared as part of the assessment of the application notes the following:

'The curtilage of Bessborough House is characterised by a significant level of parkland/open space areas. The 'Landscape Assets' to be protected for Bessborough House (SE4) include: 'G: Landmarks/Natural Features /Cultural Landscape – land forming the setting to existing landmark buildings and/or protected structures / buildings of significance.' Development to the north of the farmyard complex is accepted in principle, as long as it is 'consistent with the landscape and protected structure significance of the site.

[...] It is important to retain a meaningful connection between Bessborough House and the associated grounds. 18th-century country houses and their landscapes formed part of an original design concept and are intrinsically linked. The house and landscape, therefore, cannot be separated from each other and are greater than the sum of their parts.

[...] The proposed Block C would be located in the original pleasure gardens of the house, where a band of trees and paths were laid out, which would have been historically used for entertainment, polite sociability and leisurely retreat.'

The assessment by the Conservation Officer notes that the development of Block C would irreversibly erode this historically significant section of landscape and is not supported in principle, as it would be visible from the Parkland areas and would undermine the historic landscape approach.

The Conservation Report notes that there are errors within the EIAR relating to the magnitude of impacts arising from the development. The Conservation Officer concludes that the development would be significant in terms of its impacts on Bessborough House.

The Conservation Officer concludes *'the proposed development is more cognisance of the importance of this historic demesne of the 18th-century Bessborough House (a protected structure, Ref: PS490) and its physical and visual connection to the parkland setting and its associated historic farmyard buildings. I have no objection to the grant of permission, subject to the following conditions being attached'.*

The recommended conditions include:

1. Prior to the commencement of development, the applicant shall submit revised proposed drawings that omit proposed Block C to the Local Authority for written agreement.
2. Prior to the commencement of development, the applicant shall submit revised proposed drawings to the Local Authority for written agreement that show the following:
 - Block D reduced in height from 4 storeys to 3 storeys (including lowering the 3-storey section to 2 storeys).
 - Block E reduced in height from 5 storeys to 4 storeys.

The primary assessment of the application was undertaken by the Senior Executive Planner. The assessment of the application by the Senior Executive Planner notes the following in relation to the EIAR submitted as part of the application:

In regard to alternatives considered:

'The submitted EIAR does not include any specific consideration of alternative sites. Given the zoning of the site in the City Development Plan for residential development, which underwent SEA, it is considered reasonable in this regard that alternative sites were not considered

[...] Section 3.3 of the EIAR considers the "Do-Nothing" approach. In this regard, given the local, regional and National objectives in relation to housing and compact growth, along with proposal for planned upgrades to adjacent greenways and public transport options adjacent to the site and the quantum of employment opportunities in the location, a "Do-Nothing" approach is not considered the best use of the site to achieve these targets'.

In regard to Chapter 10 Cultural Heritage of the EIAR which assessed the likely effect the proposed development will have on the archaeological, architectural and cultural heritage environment, the following is noted by the Senior Executive Planner:

'Section 10.2.2.1 of the EIAR identifies the legacy of Bessborough House as a Mother and Baby Home from 1922 through to the 1990's. Section 19.13 of this report below discusses the proposed development in respect of the legacy issues of the subject site.

In relation to potential impacts during the construction phase, section 10.3.2.1.1 of the EIAR is noted which states that "there are no recorded archaeological sites located within the boundary of the subject lands and the ground levels within sections of the area have been disturbed by 19th century construction works. No potential unrecorded archaeological sites were identified within the subject lands during the desktop research and field surveys carried out as part of this assessment. The construction phase within the subject lands will, therefore, not result in any predicted direct impacts on the known archaeological resource. The potential for direct negative impacts on any unrecorded, sub-surface archaeological features that may exist within the subject lands cannot be discounted and will require mitigation'.

Concluding that the proposed development would not have any unacceptable direct, indirect or cumulative impacts in terms of cultural heritage.

When considering the findings of the EIAR submitted, the Senior Executive Planner concludes that that the likely impacts of the proposed development on the environment identified in the Environmental Impact Assessment Report, would be mitigated by the measures set out in the Environmental Impact Assessment Report, the various technical reports received in relation to this application and conditions attached.

When considering the principle of the development, it is noted that the site falls under two zonings, with the northeastern element of the site zoned ZO 01 Sustainable Residential Neighbourhoods and the remaining elements of the site zoned ZO 17 Landscape Preservation Zones.

It is also noted that areas of the site are also Areas of High Landscape Value and 'development will only be considered appropriate if it has a neutral/positive impact on the landscape. It is considered that any proposed

development should respond to the scale of the significant tree coverage within, and adjacent to, the site (in the Bessboro Grounds and the Old Passage Railway). It is considered that to comply with this objective the scale of blocks on the site will need to have a neutral/positive impact on the landscape character'.

In regard to the ZO 17 zoning the Planner notes:

'There will be a presumption against development within these zones, with development only open for consideration where it achieves the specific objectives set out in Table 6.10 of the City Development Plan. Paragraph 6.19 of the plan states that "Landscape Preservation Zones (LPZs) are areas zoned ZO 17 Landscape Preservation Zones (see Chapter 12 Land Use Zoning Objectives) in order to protect their character and amenity value. **These areas are considered to be highly sensitive to development and as such have limited or no development potential.** Typically, the landscape character of these areas combines distinctive landscape assets such as topography, slope, tree cover, setting to historic structures, open spaces and other landscape assets – see Table 6.5'.

It is outlined by the Planner that only Block E is located in lands within the ZO 01 zoning and all other elements are contained within ZO 17 and as such are to be considered in line with the Site Specific Objectives for the site.

The Planner concludes that 'the principle of development on the lands zoned ZO 17 Landscape Preservation Zones must be assessed in accordance with the specific objectives as set out in the City Development Plan for this zoning (Ref. SE4). This zoning designation notably states that it is an objective to "allow development within the immediate environs to the north of Bessborough House consistent with the landscape and protected structure significance of the site". It further states that it is an objective to "reinstate Historic Landscape" and to "seek use of grounds as a Neighbourhood Park in context of local area plan".

In this regard, it is considered that while the principle of the development, on balance, complies with the zoning objectives of the Cork City Development Plan, the development must be assessed in terms of design, conservation, heritage and archaeology'.

In further assessing the potential impact of the proposed development on the ZO 17 Landscape Preservation Zone it is further noted that there is a general presumption against development within these zones.

It is noted that the Site Specific Objective for the site does allow for development to the north of the house subject to being consistent with the landscape and protected structure of the site.

The Planner also notes with regard to the site designation as an Area of High Landscape Value that in accordance with this designation 'development will be considered only where it safeguards to the value and sensitivity of the particular landscape. There will be a presumption against development where it causes significant harm or injury to the intrinsic character of the Area of High Landscape Value and its primary landscape assets, the visual amenity of the landscape; protected views; breaks the existing ridge silhouette; the character and setting of buildings, structures and landmarks; and the ecological and habitat value of the landscape'.

The Planner raises concerns in relation to the proposed Block C stating that *'considering the location of the site within the Landscape Preservation Zoning, and within the area designated as an Area of High Landscape Value, and noting the significant impacts on the Bessborough House, a landmark building and protected structure, it is considered that Block C and its associated infrastructure should be omitted from the proposed development. It is considered appropriate that a condition relating to same is attached'*.

The assessment notes that the development proposes a residential density of 95.9 units per hectare which is considered to be in line with the National Policy in relation to same however notes that *'while achieving density targets is desirable, the proposed density must also be considered in the context of the existing prevailing character of the location, which in the case of the subject site is within the grounds of a protected structure, in an Area of High Landscape Value, on predominantly Landscape Preservation Zoned lands'*.

The assessment raises concerns in relation to the heights of the proposed development in light of the site zoning and Landscape Designation and notes that a revision in heights is required.

The Planner when considering the concerns raised by both the Conservation Officer and the City Architect overrules the Conservation Officer and proposes only to modify Block E to four storeys.

The Planner concurs with the recommendations of the other internal assessments on the negative impact which would arise from the development of Block C with regard to the conservation objectives of the site and as such recommends that this Block is omitted.

In regard to Archaeology, the assessment undertaken by the Planner notes that an EIAR was submitted as part of the application and that the internal reports by the City Archaeologist raise no objection to the development subject to conditions.

In regards to the sites history as a Mother and Baby Home the assessment notes that this has formed part of the refusals previously on the site from An Coimisiún Pleanála under Application Ref. ABP-311382-21

It is also noted that under Application Ref. ABP-313206, this did not form part of the reasons for refusal on the basis that *'Having regard to the facts and the totality of information on file, the Commission determined that this proposed site could, subject to careful forensic monitoring of ground works, be more amenable to development in accordance with its residential zoning objective in the Cork City Development Plan 2022-2029'*.

The Planner subsequently considers that *'the proposed subject site could be more amenable to development subject to careful forensic monitoring of ground works. It is noted that the applicant indicates in Section 5 of the Cover Letter submitted that a forensic monitoring condition should be attached to the permission should permission be granted on the subject site, corresponding to the decision of ACP on the previous SHD application'*.

The Planner further states:

'It is noted that the application site is somewhat removed from the lands that were subject to previous oral hearings in relation to the site, and that a significant portion of the site is on land currently containing

existing older buildings/structures that may pre-date the use as a Mother and Baby Home. It is further noted that a significant extent of the proposed development is within the footprint of these existing structures.

It is also noted that through the assessment of this application a considerable portion of the proposed development, i.e. Block C and its associated infrastructure, which are located within the open space area West and South-West of the farmyard buildings, are recommended to be omitted. **This would result in the majority of the permitted development being located within the extents of the existing buildings on the subject site, save for an area to the North-East corner.**

While noting the above, and considering the statement of An Coimisiún Pleanála which stated in relation to the Strategic Housing Development application (ABP-3132060) "having regard to the facts and the totality of information on file, the Commission determined that this proposed site could, subject to careful forensic monitoring of ground works, be more amenable to development in accordance with its residential zoning objective in the Cork City Development Plan 2022-2029", it is considered appropriate that a condition in relation to forensic monitoring of the subject site is attached to any grant of planning'.

The Senior Executive Planner recommends a grant of permission and concludes:

'The proposed development, as revised, will result in more sustainable residential densities. The design, form and layout of the proposed development is considered positive and is in accordance with the guidance and objectives as set out in the City Development Plan and National Planning Guidelines, subject to some alterations as detailed in the conditions attached.

It is considered that the likely impacts of the proposed development on the environment identified in the Environmental Impact Assessment Report would be largely mitigated by the measures set out in the Environmental Impact Assessment Report and the various conditions attached in this recommendation'.

The Assessment by the Senior Planner, dated the 24th of February 2026 notes the content of the report prepared by the Senior Executive Planner and concurs with the recommendation to grant permission.

A Decision to Grant Permission was issued on the 24th February subject to 70no. conditions. The following conditions are of regard:

No.3 Block C shall be omitted, and its associated access road and car parking. Full details, including site layout and site sectional drawings, shall be submitted to, and agreed in writing with, the Planning Authority prior to development commencing to demonstrate the omission of Block C.

Reason: In the interests of protecting and conserving the heritage of the protected structure and its curtilage structures and demesne.

No.4 The fifth storey element of Block E shall be omitted, resulting the Block E being four storeys in height. Full details, including site layout and site sectional drawings, shall be submitted to, and

agreed in writing with, the Planning Authority prior to development commencing to demonstrate the omission of the fifth floor of Block E.

Reason: In the interests of protecting and conserving the heritage of the protected structure and its curtilage structures and demesne.

No.9:

- a) Prior to commencement of development the developer shall retain the services of a suitably qualified archaeologist, to advise regarding the archaeological implications of the development site. Notification of these arrangements shall be submitted to and agreed with the Planning Authority prior to commencement.
- b) The developer shall employ the archaeologist to monitor all the site works prior to development. Facilities shall be made available to the archaeologist for this purpose.
- c) If, in the opinion of the Planning Authority, significant archaeological remains are uncovered, and in so far as these remains are subject to disturbance by foundations for pile caps, walls, floors, drainage, etc., then archaeological preservation of the site (either in-situ or by record will be required.
- d) The archaeologist shall submit a report to the Planning Authority outlining the results of the investigation and any reports on any archaeological finds.

Reason: The site lies within the Zone of Archaeological Notification of an Archaeological Monument.

No.10:

- a) Prior to the commencement of site works, the developer shall submit for the written agreement of the Planning Authority a Forensic Archaeological Monitoring Strategy.
- b) The Strategy shall involve the deployment of suitably qualified and experienced staff to monitor all ground works, and maintain forensic control during the site preparation phase.
- c) The area subject to Forensic Archaeological Monitoring shall be recorded via mapping and the plan submitted for the written agreement of the Planning Authority.
- d) All forensic searches shall be controlled by a qualified and experienced Forensic Archaeologist.
- e) The Forensic Archaeological Monitoring area shall be divided into operational zones and excavated from the areas of high priority, in order to strengthen the ability to preserve any evidence located in-situ.
- f) Soil shall be excavated systematically using an appropriate mechanical excavator with a grading, or toothless, bucket. This excavation shall be monitored by a suitably qualified and experienced Forensic Archaeologist accompanied by a suitably qualified and experienced Osteoarchaeologist/Forensic Anthropologist with expertise in skeletal juvenile remains.
- g) Excavated soil shall be spread out for further examination and a representative sample shall be sieved for bone fragments or other evidence indicative of burial.
- h) The location of items of evidential value indicative of potential burials, e.g. cut features coffin timbers, coffin nails, shall be noted and a record completed in compliance with forensic archaeological standards.

- i) *All excavation shall be taken to the depth of undisturbed natural subsoil in advance of proposed construction or ancillary works.*
- j) *Should human remains be located in the course of this excavation all work shall cease at all parts of the proposed development site and all relevant authorities, including the City Coroner and An Garda Síochána, will be informed of the location of unidentified and previously unrecorded modern human remains.*
- k) *In the event that human remains are located it is the responsibility of the relevant state agencies to determine the outcome for these remains and any associated evidence.*
- l) *Contemporaneous logs shall be maintained detailing personnel, decisions and actions, and evidence collected. The site record of stratigraphy and features of interest or evidential value shall be maintained on a contemporaneous and continuous basis.*
- m) *Where site facilities are required (e.g. welfare units, running water etc.), secure fencing shall be installed to prevent access by unauthorised personnel. For the duration of the Forensic Archaeological Monitoring programme site security and the storage of potential evidence shall be considered and appropriate measures submitted for the written agreement of the Planning Authority.*
- n) *All documentation generated in the excavation of the site shall be submitted to the Planning Authority.*

Reason: *In the interests of proper planning and recording of the site development works.*

2.4 Site Planning History and Policy

Planning History

Due to the nature and scale of the subject site, the site has a significant planning history. The following planning applications are considered to be of relevance in regard to the proposed development.

- **SHD Application Register Reference ACP: 313206** Permission refused on the 23rd July 2025 for the demolition of existing buildings and the construction of 140no. apartments, a creche and all associated site works. Permission was refused for the following reason:

 1. *Objective 1 1.2 Dwelling Size Mix and Table 1 1.8 of the Cork City Development Plan 2022-2028 set out clear unit mix requirements to be adhered to except in exceptional circumstances where justification is provided. The unit mix proposed does not meet the target levels set out under Table 1 1.8 for any of the proposed unit types and does not conform to the unit mix ranges that would be acceptable subject to adequate justification on the basis of market based evidence. No Statement of Housing Mix in accordance with Objective POI of the Housing Strategy and Housing Need Demand Assessment of the Supporting Studies accompanying of the Cork City Development Plan 2022-2028 has been submitted and, therefore, no justification has been provided in relation to the unit mix proposed. The Commission is therefore not satisfied that the proposed development meets the requirements of these objectives. The Commission considers that the proposed development materially contravenes the Development Plan in relation to the provision of unit mix requirements. This issue has not been addressed in the applicant's Material Contravention Statement and the subject application, and therefore, does not meet the requirements of section 8(1)(a)(iv)(11) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended. The Commission, therefore, cannot invoke section 37(2)(b) of the Planning and Development Act 2000, as amended, and is precluded from granting permission.*
- **SHD Application Register Reference ACP: 313216** Permission refused on the 23rd July 2025 for the construction of a residential development of 280 number residential apartment units with supporting tenant amenity facilities, café, creche and all ancillary site development works. Permission was refused for the following reason:

 1. *Objective 1 1.2 Dwelling Size Mix and Table 1 1.8 of the Cork City Development Plan 2022-2028 set out clear unit mix requirements to be adhered to except in exceptional circumstances where justification is provided. The unit mix proposed does not meet the target levels set out under Table 11.8 for any of the proposed unit types and does not conform to the unit mix ranges that would be acceptable subject to adequate justification on the basis of market based evidence. No Statement of Housing Mix-in accordance with Objective POI of the Housing Strategy and Housing Need Demand Assessment of the Supporting Studies accompanying of the Cork City Development Plan 2022-2028 has been submitted and, therefore, no justification has been provided in relation to the unit mix proposed. The Commission is therefore not satisfied that the proposed development meets the requirements of these objectives. The Commission considers that the proposed development materially contravenes the Development Plan in relation to the provision of unit mix requirements. This issue has not been addressed in the applicant's Material*

Contravention Statement and the subject application, and therefore, does not meet the requirements of section 8(1)(a)(iv)(11) of the Planning and Development (Housing) and Residential Tenancies Act 2016, as amended. The Commission, therefore, cannot invoke section 37(2)(b) of the Planning and Development Act 2000, as amended and is precluded from granting permission.

2. *It is considered that the proposed development by reason of its excessive and sustained scale, bulk and mass in combination with height, and the consequent plot ratio, would be visually obtrusive when viewed from various viewpoints in the immediate vicinity within and adjoining the site. The proposed development is incongruous, would constitute a substandard form of development and would, therefore, be contrary to the proper planning and sustainable development of the area.*
- **Application Register Reference: 22/41568 (ACP: 315820)** Permission refused on the 13th September 2024 for the construction of 92 no. apartments and creche, to be provided in two buildings ranging in height from 5 to 8 storeys and all ancillary site works at Bessborough, Ballinure, Blackrock, Cork. The proposed development consists of the construction of 1 no. studio apartment, 43 no. 1-bedroom apartments, 30 no. 2-bedroom apartments and 18 no. 3-bedroom apartments. Permission was refused for the following reasons:
 1. *Having regard to the Board's decision to refuse permission for a previous application (ABP-308790-20), the Board is satisfied that no new material information or evidence has been presented in this application to substantiate a different conclusion following that previous decision. The Board considers that the potential exists for the presence of human remains and/or burials at this proposed development site associated with the former use of the lands as a Mother and Baby Home over the period 1922 to 1998. The Board considers it would therefore be premature to grant permission for this proposed development prior to establishing the extent of human remains and/or burials, if any, and that such a matter extends beyond the scope of normal planning conditions particularly having regard to the impact this may have on the development as proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
 2. *Having regard to the height, scale, and design of the proposed apartment blocks, and to their poor relationship to the historic landscape which forms the setting of Bessborough House, a Protected Structure, and its folly and landscaped gardens, it is considered that the proposed development, notwithstanding the revised scheme submitted with the grounds of appeal, would result in isolated residential blocks which would be visually obtrusive within the curtilage and adversely affect the character and setting of the Protected Structure and the associated folly which sits within a Landscape Protection Zone, and would comprise haphazard, piecemeal development which would dominate this historic landscape and detract from the character of the landscape which is designated as an Area of High Landscape Value in the Cork City Development Plan 2022-2028. The proposed development would, therefore, seriously injure the visual amenity and heritage assets of this important historic landscape, would be contrary to Objectives 6.12 and 6.13 (Landscape), and 8.19 and 8.20 (Protected Structures) in the development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.*

- **Application Register Reference 20/39705 (ACP: 309560)** : Permission refused on the 15th July 2021 for the construction of 67 no. apartments in an 8-storey apartment building comprising 29 no. 1-bedroom apartments and 38 no. 2-bedroom apartments. Permission was refused for the following reason:
 1. *The majority of the site is located within an area zoned ZO12 Landscape Preservation Zone in the current Cork City Development Plan, the objective for which is to preserve and enhance the special landscape and visual character of the area. There is a presumption against development within this zone, with development only open for consideration where it achieves the site specific objectives as set out in Chapter 10, Table 10.2. The proposed development comprising an eight-storey apartment block (Block D) has been designed as part of a larger residential development of 246 apartments and a creche in four blocks. Having regard to the refusal of permission by An Bord Pleanála under appeal reference number ABP-308790-20 on the 25th day of May, 2021 for the three number apartment blocks comprising of 179 number apartments, creche and all associated site works which form part of the said larger development, it is considered that a grant of permission for the proposed development on its own by reason of its location, height and scale would result in a haphazard form of development that would result in an isolated apartment block in a protected landscape. The proposed development would, therefore, materially contravene the ZO12 Landscape Preservation zoning objective and the related SE4 site specific objectives for the site as set out in Table 10.2 and would be contrary to the proper planning and sustainable development of the area.*
- **SHD Application Register Reference ACP: 308790** Permission refused on the 25th May 2021 for the construction of a strategic housing development of 179 number residential units to be provided in three number apartment buildings ranging in height from five to seven storeys and all ancillary site works. Permission was refused for the following reason:
 1. *Having regard to the Fifth Interim Report (2019) and the Final Report (2020) of the Commission of Investigation into Mother and Baby Homes, and on the basis of the information submitted in the course of the application and oral hearing, the Board is not satisfied that the site was not previously used as, and does not contain, a children's burial ground and considers that there are reasonable concerns in relation to the potential for a children's burial ground within the site, associated with the former use of the lands as a Mother and Baby Home over the period 1922 to 1998. In this context, the Board considers that it would be premature to grant permission for the proposed development prior to establishing whether there is a children's burial ground located within the site and the extent of any such burial ground. It also considers that it would be premature to grant permission given the implications of such for the satisfactory implementation of the development as proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

Planning Policy

The Cork City Development Plan 2022-2028 governs the planning and development status of the subject lands.

The substantial area of the site is zoned ZO 17 Landscape Preservation Zones, of which it is the objective of the Cork City Development Plan to:

'Reserve and enhance the special landscape and visual character of Landscape Preservation Zones'.

The Plan states the following in relation these lands:

ZO 17.1 *These areas have been identified due to their sensitive landscape character and are protected due to their special amenity value, which derives from their distinct topography, tree cover, setting to historic structures or other landscape character.*

ZO 17.2 *Many of these sites have limited or no development potential due to their landscape character. There is a presumption against development within this zone, with development only open for consideration where it achieves the specific objectives set out in Chapter 6 Green and Blue Infrastructure, Open Space and Biodiversity.*

An Area to the north of the subject site is zoned **ZO 1 – Sustainable Residential Neighbourhoods** in the City Development Plan, with the overarching objective to:

Protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses.

Key considerations in the context of this zoning, which are also pertinent to the assessment of this appeal form part of Sections ZO 1.1 and ZO 1.2 in the Plan. They provide the following commentary:

ZO 1.1 *The provision and protection of residential uses and residential amenity is a central objective of this zoning. This zone covers large areas of Cork City's built - up area, including inner - city and outer suburban neighbourhoods. While they are predominantly residential in character these areas are not homogenous in terms of land uses and include a mix of uses. The vision for sustainable residential development in Cork City is one of sustainable residential neighbourhoods where a range of residential accommodation, open space, local services and community facilities are available within easy reach of residents.*

ZO 1.2 *Development in this zone should generally respect the character and scale of the neighbourhood in which it is situated. Development that does not support the primary objective of this zone will be resisted.*

The subject site is generally indicated below in relation to the land use zoning objectives.

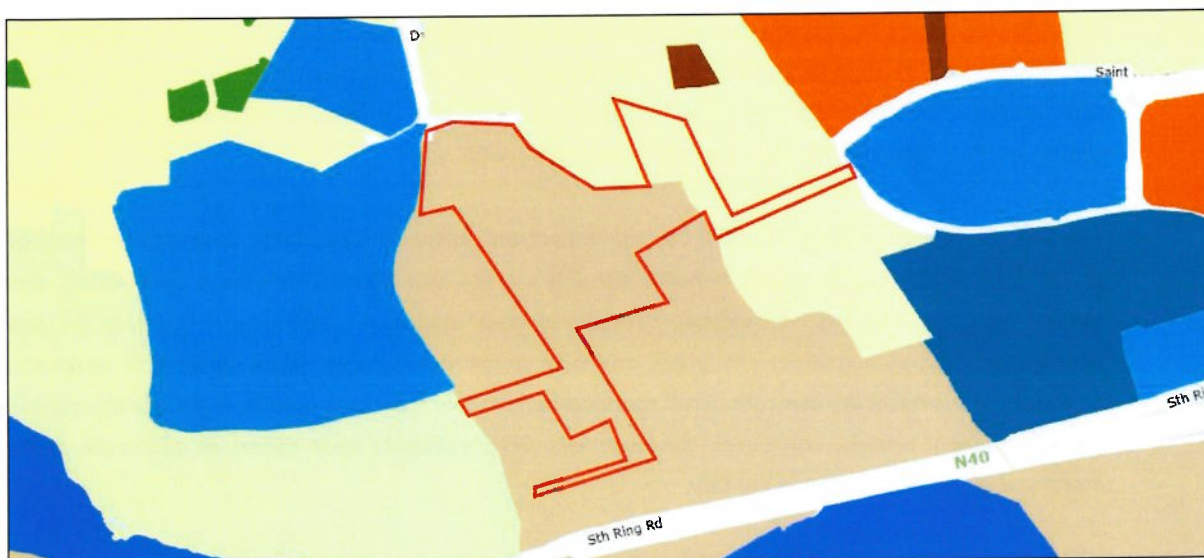


Figure 2 Subject Site in Relation to the Cork City Development Plan Zoning Objectives.

In addition to this, the subject site is identified within the Plan as a Landscape Preservation Zone SE4 of which it is an objective of the Plan to:

- *To reinstate Historic Landscape;*
- *To seek use of grounds as a Neighbourhood Park in context of local area plan (H);*
- *To allow development within the immediate environs to the north of Bessboro House consistent with the landscape and protected structure significance of the site.*

The Plan identifies the following elements of the landscape as landscape assets which are to be protected:

- *Water / River Corridors;*
- *Tree Canopy;*
- *Landmarks / Natural Features / Cultural Landscape – land forming the setting to existing landmark buildings and/or protected structures / buildings of significance;*
- *Institutional Open Space;*
- *Historic Landscapes (including monuments / historic routes).*

Areas of the site are also designated as **Areas of High Landscape Value**. Section 6.23 of the Plan sets out the following 'New development in AHLV must respect the character and the primacy and dominance of the landscape. [...] There will be a presumption against development where it causes significant harm or injury to the intrinsic character of the Area of High Landscape Value'.

The following policies and objectives are of regard to the proposed development:

Strategic Objective 5 Green and Blue Infrastructure, Open Space and Biodiversity: *To strengthen the green and blue infrastructure of Cork City. To protect and promote biodiversity and habitat connectivity and protect natural areas. To protect and enhance Cork City's unique landscape character and maritime heritage. To ensure all of Cork City's residents have access to open spaces, recreation and amenity facilities and natural areas.*

A strong green and blue infrastructure network is essential to the quality of life of Cork City's residents and contributes towards the creation of places where people want to live and work. It is an objective of Cork City Council to achieve a healthy, green and connected City with high-quality and interconnected open spaces, parks, diverse natural areas and green and blue corridors.

Proposals for new development in Cork City will respect and reflect the topography, landscape and ecology of the City, and will protect and enhance the City's green and blue infrastructure by ensuring that development does not fragment existing networks of green and blue infrastructure. Proposals for new development will demonstrate how green and blue infrastructure, open space, sport and recreation, landscape and biodiversity are considered commensurate to the scale and context of the development in the development process. Large-scale developments will incorporate open spaces to contribute to the green and blue infrastructure in the City.

Objective 6.1 Cork City Green & Blue Infrastructure Study and Strategy: *To manage, protect and enhance the Green and Blue Infrastructure assets of Cork City in line with the Cork City Green and Blue Infrastructure Strategy set out in the Development Plan, and to support the actions, opportunities and projects identified in the Cork City Green and Blue Infrastructure Study 2021.*

Objective 6.9 Landscape:

- a. To preserve and enhance Cork's landscape character, key landscape assets and views and prospects of special amenity value;*
- b. Landscape will be an important factor in all development proposals, ensuring that a proactive view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability;*
- c. To ensure that new development meets the highest standards of placemaking, siting and design;*
- d. To protect those prominent open hilltops, valley sides and ridges that define the character of the Cork City Hinterland and those areas which form strategic, largely undeveloped gaps between the main Hinterland settlements from development;*
- e. To discourage proposals necessitating the Landscape and Development*
- f. To ensure that the management of development throughout Cork City will have regard for the value of the landscape, its character, distinctiveness and sensitivity in order to minimize the visual and environmental impact of development, particularly in designated areas of high landscape value where higher development standards (layout, design, landscaping, materials) are required.*

Objective 6.11 Landscape and Development: *To ensure that the management of development throughout Cork City will have regard for the value of the landscape, its character, distinctiveness and sensitivity in order to minimize the visual and environmental impact of development, particularly in designated areas of high landscape value where higher development standards (layout, design, landscaping, materials) are required.*

Objective 6.12 Landscape Preservation Zones: *To preserve and enhance the character and visual amenity of Landscape Preservation Zones through the careful management of development. Development*

will be considered only where it safeguards the value and sensitivity of the particular landscape and achieves the respective site-specific objectives, as set out in Tables 6.6 – 6.10.

Objective 6.19 City Park and Open Space Provision: *Cork City Council will seek to:*

- a. Ensure that all residents have access to a hierarchy of parks and open spaces close to their home to provide recreational need and access to nature;*
- b. Provide for recreational amenity needs by protecting, retaining, and improving parks and open spaces within Cork City. There will be a presumption against development of land zoned for public open space for alternative purposes;*
- c. Ensure that developments of all land use types provide appropriate open space to meet the needs of residents, workers and visitors;*
- d. Deliver projects to provide and improve the network of City Parks.*

Objective 8.20 Historic Landscapes: *Cork City Council will ensure that the designated and undesignated historic landscapes and gardens throughout the city are protected from inappropriate development and enhanced where possible.*

Bessborough House is on the Cork City Council Record of Protected Structures (Ref. PS490) in addition to being designated as a National Monument (Ref. CO074-077), and on the National Inventory of Architectural Heritage (Ref. 20872005), in which it is identified as being of not only Architectural significance but also of social and historical significance.

The site also comprises of a c.1870-1890 farmyard complex which is identified on the National Inventory for Architectural Heritage (Ref. 20872006). The Bessborough Folly is located to the southeast of the wider site, comprising of three-bay two-storey folly built in c. 1870 – 1890 (NIAH Ref. 20872007). Additionally, an Icehouse is recorded on the National Monuments Services to the south west of the subject site (Ref. CO074-051).

In light of the above, the following are of relevance:

Objective 8.17 Conservation of the Cities Built Heritage:

- a. To seek to ensure the conservation of Cork City's built heritage.
- b. To ensure that Cork's Built Heritage contributes fully to the social and economic life of the city and to pursue actions that ensure Cork's built heritage will benefit from good custodianship and building occupation.

Objective 8.19 Record of Protected Structures:

To maintain a Record of Protected Structures (RPS) which shall include structures or parts of structures which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, and which it is an objective to protect.

- a. Any changes or alterations to the character of a Protected Structure which would in the opinion of Cork City Council, have a material effect on the character of the structure, will require planning permission;

- b. Cork City Council will have regard to the relevant statutory guidance issued by the central government department responsible for the built heritage, including the Architectural Heritage Protection Guidelines for Planning Authorities;
- c. Proposals for demolition of a Protected Structure shall not be permitted except in exceptional circumstances and where it can be shown that a greater public interest will be served which outweighs the loss to the architectural heritage;
- d. Any alteration or demolition of a Protected Structure shall require the preparation of a full drawn and photographic record to Best Conservation Practice;
- e. A broad range of uses will be considered for the regeneration / reuse of protected structures that are derelict / underutilised;
- f. Where the planning authority accepts the principle of demolition a detailed written and photographic inventory of the building will be made and sent to the Cork City & County Archives and the Irish Architectural Archive for record purposes;
- g. Where a planning application is being granted for development within the curtilage of a Protected Structure, the conservation of the protected structure will be prioritised as the first phase of the development to prevent endangerment, abandonment and dereliction.

In regard to buildings which are identified on the National Inventory of Architectural Heritage

Cork City Council will have regard to Ministerial recommendations to the City Council to consider the designation of the buildings and gardens listed in the National Inventory of Architectural Heritage as Protected Structures. Cork City Council will consider the structures listed in the NIAH for protection, by designation of Protected Structures; by the adoption of Architectural Conservation Areas to protect groups of buildings; or by whatever other means the Council considers will most effectively protect the architectural heritage of the city. These Ministerial Recommendations will be taken into account when the Cork City Council is considering proposals for development that would affect the historic or architectural interest of these structures. Cork City Council will seek to engage with key stakeholder groups, including public representatives, building owners and the public to develop the most appropriate response for the protection of specific buildings, groups of buildings and historic areas.

With regard to the site's character, **Section 11.224** states:

All development proposals are expected to: Avoid adverse impacts, incapable of satisfactory avoidance or mitigation, on mature trees, protected flora, animal or bird species.

In addition to the above, the criteria and standards for 'Adaptation of Existing Homes, Infill Development and Conversion of Upper Floors' is set out in **Chapter 3 - Delivering Homes and Communities** is of note.

Section 3.45 states with regard to same:

Cork City's existing housing stock provides a valuable resource in terms of meeting the needs of a growing population and its retention and management is of considerable importance. Retaining and adapting, as appropriate, existing housing stock is important to ensure that homes meet the requirements of modern

society whilst still ensuring that this is not done at the expense of unreasonable impact on adjoining properties.

Section 11.139 sets out guidance in relation to 'Infill Housing'.

Adaptation of existing housing and re-using upper floors, infill development will be encouraged within Cork City. New infill development shall respect the height and massing of existing residential units. Infill development shall enhance the physical character of the area by employing similar or complementary architectural language and adopting typical features (e.g. boundary walls, pillars, gates / gateways, trees, landscaping, fencing, or railings).

3.0 CONTEXT OF APPEAL

Before addressing the grounds of appeal, our client believes it important that the historical, institutional use of the subject site as a Mother and Baby Home is set out and acknowledged.

The Commission of Investigation into Mother and Baby Homes and Certain Related Matters was established by the Irish Government in February 2015 to provide a full account of what happened to vulnerable women and children in Mother and Baby Homes during the period 1922 to 1998. It submitted its final report to the Minister on 30th October 2020.

The Final Report of the Commission of Investigation into Mother and Baby Homes was published by the Department of Children on the 12th January 2021.

The Report states that Bessborough Mother and Baby Home was opened in 1922 and closed in 1998. During this period, 9,768 mothers and 8,938 children were admitted to the home. The home was run by the Congregation of the Sacred Hearts of Jesus and Mary.

The Report from the Commission found high rates of infant and child mortality are a marked feature of the mother and baby homes, especially so in the earlier years of their existence.

It was identified by the Commission that 923 children born in Bessborough died in infancy or early childhood. During the years 1940-1944 330 children died in Bessborough. This accounted for 36% of all child deaths over the institution's operations from 1922-1998.

Of these deaths, the Commission identified that 761 children died in Bessborough, with 129 children dying in the Cork District Hospital.

In 1934, it had the highest recorded infant mortality rate among mother and baby homes. Infant mortality reached even higher levels in the early 1940s. In 1943 three out of every four children born in Bessborough died.

In regard to the burials of these children, the Commission found that Bessborough failed to keep a register of infant burials and the burial location of the majority of children who died there is still unknown.

The Commission, in its findings notes the following:

'The Congregation of the Sacred Hearts of Jesus and Mary are unable to identify where the children from Bessborough are buried; the Commission finds it very hard to believe that there is no one in that congregation who does not have some knowledge of the burial places of the children. Similarly, the Commission considers that there must be people in Tuam who know more about the burials there.'

The 5th Interim Report of the Mother and Baby Homes Commission of Investigation, published on the 15th March 2019, is concerned with the burial arrangements in the main institutions under investigation and with the transfer of remains to educational institutions for the purpose of anatomical examination.

The Commission wrote to the relevant religious orders asking for any information about the institutions they owned or ran. Specific information on burials was requested. The reply from the Congregation of the Sacred Hearts of Jesus and Mary stated that the relevant information was no longer available to them because their records were all held by the Child and Family Agency (TUSLA). There is no information about burials in these records

The Commission has identified that there are major issues in relation to burials arising from the operation of two Mother and Baby Homes in particular, Tuam and Bessborough.

The Commission concluded the following in relation to burials at Bessborough:

'It is not known where the vast majority of the children who died in Bessborough are buried. There is a small burial ground in the grounds of Bessborough. This was opened in 1956 for members of the congregation. It seems to have been assumed by former residents and advocacy groups that this is also where the children who died in Bessborough are buried as there are occasional meetings and commemoration ceremonies held there. The vast majority of children who died in Bessborough are not buried there; it seems that only one child is buried there. More than 900 children died in Bessborough or in hospital after being transferred from Bessborough. Despite very extensive inquiries and searches, the Commission has been able to establish the burial place of only 64 children. The Congregation of the Sacred Hearts of Jesus and Mary who owned and ran Bessborough do not know where the other children are buried.'

The Commission has found that burials were not recorded in any of the three Sacred Heart Homes and as a result there is no certainty as to where these burials took place.

The Congregation of the Sacred Heart have told the Commission that they do not know where the children who died in Bessborough are buried. The Commission has stated that they find such a claim difficult to comprehend.

The Commission undertook a cartographic and landscape assessment of possible unrecorded burial arrangements in the Bessborough grounds. A site survey was also conducted. It is clear that there are a number of locations within the grounds where burials could have taken place. However, there is no significant surface evidence of systematic burial anywhere except for the congregation burial ground.

A public appeal was made in 2018, seeking for members of the public to come forward with information that they may have on burials on the site. As a result, members of the public came forward indicating that burials had taken place across the site.

The Commission has concluded that it is likely that some of the children are buried on the grounds of Bessborough, noting that in particular, during the 1940s (*36% of all infant deaths in Bessborough occurred during this period*) and when petrol was scarce, it would have been very expensive to arrange off-site burials.

The Commission also investigated the burial records of 8no. graveyards within the local area and was able to identify that 63no. children were buried offsite. It was identified 5no. of graveyards within Cork City had no records of burials from Bessborough. It was identified that 58no. children were buried in St. Josephs Cemetery, Tory Top Road and 2no. children were buried in St. Finbarr's Cemetery, 5no. children were likely buried in Carr's Hill Cemetery as their bodies were not claimed from the Cork District Hospital and 2no. burials took place at St Michael's Cemetery, Blackrock.

The Commission concludes that a major issue arises with burials at Bessborough. It is not known where the vast majority of the children who died in Bessborough are buried. There is a small burial ground in the grounds of Bessborough. This was opened in 1956 for members of the congregation, it has been assumed that this has been the location of many of the burials of children who died in Bessborough. However, **the Commission has concluded that only one child is buried here.** The location of 63no. children's burials off site has been identified.

This leaves 859no. children's burial locations unaccounted for and unknown. The Commission has concluded that it is very likely that some of these children were buried on the subject site and that the only way that this can be established is by an excavation of the entire property including those areas that are now built on.

This is the stated position of the Commission as of today.

3.1 THE GROUNDS OF APPEAL

Our client, Councillor Peter Horgan, has engaged with both Cork City Council and An Coimisiún Pleanála in relation to the previous planning applications pertaining to the site, in addition to bringing forward motions, which have been passed, for Cork City Council to acquire the lands at Bessborough to create a memorial at the site. This matter is still being pursued by our client, along with other members of Cork City Council.

Our client raised his concerns with the Planning Authority during the planning process. His view that the Planning Authority's entirely failed to properly address these concerns has left him with no option but to seek recourse to An Coimisiún through this appeal.

Our client has engaged with a number of groups including the Bessboro Mother and Baby Home Support Group and is aware of the deep rooted trauma many hold in relation to the subject site, and is of the view that the proposed development has failed to adequately address the unresolved issue of the burials of children on the site.

and has also failed to address the findings of the reports by the Commission of Investigation into Mother and Baby Homes and certain related matters.

His grounds of appeal are as follows.

- 1. The Applicant and Planning Authority have failed to adequately address the previous reasons for refusal relating to the potential for a children's burial ground within the site, associated with the former use of the lands as a Mother and Baby Home over the period 1922 to 1998;**
- 2. Condition No. 10 is not in accordance with the Guidelines for Planning Authorities for Development Management;**
- 3. The Environment Impact Assessment has failed to adequately consider alternative proposals;**
- 4. The development represents piecemeal, ad hoc development of a historic landscape.**

For these reasons, it is submitted that the proposed development would be contrary to the proper planning and sustainable development of the area.

These issues are addressed in turn hereunder.

Our client also seeks an Oral Hearing in relation to the subject appeal.

3.1.1 The Applicant has failed to adequately address the previous reasons for refusal relating to the potential for a children's burial ground within the site, associated with the former use of the lands as a Mother and Baby Home over the period 1922 to 1998;

It is submitted that a key consideration for An Coimisiún in this appeal, is whether the applicant has adequately addressed the previous reasons for refusal which pertain to the site's previous use as a Mother and Baby Home during the period of 1922 – 1998.

As set out in Section 3 of this Appeal, the Final Report of the Commission of Investigation into Mother and Baby Homes was published by the Department of Children on the 12th January 2021. The report concluded that the location of the burial sites of 859no. children were unaccounted for and unknown.

Further, the Commission has concluded that is very likely that some of these children were buried on site and that the only way that this can be established is by an excavation of the entire property including those areas that are now built on.

This has not been carried out.

Under SHD Application Register Reference ACP: 308790 Permission refused on the 25th May 2021 for the construction of a strategic housing development of 179 number residential units to be provided in three number apartment buildings ranging in height from five to seven storeys and all ancillary site works. Permission was refused for the following reason:

1. *Having regard to the Fifth Interim Report (2019) and the Final Report (2020) of the Commission of Investigation into Mother and Baby Homes, and on the basis of the information submitted in the course of the application and oral hearing, the Board is not satisfied that the site was not previously used as, and does not contain, a children's burial ground and considers that there are reasonable concerns in relation to the potential for a children's burial ground within the site, associated with the former use of the lands as a Mother and Baby Home over the period 1922 to 1998. In this context, the Board considers that it would be premature to grant permission for the proposed development prior to establishing whether there is a children's burial ground located within the site and the extent of any such burial ground. It also considers that it would be premature to grant permission given the implications of such for the satisfactory implementation of the development as proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

Additionally, under Application Register Reference: 22/41568 (ACP: 315820) Permission refused on the 13th September 2024 for the construction of 92 no. apartments and creche, on the site for the following reasons:

1. *Having regard to the Board's decision to refuse permission for a previous application (ABP-308790-20), the Board is satisfied that no new material information or evidence has been presented in this application to substantiate a different conclusion following that previous decision. The Board considers that the potential exists for the presence of human remains and/or burials at this proposed development site associated with the former use of the lands as a Mother and Baby Home over the period 1922 to 1998. The Board considers it would therefore be premature to grant permission for this proposed development prior to establishing the extent of human remains and/or burials, if any, and that such a matter extends beyond the scope of normal planning conditions particularly having regard to the impact this may have on the development as proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
2. *Having regard to the height, scale, and design of the proposed apartment blocks, and to their poor relationship to the historic landscape which forms the setting of Bessborough House, a Protected Structure, and its folly and landscaped gardens, it is considered that the proposed development, notwithstanding the revised scheme submitted with the grounds of appeal, would result in isolated residential blocks which would be visually obtrusive within the curtilage and adversely affect the character and setting of the Protected Structure and the associated folly which sits within a Landscape Protection Zone, and would comprise haphazard, piecemeal development which would dominate this historic landscape and detract from the character of the landscape which is designated as an Area of High Landscape Value in the Cork City Development Plan 2022-2028. The proposed development would, therefore, seriously injure the visual amenity and heritage assets of this important historic landscape, would be contrary to Objectives 6.12 and 6.13 (Landscape), and 8.19 and 8.20 (Protected Structures) in the development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.*

In the assessment of the SHD Application, Ref. 308790, the Inspector noted the following:

'There are unresolved questions in relation to burial arrangements of persons who died in the Bessborough Mother and Baby Home and in relation to the possibility of unmarked burials within the grounds of the former estate.

The Commission [of Investigation into Mother and Baby Homes] considers that it is likely that some of the children are buried in the grounds but has been unable to find any physical or documentary evidence of this.

*The Final Report states that a number of parties made suggestions to the Commission about possible locations for children's graves both in the area which is currently part of the Bessborough estate and in areas which were sold in earlier years. The Final Report goes on to state that: The Commission and its forensic archaeologists had been aware of all these possible (burial) locations when the Fifth Report was compiled. The Commission recognised then and still recognises that it is highly likely that burials did take place in the grounds of Bessborough. **The only way that this can be established is by an excavation of the entire property including those areas that are not built on**.'*

The Cultural Heritage Legacy Report submitted under that application could not rule out that remains were not buried on the site.

The Inspector concludes in that *'given the complex and sensitive nature of the matters arising in this instance I consider that a grant of permission would be premature until such time as it is established whether there are remains present within the site or not'*.

It was also considered by the Inspector that should remains be identified during works, there would be no clear path to completion of the proposed development, and any potential findings would materially impact the permission granted should it encroach upon a burial site.

Similarly, in the assessment of Application Register Reference: 22/41568 (ACP: 315820), the Inspector notes that the applicants Cultural Legacy Report and Forensic Archaeology Report are based on essentially the same information and evidence submitted under SHD Application Ref. 308790 under which the Inspector considered that the potential for unrecorded burials on other parts of the site could not be excluded, having regard to the findings of the Commission of Investigation.

The Inspector in regard to Application Register Reference: 22/41568 (ACP: 315820), noted that *'no new or significant evidence has been presented since the Board's decision on 308790, which had been based on a considerable body of evidence that was robustly tested at the oral hearing, which would be sufficient to overcome the Board's reason for refusal. Furthermore, nothing has changed on the ground in respect of addressing the considerable uncertainty regarding the potential for unrecorded burials within the lands, including the site of the current proposal, that had given rise to this decision, i.e. no excavations have been carried out'*.

It is also noted by the Inspector that *'notwithstanding the appellant's claims that the area of concern was largely confined to that section immediately north of the folly, it has been widely accepted by the Board, the Commission of Investigation and by the applicant's own experts, that **the extent of the area to which the uncertainty persists***

regarding the potential for unrecorded burials is significantly greater than that section of the former SHD site.

The Inspector concluded that *'the Board's reason for refusal for development at this location (308790), the site area of which includes the majority of 'the current appeal site, has not been addressed and there have been no material changes in circumstances which would alter that decision. No additional information of any material significance has been presented to the Board in the intervening period. In light of the significant uncertainty regarding the location and extent of unrecorded burials on the site, as highlighted in the Fifth Interim Report (2019) and the Final Report (2020) of the Commission of Investigation into Mother and Baby Homes, and to the reasonable concerns raised by the Board in relation to the potential for a children's burial ground within the site, **it would be premature to grant permission for the proposed development prior to establishing if there is a children's burial ground within the site, the extent of such a burial ground and the implications for the delivery of the development as proposed.** For these reasons, the proposed development should, therefore, be refused'*.

A key consideration when assessing this appeal is whether the development the applicant has provided sufficient and clear evidence to address the concerns raised by An Coimisiún in the previous planning applications pertaining to the site.

The applicant in their planning statement refers to an archaeological assessment prepared Eachtra Heritage and a report on 'The Burial History of Bessborough Mother and Baby Home' prepared by Dr. Aoife Breathnach on behalf of the Sacred Heart of Jesus and Mary, which concludes that the likely location of the burials is north of the folly. However, this is contrary to the findings of the Report from the Commission of Investigation. It is of note that this assessment has not been referenced in the EIAR submitted and has not formed part of the assessment undertaken in regard to Cultural Heritage.

The Applicant also references that the assessment undertaken on behalf of the Sisters of the Sacred Hearts of Jesus and Mary made 2no. recommendations a non-invasive geophysical survey of the burial ground and areas to the north and southwest of the Folly as well as a LiDAR Survey of the Bessborough Estate.

The applicant has not provided these studies to support the application and to provide evidence that the subject burials are not located within the subject site.

It is also of note that the Assessment which the applicant has relied on is no longer available publicly on the website of the Sisters of the Sacred Hearts of Jesus and Mary.

The Applicants Planning Statement further states *'there is no evidence to suggest that there are any burials on the subject lands and while the issue of the burials at Bessborough remains unresolved, there is now a consensus between the primary stakeholders that any unrecorded burials were likely to have taken place within or adjacent to The Folly. Based on this we consider that the subject lands are similar in profile to all other lands within the former 200 acre Bessborough Estate, the majority of which have been successfully developed'*.

It should be noted that there is no consensus among stakeholders on where remains are likely located on the site. There is no basis for the applicant to make this statement. Such a statement is contrary to the findings of the

Commission of Investigation as well as evident by the submissions made on the planning application by the Bessboro Mother and Baby Home Support Group.

In addition to this, the applicant therefore suggests that this site, should be developed on the basis that many areas of the former estate have been successfully developed. However, these areas were developed prior to the establishment of the Commission of Investigation and the subsequent findings of the Commission, which identified that the remains of 859no. children are unaccounted for and many are likely buried on the site. A reliance on this as precedent completely disregards the findings of the Commission.

Chapter 10 of the applications EIAR relates to Cultural Heritage and addresses Archaeological Investigation. To us, the EIAR provides no new information to support its conclusion that *'there is no evidence to suggest that the proposed development site contains any burials associated with the former Mother and Baby Home. Indeed, archaeological testing of the subject site conducted in early 2019 found no features or remains of note in any of the test trenches excavated on the footprint of the proposed development. These investigations were supervised by a human bone specialist'*.

This EIAR reference to test trenching is misleading. There was no test trenching carried out on the site.

The test trenching referred to was undertaken in 2019 and was limited to a greenfield area to the southeast of the subject site.

It is submitted therefore that no new evidence has put forward by the applicant to set aside or overcome the previous reasons for refusal pertaining to planning applications within the historic landscape of Bessborough, which all related to the potential for the site to contain unrecorded burials.

The applicant has not undertaken an geophysical survey of the subject site or any test trenching within the red line boundary of the site.

The applicant, in the absence of providing any new information which would rule out the possibility of unmarked burials on the site as considered to be likely by the Commission of Investigation, appears to rely on the absence of this matter forming a reason for refusal under SHD Application Register Reference ACP: 313206, to conclude that it is no longer a material consideration. Our client would argue very much remains a material and unresolved issue and should form part of the Coimisiún's consideration.

In the assessment of SHD Application Register Reference ACP: 313206 the Inspector could not rule out the potential that the site, which is the subject of this appeal, did not contain burial sites. The Inspector noted that *'no new or significant evidence has been presented since the Board's decision on ref no. 308790 (decision in 2021), which had been based on a considerable body of evidence that was robustly tested at the oral hearing, which would be sufficient to overcome the Board's reason for refusal. Furthermore, nothing has changed on the ground in respect of addressing the considerable uncertainty regarding the potential for unrecorded burials within the lands, including the site of the current proposal, that had given rise to this decision, i.e. no excavations have been carried out. Notwithstanding the appellants' claims that the area of concern was largely confined to the area north and west of the folly and on lands not within the applicants' ownership, it has been widely accepted by the Board, the*

Commission of Investigation and by the applicants' own experts, that the extent of the area to which the uncertainty persists regarding the potential for unrecorded burials is significant'.

The Inspector further concluded that **'it would be premature to grant permission for the proposed development prior to establishing if there is a children's burial ground within the site'**, the extent of such a burial ground and the implications for the delivery of the development as proposed. For these reasons, the proposed development should, therefore, be refused'.

In issuing a decision on this application, the Direction by An Coimisiún refusing permission did not include the potential for burial sites on the subject site as a reason for refusal on the basis that *'this particular application for a proposed development to the rear of Bessborough House, the Commission noted that this site is a significant distance from the areas relevant to ABP-308790 and ABP-318520, and with substantial established building form between these locations and the current site. The Commission also noted the views of the planning authority which did not raise this particular matter as a reason for refusal by reference to the current application site. Having regard to the facts and the totality of information on file, the Commission determined that this proposed site could, subject to careful forensic monitoring of ground works, be more amenable to development in accordance with its residential zoning objective in the Cork City Development Plan 2022-2029'.*

This conclusion reached by An Coimisiún fails to adequately address the findings of the Commission of Investigation which identifies that no element of the Bessborough site can be ruled out as a location of burial sites.

All elements of the subject site, as well as the areas relevant to ABP-308790 and ABP-318520 are within c. 200 metres of Bessborough House. There is no basis to conclude that the subject site, which also includes substantial areas of lawn, are less likely to be the location of the unmarked burials than those under ABP-308790 and ABP-318520.

It is additionally noted by Coimisiún in their decision that due to the established built up areas of that site this limits the scope for remains on the site. This is also carried into the assessment of the current application by the Planning Authority which stated:

'It is noted that the application site is somewhat removed from the lands that were subject to previous oral hearings in relation to the site, and that a significant portion of the site is on land currently containing existing older buildings/structures that may pre-date the use as a Mother and Baby Home. It is further noted that a significant extent of the proposed development is within the footprint of these existing structures.

It is also noted that through the assessment of this application a considerable portion of the proposed development, i.e. Block C and its associated infrastructure, which are located within the open space area West and South-West of the farmyard buildings, are recommended to be omitted. This would result in the majority of the permitted development being located within the extents of the existing buildings on the subject site, save for an area to the North-East corner'.

There is a reliance by the Planning Authority in the assessment of the application, and by An Coimisiún in respect of the decision on SHD Application Register Reference ACP: 313206, on the presence of existing structures on the site to mitigate the potential for this area of the site to contain remains.

However, the as outlined by the Commission of Investigation, there is regrettable precedent for burials to have taken place in areas which were previously developed. As was the case in Tuam where it was identified that the remains of children who had died at the Tuam Mother and Baby Home had been placed in septic tanks on the site.

When considering the locations of the burials on the site at Bessborough, the Commission of Investigation concluded that is very likely that some of these children were buried on site and that the only way that this can be established is by an excavation of the entire property including those areas that are now built on.

To suggest that the elements of the subject site are less likely to have remains is contrary to the conclusion of the Commission of Investigation into Mother and Baby Homes and Certain Related Matters.

In light of the above, it is considered that the applicant has failed to provide any new evidence to support the claim that the subject site does not contain burials associated with the sites former use as a Mother and Baby Home.

Circular NRUP 05/2022 is of regard in this matter. The Circular issued by the Department of Housing, Local Government and Heritage sets out that appropriate measures should be taken to ensure the protection of unrecorded burials associated with institutions operated by or on behalf of the State in circumstances where there is a possibility that unrecorded burials may have taken place, on foot of the publication of the Final Report of the Commission of Investigation into Mother and Baby Homes. The Circular further states:

*'Accordingly, **it is requested that Planning Authorities ensure that locations where there may be evidence of unrecorded burial sites, are preserved and protected** through the development plan review or variation process, to both enable public consultation and to allow for further investigation and any subsequent action that may be required. It is also noted that in assessing planning applications at such locations pending development plan review or variation, evidence of unrecorded burial sites should be treated as a material consideration'.*

The absence of indication is not sufficient to allay concerns that such burials may exist. It is more appropriate to exhaust all research possibilities to provide greater assurances that no such burials are located on the site.

The applicant has, in the absence of providing any new evidence to suggest that the subject site does not contain burial sites, has failed to meaningfully address the previous reasons for refusal and the granting of permission in the absence of such evidence would be premature and contrary to the proper planning and sustainable development of the area. We request that the Coimisiún refuse permission on this basis.

3.1.2 Condition No. 10 is not in accordance with the Guidelines for Planning Authorities for Development Management, 2007.

The Department of the Environment Heritage and Local Government published Development Management Guidelines for Planning Authorities in June 2007. These guidelines focus mainly on process, not policy, and aim to assist parties in adhering to the requirements of the Planning Acts and Regulations.

It is the view of our client that, the inclusion of Condition No. 10 is not in accordance with the Development Management Guidelines for Planning Authorities, as the outcome of the works required under this condition, and is unknown at this stage, would be fundamental to the implementation of the permission, and the required compliance with the condition is not within the power of the applicant. The applicant cannot therefore comply with the terms of the condition.

Condition No.10 is as follows:

No.10:

- a) Prior to the commencement of site works, the developer shall submit for the written agreement of the Planning Authority a Forensic Archaeological Monitoring Strategy.*
- p) The Strategy shall involve the deployment of suitably qualified and experienced staff to monitor all ground works, and maintain forensic control during the site preparation phase.*
- q) The area subject to Forensic Archaeological Monitoring shall be recorded via mapping and the plan submitted for the written agreement of the Planning Authority.*
- r) All forensic searches shall be controlled by a qualified and experienced Forensic Archaeologist.*
- s) The Forensic Archaeological Monitoring area shall be divided into operational zones and excavated from the areas of high priority, in order to strengthen the ability to preserve any evidence located in-situ.*
- t) Soil shall be excavated systematically using an appropriate mechanical excavator with a grading, or toothless, bucket. This excavation shall be monitored by a suitably qualified and experienced Forensic Archaeologist accompanied by a suitably qualified and experienced Osteoarchaeologist/Forensic Anthropologist with expertise in skeletal juvenile remains.*
- u) Excavated soil shall be spread out for further examination and a representative sample shall be sieved for bone fragments or other evidence indicative of burial.*
- v) The location of items of evidential value indicative of potential burials, e.g. cut features coffin timbers, coffin nails, shall be noted and a record completed in compliance with forensic archaeological standards.*
- w) All excavation shall be taken to the depth of undisturbed natural subsoil in advance of proposed construction or ancillary works.*
- x) Should human remains be located in the course of this excavation all work shall cease at all parts of the proposed development site and all relevant authorities, including the City Coroner and An Garda Síochána, will be informed of the location of unidentified and previously unrecorded modern human remains.*
- y) In the event that human remains are located it is the responsibility of the relevant state agencies to determine the outcome for these remains and any associated evidence.*

- z) *Contemporaneous logs shall be maintained detailing personnel, decisions and actions, and evidence collected. The site record of stratigraphy and features of interest or evidential value shall be maintained on a contemporaneous and continuous basis.*
- aa) *Where site facilities are required (e.g. welfare units, running water etc.), secure fencing shall be installed to prevent access by unauthorised personnel. For the duration of the Forensic Archaeological Monitoring programme site security and the storage of potential evidence shall be considered and appropriate measures submitted for the written agreement of the Planning Authority.*
- bb) *All documentation generated in the excavation of the site shall be submitted to the Planning Authority.*

It is clear that the above condition has been imposed by the Planning Authority to try address the likelihood that the subject site contains a burial site as concluded by the Commission of Investigation into Mother and Baby Homes. We submit that it does not adequately or successfully address the matter. It fails to mitigate against the failure of the Planning Authority to request ground investigations as part of the LRD Opinion, or to seek clarification on whether the subject site may be the location of burial sites.

The condition relates to fundamental concerns relating to the development of the site which should have been addressed either in the application, or over the course of the assessment of the application, as the matters raised in the condition are fundamental considerations impacting the proposed development and should not be addressed post planning.

If remains are identified on the site, Condition No.10 (y) states that *'In the event that human remains are located it is the responsibility of the relevant state agencies to determine the outcome for these remains and any associated evidence'*.

Section 7.3.4 of the Development Management Guidelines states conditions should be precise and that *'a condition which requires the developer to take action if and when some other indefinite event takes place is unacceptable'*.

As set out in Condition 10(y), should remains be identified on the site, the decision on whether these remains would be removed or preserved in situ would have to be determined at that stage and would be the responsibility of the relevant state agencies, not the Applicant. As compliance with such a condition falls outside of the scope of what is within the power of the applicant, it is considered that such a condition is not precise, reasonable or enforceable.

As such, Condition 10 can be considered to be unprecise and ambiguous as it does not identify a definitive outcome, and as such is contrary to Section 7.3.4 of the Development Management Guidelines for Planning Authorities.

The applicant has identified that The Institutional Burial Act 2022 seeks to ensure that the remains of those who died in residential institutions, and who were buried in a manifestly inappropriate manner, may be recovered and

re-interred in a respectful and appropriate way. The Act places the responsibility for this on the Government and provides for the establishment of an Office of Director of Authorised Intervention.

The applicant has also shown precedent where one body was identified during the demolition of the Nancy Spain's Public House on Barrack Street. The subject remains identified related to one person, which were historic in nature, and subsequently removed from the site.

We submit that this is fundamentally different context from that arising at the subject site, where there is the potential for 859no. children buried across the historic landscape.

The nature of any burial on the site is unknown. Any burial is unmarked but, it cannot be concluded until burials are uncovered whether such burial were done in an inappropriate manner. This would significantly impact on any consideration on whether the remains would be removed and reinterred elsewhere, in accordance with the Institutional Burial Act 2022.

The imposition of Condition 10 clearly indicates that the Planning Authority has reservations that the subject site potentially contains human remains associated with the site's former use as a Mother and Baby Home. Such doubts are consistent with the findings of the Commission of Investigation.

However, Condition 10 cannot mitigate against the material impacts that would arise for the proposed development should remains be found.

If remains are identified on site, as Condition 10 states it will be the responsibility of the relevant State Agencies to determine the if these remains are to be preserved in situ or if the remains should be reinterred as per the Institutional Burial Act 2022.

If the remains are to be preserved in situ, this would fundamentally undermine the planning permission granted by Cork City Council in this case, and would likely render the development unimplementable.

If remains are discovered, as s per the Institutional Burial Act 2022, these remains may be interred elsewhere, or they may remain in situ. **It is not predetermined that these remains are to be removed and it is not within the scope of the applicant to determine same.**

In the case that remains are identified on the site and are to be removed. It is likely that the timeline required for such a procedure as set out in the Institutional Burial Act 2022, would impact on the implementation of the permission as this process could take a number of years. Under the Act, the Director of Authorised Intervention would be required to undertake a forensic excavation of the site and affected areas.

Such an investigation would likely take a number of years, as has been illustrated by the excavation of the site at the Tuam Mother and Baby Home. The Government approved the establishment of the Director of Authorised Intervention Tuam in July 2022 however, work only began on excavation on the site in July 2025 with an indicative timeline of 24 months to complete the exaction.

Owing to the timeline required to undertake such works in Tuam, it would indicate that should remains be identified on the subject site, the timeline required to undertake the forensic excavation required under the Institutional Burials Act 2022 would be in the order of a minimum 3-4 years and this would result in the subject permission being unimplementable by way of the permission expiring.

This would result in deferring the development for a substantial period of time. Section 7.3.5 of the Development Management Guidelines for Planning Authorities sets out that in such an instance, such a condition would be unreasonable as it the timeline required to comply with such a condition would undermine the grant of permission and the time limit of such permission.

It is clear to us that the Planning Authority, in their assessment of the application, could not rule out the presence of human remains on the subject site in the assessment of the subject planning application. It is also evident the applicant could not do so. It could also not be ruled out by An Coimisiún Pleanála in the assessment of SHD ACP: 313206. Further, we would disagree, given the points made above, with the view expressed in that decision that there is scope to deal with such uncertainty by way of condition.

It is clear to us that due to the uncertainty and likelihood of potential remains on the site, and the impacts arising from such, the imposition of Condition No.10, or any other similar condition, would not be in keeping with the Development Management Guidelines for Planning Authorities.

Additionally, there is established precedent in Cork City where such conditions were deemed not to be appropriate.

For example, in the assessment of Planning Application Ref. 17/37279 for the development of 234no. apartments on the site of the former Good Shepherd Convent, Sunday's Well, Cork, it was determined in the assessment of the application that there was potential for human remains associated with the sites previous use as an orphanage and Magdalene Laundry to be present on the site.

In the assessment of that application, the Cork City Council Archaeologist's report states the following *'the arrangements of burials of children within such institutions has, of recent years been the focus of archaeological investigations [...] the matter of resolving such issues must form part of any archaeological report surrounding a planning application for redevelopment within the grounds of former Magdalene Laundry/orphanages. As with more ancient material, all aspects of social, religious and cultural practices that leave physical remains require appraisal as well as details of appropriate mitigation'*.

A Request for Further Information was issued requiring a geophysical survey be undertaken of the site and test trenches of all anomalies identified.

This was deemed necessary by the Planning Authority as, while the archaeological assessment states that there are no features or deposits on the site to indicate burials **'the absence of indication is not sufficient to allay concerns that such burials may exist. It is more appropriate to exhaust all research possibilities to provide greater assurances as the recovery of such burials in the course of construction would have an acceptable negative consequence for the proposal'**.

It is clear that there remains substantial levels of uncertainty as to whether the site of the subject development is the location of the burials associated with the site's former use as a Mother and Baby Home. Indeed, as set out in the Commission of Investigation Report, it is likely. In the absence of being able to rule of the presence of such remains, the Planning Authority has sought to address the matter by attaching Condition 10.

In light of the above it is considered that Condition No.10 relates to material planning matters which should have been addressed in the application or over the course of its assessment, as the outcome of the works required under the condition, would likely be fundamental to the implementation of the permission and impact upon its viability and constructability.

As such, it is submitted the Condition is not in accordance with the Development Management Guidelines for Planning Authorities and renders the proposed development contrary to the proper planning and sustainable development of the area.

3.1.3 The Environment Impact Assessment has failed to adequately consider alternative proposals:

The Guidelines on the information to be contained in Environmental Impact Assessment Reports were published in May 2022 by the Environmental Protection Agency (EPA). These Guidelines apply to the preparation of all Environmental Impact Assessment Reports undertaken in the State, not just the regimes for which the Environmental Protection Agency (EPA) is a competent authority.

As set out in Section 3.4 of these Guidelines, the EIA Directive requires an EIAR to contain a '*description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects*'.

The presentation of alternatives considered by the developer is therefore a critical element of the EIA Process and requires a developer to present a representative range of the practicable alternatives considered and the main reason for selecting the chosen option.

In terms of the EIA process, alternatives should be considered both at the start and throughout.

As set out in the Guidelines, there are instances where some of the alternatives described below will not be applicable such as an instance where no alternative location can be considered as a development is intrinsically linked to a particular site.

Section 3.4.2 of the Guidelines relates to the Do-Nothing Alternative and states that the alternatives considered can include a do-nothing scenario which examines the trends currently occurring on the site.

Section 3.4.3 relates to the assessment of alternative locations which states '*some locations have more inherent environmental sensitivities than others. Depending on the type of project and the range of alternatives that the developer can realistically consider, it may be possible to avoid such sites in favour of sites which have fewer*

constraints and more capacity to sustainably assimilate the project. It can be useful to ensure that a range of options, which may reasonably be available, are included in the evaluation'.

Additionally, alternative designs and layouts can be devised to set out how the development may approach or respond to any environmental sensitivities on a site.

Chapter 3 of the EIAR submitted as part of the subject application relates to the Alternatives Considered.

In regard to the assessment of alternative locations, the EIAR states the following:

'The subject lands are situated within the Cork City boundary and alongside the Phase 2 – The Meadows lands, are the only zoned lands in the ownership or control of Estuary View Enterprises 2020 Limited. The Cork City Development Plan 2022, has been subject to Strategic Environmental Assessment which will have taken into account of environmental considerations associated, for example, with the cumulative impact of an area zoned for development on a sensitive landscape'.

No alternative locations were considered or identified.

In consideration of a 'do-nothing' scenario, the applicant indicated the following:

- Serviced and zoned lands, within the rapidly growing, south-eastern suburb of the Cork City would remain undeveloped and in private ownership, in their current disused form.
- The significant security issues which currently pertain to these lands would remain. Unauthorised public access and anti-social behaviour would continue to pose risks. In a 'do-nothing' scenario these security issues would need to be addressed in the future.
- The 'do nothing' scenario would undermine the viability of proposed and planned upgrades to the adjacent greenways and public transport (and in the longer term the planned Light Rail Transit (LRT)). The critical mass required to support these infrastructure developments would be constrained by the continued under-utilisation of these accessible lands.

In the assessment of the application the Planning Authority's Senior Executive Planner's assessment states the following:

'The submitted EIAR does not include any specific consideration of alternative sites. Given the zoning of the site in the City Development Plan for residential development, which underwent SEA, it is considered reasonable in this regard that alternative sites were not considered.

The applicant has considered alternatives in terms of layouts proposed within the existing site constraints, having regard to the site topography, and the conservation and parklands setting. The reasons for selection of the proposed development layout and design are set out within chapter 3. It is considered that the issue of alternatives has been adequately addressed in the application documentation.

Section 3.3 of the EIAR considers the "Do-Nothing" approach. In this regard, given the local, regional and National objectives in relation to housing and compact growth, along with proposal for planned upgrades to adjacent greenways and public transport options adjacent to the site and the quantum of employment opportunities in the location, a "Do-Nothing" approach is not considered the best use of the site to achieve these targets'.

It is submitted that the EIAR submitted has failed to adequately consider alternatives in accordance with the relevant regulations, and has solely relied on the zoning of the site as the basis for pursuing the residential development of the site.

However, it should be noted that only a fraction of the site is zoned ZO 01 Sustainable Residential Neighbourhoods, with the vast majority of the remaining site zoned ZO 17 Landscape Preservation Zone, where it is the objective of the Cork City Development Plan to '*preserve and enhance the special landscape and visual character of Landscape Preservation Zones*'.

As such, a majority of the site which is assessed within the EIAR is not zoned for residential development, rather it forms part of a site where there is an explicit Development Plan presumption against development. A reliance on this zoning as the justification for the EIAR not to consider alternative development, alternative locations or to meaningfully assess the do-nothing scenario is therefore submitted not to be in accordance with the EPA Guidelines on the information to be contained in Environmental Impact Assessment Reports.

The Guidelines state that '*Higher level alternatives may already have been addressed during the strategic environmental assessment of relevant strategies or plans. Assessment at that tier is likely to have taken account of environmental considerations associated, for example, with the cumulative impact of an area zoned for industry on a sensitive landscape*'.

In such instances, it can be relied on that the development of residential dwellings on land zoned residential has been considered at a high level in an Strategic Environmental Assessment undertaken as part of the preparation of a Development Plan. This however cannot be relied upon in the case where there is a presumption against development for the majority of the site in question.

As set out in sections ZO 17.1-2 of the Development Plan, areas identified as Landscape Preservation Zones are identified '*due to their sensitive landscape character and are protected due to their special amenity value, which derives from their distinct topography, tree cover, setting to historic structures or other landscape character [...] Many of these sites have limited or no development potential due to their landscape character*'.

On review of the Strategic Environmental Assessment prepared as part of the Cork City Development Plan 2022-2028, the potential for residential development within Landscape Preservation Zones was not considered. There is no reference to the subject site within the SEA.

Additionally, while it is noted within Table 6.9 of the Development Plan to '*allow for development within the immediate environs to the north of Bessboro House consistent with the landscape and protected structure significance of the site*', the development of residential dwellings is not specifically identified and as such it cannot

be relied upon that alternatives uses could not be considered. Development in this instance could very well refer to the development of community facilities or a memorial park.

It should be noted that the objective to allow for development within the immediate environs to the north of Bessborough House is ambiguous and most likely only relates to the area in which Block E of the subject development is located and which is zoned for Residential Development. This area of the site is within the Bessborough Estate and would correspond to the residential zoning of this area and would be consistent with the wider policy relating to Landscape Preservation.

In light of this, it is submitted that the reference to development potential within Policy Objective 6.9 as set out in the Plan relates to this area alone.

Additionally, Table 6.9 of the Plan identifies the reinstatement of the Historic Landscape and the use of the grounds of Bessborough House as neighbourhood park (in the context of the now expired Mahon Local Area Plan). The presumption that the subject site is suitable and the only appropriate use as set out in the EIAR submitted fails to address the primary objectives of the land use zoning of much of the site relating to landscape preservation.

As such, it is considered that the conclusion of the EIAR and that of the Planning Authority in the assessment of the application that no alternative location or use for the subject site is appropriate is not in accordance with the Guidelines on the information to be contained in Environmental Impact Assessment Reports or in accordance with Article 5(1) of the Directive 2011/92/EU, as amended by Directive 2014/52/EU or Article 94 and Schedule 6, paragraph 1(d) of the Planning and Development Regulations 2001, as amended.

The applicant and the Planning Authority have relied on the need and generally requirement for the development of housing in reaching their conclusion on the subject planning application. This, however, fails to address the conflicting policies within the Development Plan which relate to the site.

As noted, most of the site is zoned ZO 17 Landscape Preservation Zones, of which it is the objective of the Cork City Development Plan to *'reserve and enhance the special landscape and visual character of Landscape Preservation Zones'*. Table 6.9 of the Plan identifies the following site specific objectives in relation to the site: To reinstate Historic Landscape; To seek use of grounds as a Neighbourhood Park in context of local area plan (H); To allow development within the immediate environs to the north of Bessborough House consistent with the landscape and protected structure significance of the site.

In line with the zoning objective, as well as the site specific objectives which include the reinstatement of the landscape and the use of the site as a neighbourhood park, the assessment of the application by the Planning Authority did not consider such uses.

It is submitted that the development of the site as a neighbourhood park should have been considered as part of the EIA and similarly considered by the Planning Authority. Not only would such a proposal have been in line with the site specific objectives relating to the site, but it would also have been in accordance with the policies and objectives of Chapter 6 of the Plan.

Section 6.43 of the Plan identifies that the Council aim to *'ensure that public open space is available to meet the needs and demands of the city. This will involve a combination of protecting, enhancing and providing new spaces. With an intensifying city it will also require a creative approach to meeting recreational and amenity needs, particularly in the historic areas of the city with a tighter urban grain'*.

Additionally, Section 6.46 states that the Council *'recognises the need for a network of large city parks of an appropriate size, scale and nature. Due to the limited opportunities for large open spaces within the city centre, these parks will mainly be located within or at the edge of the existing built up part of the City'*.

As part of the Cork City Development Plan, a Green and Blue Infrastructure Plan was prepared to accompany the Plan, within this a list of potential green and blue infrastructure opportunities and existing interventions were identified. Within this study 17 sites are identified as having potential to deliver green and blue infrastructure within the city as existing sites which present an opportunity to enhance the landscape of existing sites. This includes Bessborough Farm and the Convent site.

The above clearly illustrates that there is more than sufficient basis within the Development Plan for both the applicant and the Planning Authority to consider the use of the site as a public park during the preparation of the EIAR and the assessment of the planning application.

There are a number of other policies within the Plan which would give the Planning Authority adequate basis to refuse the subject planning application owing to the lack of consideration of the site for such use, this would also be supported by the following objectives of the Plan.

Strategic Objective 5 Green and Blue Infrastructure, Open Space and Biodiversity: *To strengthen the green and blue infrastructure of Cork City. To protect and promote biodiversity and habitat connectivity and protect natural areas. To protect and enhance Cork City's unique landscape character and maritime heritage. To ensure all of Cork City's residents have access to open spaces, recreation and amenity facilities and natural areas.*

A strong green and blue infrastructure network is essential to the quality of life of Cork City's residents and contributes towards the creation of places where people want to live and work. It is an objective of Cork City Council to achieve a healthy, green and connected City with high-quality and interconnected open spaces, parks, diverse natural areas and green and blue corridors.

Proposals for new development in Cork City will respect and reflect the topography, landscape and ecology of the City, and will protect and enhance the City's green and blue infrastructure by ensuring that development does not fragment existing networks of green and blue infrastructure. Proposals for new development will demonstrate how green and blue infrastructure, open space, sport and recreation, landscape and biodiversity are considered commensurate to the scale and context of the development in the development process. Large-scale developments will incorporate open spaces to contribute to the green and blue infrastructure in the City.

Objective 6.1 Cork City Green & Blue Infrastructure Study and Strategy: To manage, protect and enhance the Green and Blue Infrastructure assets of Cork City in line with the Cork City Green and Blue Infrastructure Strategy set out in the Development Plan, and to support the actions, opportunities and projects identified in the Cork City Green and Blue Infrastructure Study 2021.

Objective 6.9 Landscape:

- g. To preserve and enhance Cork's landscape character, key landscape assets and views and prospects of special amenity value;
- h. Landscape will be an important factor in all development proposals, ensuring that a proactive view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability;
- i. To ensure that new development meets the highest standards of placemaking, siting and design;
- j. To protect those prominent open hilltops, valley sides and ridges that define the character of the Cork City Hinterland and those areas which form strategic, largely undeveloped gaps between the main Hinterland settlements from development;
- k. To discourage proposals necessitating the Landscape and Development
- l. To ensure that the management of development throughout Cork City will have regard for the value of the landscape, its character, distinctiveness and sensitivity in order to minimize the visual and environmental impact of development, particularly in designated areas of high landscape value where higher development standards (layout, design, landscaping, materials) are required.

Objective 6.11 Landscape and Development: To ensure that the management of development throughout Cork City will have regard for the value of the landscape, its character, distinctiveness and sensitivity in order to minimize the visual and environmental impact of development, particularly in designated areas of high landscape value where higher development standards (layout, design, landscaping, materials) are required.

Objective 6.12 Landscape Preservation Zones: To preserve and enhance the character and visual amenity of Landscape Preservation Zones through the careful management of development. Development will be considered only where it safeguards the value and sensitivity of the particular landscape and achieves the respective site-specific objectives, as set out in Tables 6.6 – 6.10.

Objective 6.19 City Park and Open Space Provision: Cork City Council will seek to:

- a. Ensure that all residents have access to a hierarchy of parks and open spaces close to their home to provide recreational need and access to nature;
- b. Provide for recreational amenity needs by protecting, retaining, and improving parks and open spaces within Cork City. There will be a presumption against development of land zoned for public open space for alternative purposes;
- c. Ensure that developments of all land use types provide appropriate open space to meet the needs of residents, workers and visitors;
- d. Deliver projects to provide and improve the network of City Parks.

As set out above, there is a significant policy basis for both the applicant and the Planning Authority to assess alternative uses for the subject site in line with the zoning objectives of the site and a strong policy basis for the Planning Authority to have assessed the alternative use of the development of a public park on the site, in line with the specific objective of the site.

It is the view of the appellant that as a result of the applicant's failure to assess such alternative proposals, the information contained within the EIAR submitted is insufficient and as such is not in accordance with the EIA Directive.

3.1.4 The development represents piecemeal, ad hoc development of a historic landscape.

The overall Bessborough complex forms part of a coherent historic landscape.

In this context it is submitted that the proposed development, in its proposed form and as granted by Cork City Council, represents a piecemeal and ad hoc development of a site which fails to bring forward a strategic, holistic and coherent approach to the development of a site which is of national, historical, cultural and religious significance, as well as being an area of high landscape value.

As set out elsewhere within this appeal, the site forms part of larger historic landscape area which falls under a number of policy objectives and designations.

The subject site is within the curtilage of Bessborough House. The Home is identified as National Monument and Site (Ref. CO074-077), on the National Inventory of Architectural Heritage (Ref. 20872005), in which it is identified as being of not only Architectural significance but also of social and historical significance.

The site also comprises of a c.1870-1890 farmyard complex which is identified on the National Inventory for Architectural Heritage (Ref. 20872006). The Bessborough Folly is located to the southeast of the wider site, comprising of three-bay two-storey folly built in c. 1870 – 1890 (NIAH Ref. 20872007). Additionally, an Icehouse is recorded on the National Monuments Services to the south west of the subject site (Ref. CO074-051).

In addition to this, the site as outlined is zoned ZO 17 Landscape Preservation Zones as well as areas of the site being designated as 'Areas of High Landscape Value'.

It is clear that some elements of the historic and cultural character of the site as well as visual landscape value of the site has been eroded over time, but this however does not give rise to a sufficient reason to develop the site in a piecemeal manner.

The specific objective associated with the site seeks to reinstate the historic landscape of the site. In light of the significant designation on the site it is considered that a strategic and holistic approach to the development of the site is required to assess the potential impact of any development on the wider site.

The applicant has indicated within the EIAR that the proposed development represents Phase 1 of a 3 Phase development. With Phase 2 'The Meadows' currently at S247 Pre Planning stage and indicated as comprising of

282no. apartments to be located to the southeast of the subject site, and Phase 3 'The North Fields' to be developed to the west comprising of 200no. apartments.

The applicant has given no rationale as to why these developments have not been brought forward as one planning application and no Masterplan has been submitted with the planning application.

Our client is of the view that there is no reasonable basis for the subject site or wider site to be developed given the history of the site. At the very least should development be pursued, a holistic and full approach to the development of the site is required and development should not be pursued or permitted on a piecemeal basis.

It is clear from the assessment of the application by the Planning Authority that there are concerns in relation to how the development has been approached and how it would be accommodated on the site.

The assessment states the following:

'There are significant concerns in relation to the siting of Block C (and it's associated roadway and car-parking infrastructure) within the parkland setting in this Landscape Preservation Zone. It is considered that the siting of this Block does not preserve or enhance the land forming the setting to the significant landmark building/protected structure, Bessborough House [...] In this regard, considering the location of the site within the Landscape Preservation Zoning, and within the area designated as an Area of High Landscape Value, and noting the significant impacts on the Bessborough House, a landmark building and protected structure, it is considered that Block C and its associated infrastructure should be omitted from the proposed development. It is considered appropriate that a condition relating to same is attached'.

Condition No.3 of the permission omitted Block C and all associated roads and car parking.

Further to this, the Planning Authority had concerns in relation to the design, scale and height of Blocks D and E. It was recommended by the Conservation Officer that both Block D and E be reduced by one storey as the *'proposed development encircling the existing low-scale farm complex would have an overbearing impact on the character and setting of these architecturally, historically and socially significant structures, and would be completely out of proportion with the historic farm buildings and main house'.*

The concerns in relation to Block D were also raised by the Senior Executive Architect but the following was concluded in regard to Block E *'the context of the housing and adjacent institutions at the north entrance to the site I would be of the view that for an apartment block of this nature, where the architectural expression and massing consciously mitigates the overall bulk and visual impact, the height is not unduly negative. Although I maintain that a lower, more uniform block would demonstrate better sensitivity to the historic context I do not propose to impose any particular condition in this regard. I acknowledge that wider conservation considerations may seek same'.*

The Planner concluded that *'the concerns of the Conservation Officer are noted, it is considered that a reduction in height to Block E to create a more uniform block in relation to Block D would be appropriate. It is considered that a revised Block E would better link the recently developed residential area to the North with the proposed*

development. In terms of retaining the height of Block D, while noting the concerns of the Conservation Officer, it is considered that Block D as proposed would create an appropriate edge to the parkland setting to the West'.

As a result, Condition No.4 removed the fifth storey of Block E.

It is clear from reading the assessments undertaken by Cork City Council that the opinions of the Planners, Conservation Officers and Architects are not aligned in regard to what constitutes an appropriate development for the site or what may unduly impact on the landscape and character of the area.

In response to these concerns the Planning Authority have significantly altered the proposed development to potentially mitigate against negative impacts arising from the development. This has, in our view, only further result in the development being ad hoc.

It is clear that the modifications sought by way of condition significantly alter the nature of the proposed development and form an appropriate basis for refusal. The result of this is that the development granted is now materially different to the development that was proposed.

Section 7.7 of the Development Management Guidelines for Planning Authorities is of regard of particular regard which sets out that where a **'condition that radically alters the nature of the development to which the application relates will usually be unacceptable.....If there is a fundamental objection to a significant part of a development proposal, and this cannot fairly be dealt with in isolation from the rest of the proposal, the proper course is to refuse permission for the whole.'**

It is clear based on the assessment of the application by the Planning Authority that the development as proposed did not adequately respond to the policies and designations associated with the site.

This has only further exasperated the ad hoc nature of the proposed development.

In light of the specific policy set out in Table 6.9 of the Plan to reinstate the historic landscape of the site, it is considered that a holistic, site-wide approach is required to the development of the site to ensure that any development adequately responds to the historic, social and cultural importance of the site.

It is further of note that it should be considered that the findings of the Commission of Investigation that it is likely that there are remains buried on the site should also be considered when assessing if the development is piecemeal. In the absence of identifying the locations of the remains, the likely result is that the proposed residential units may be developed adjacent to or encroaching upon an unmarked burial ground. The development of the site should not be pursued or permitted until such a scenario has been ruled out.

In light of the above, it is considered that the proposed development represents development that is piecemeal, ad hoc development of a historic landscape, which is contrary to the policies and objectives within the Cork City Development Plan, and as such the development would be contrary to the proper planning and sustainable development of the area.

4.0 CONCLUSION

In conclusion, our client wishes for An Coimisiún to note as an elected member of Cork City Council, he has always endeavoured to support the construction and delivery of housing within Cork City.

However, owing to the history of the subject site and wider lands associated with the former Mother and Baby Home at Bessborough, and the significant unresolved issues relating to the location of burials on the site, he is of the view that no development on the site is appropriate and the site should be maintained, reinstated and memorialised in its entirety.

As set out within this appeal, it is submitted that the applicant has not provided any information which would confirm that the subject site is not the location of burials associated with the Mother and Baby Home and has not sufficiently demonstrated that the development has addressed the legacy issues associated with the site.

It is clear to us from the documents submitted to the Planning Authority, and the assessment of the Planning Authority that further information to demonstrate that the subject site is not location of burials associated with Mother and Baby Homes should have been sought by way of the LRD Opinion. The failure to request this has meant that the Planning Authority could not rule out the presence of remains. To mitigate this, Cork City Council have attached conditions which, we submit, fall outside of the scope of what is considered to be appropriate having regard to the Development Management Guidelines for Planning Authorities.

The applicant has failed to demonstrate that any alternative proposals were considered for the site. Alternative uses could be in keeping with objectives of the site and a failure to include this results in the EIAR submitted is deficient and not in accordance with the EIA Directive.

In addition to this, the applicant has indicated that the subject development is Phase 1 of 3, and no rationale has been put forward as to why one planning application was not submitted. It is considered that if the site is to be developed at all, such an approach is required owing to the significant landscape and historical designation associated with the site. The absence of this, and a Masterplan for the site represent piecemeal development which is entirely at odds with the proper planning and sustainable development of this area.

Notwithstanding the above, it is also considered owing the findings of the Commission of Investigation into Mother and Baby Homes and Other Related Matters, that it is highly likely that if not all, some, of the 859no. children who died at Bessborough Mother and Baby Home and cannot be located, are buried on the site of the Mother and Baby Home. The Commission identified that no location within the site, including areas which have since been redeveloped, can be ruled as locations of these burials.

In the absence of the knowledge of these locations, is not a sufficient basis to conclude that the subject site is likely not the location of these burials. The applicant has failed to demonstrate by way of any ground investigations of the subject site such as geophysical surveys that the subject site is not the location of burials.

All research possibilities should and must be exhausted to provide greater assurance that the subject site is not the location of burials, as the discovery of such burials during the course of construction would have a

significantly negative impact on the survivors of the Mother and Baby Home as well as other family members of the deceased but also result in significant impacts on the proposed development.

As a result, it is respectfully submitted that the decision of Cork City Council should be overturned, and permission be refused by An Coimisiún.

Please refer all correspondence in relation to this appeal to Rory Hanrahan, Assistant Planner for Coakley O'Neill Town Planning Ltd, NSC Campus, Mahon, Cork.

Is Mise le Meas,

A handwritten signature in black ink that reads 'Rory Hanrahan'.

Rory Hanrahan Mplan MIPI
Assistant Planner
Coakley O'Neill Town Planning Ltd.

APPENDIX 1: APPEAL CHECKLIST



Comhairle Cathrach Chorcaí Cork City Council

Halla na Cathrach, Corcaigh – City Hall, Cork – T12 T997

04-Feb-2026

Cllr Peter Horgan
63 Lissadell
Maryborough Hill
Douglas
Cork
T12 N73F

Re: 25/44442

Permission for a Large-Scale Residential Development (LRD) at a site located at Bessborough, Ballinure, Blackrock, Cork. The development will consist of: The demolition of 10 no. **existing** agricultural buildings /sheds and log cabin residential structure and the construction of a residential development of 140 no. residential apartment units over 2 no. **retained** and repurposed farmyard buildings (A & B) with single storey extension and 3 no. new blocks of 3-5 storeys in height, with supporting resident amenity facilities, crèche, and all ancillary site development works. The proposed development includes 140 no. apartments to be provided as follows: Block C (9 no. 1-bedroom & 25 no. 2-bedroom over 3 storeys), Block D (34 no. 1-bedroom & 24 no. 2-bedroom over 3-4 storeys), Block E (27 no. 1-bedroom, 20 no. 2-bedroom & 1 no. 3-bedroom over 4-5 storeys). It is proposed to use retained Block A and Block B for **resident amenities** which include home workspace, library, lounge and function space. The **proposal includes** a new pedestrian/cycle bridge over the adjoining Passage West Greenway to the east, connecting into the existing down ramp from Mahon providing direct access to the greenway and wider areas, as well as new pedestrian access to Bessborough Estate to the north including upgrades to an existing pedestrian crossing on Bessboro Road. The proposed development provides for outdoor amenity areas including publicly accessible parkland, landscaping, surface car parking, bicycle parking, bin stores, substation, public lighting, roof mounted solar panels, wastewater infrastructure including new inlet sewer to the Bessborough Wastewater Pumping Station to the west, surface water attenuation, water utility services and all ancillary site development works. Vehicular access to the proposed development will be provided via the existing access road off the Bessboro Road. Part of the proposed development is situated within the curtilage of Bessborough House which is a Protected Structure (Reference: RPS 490). An Environmental Impact Assessment Report and a Natura Impact Statement has been prepared in respect of the proposed development. The planning application together with

the Environmental Impact Assessment Report and Natura Impact Statement may be inspected or purchased at a fee not exceeding the reasonable cost of making a copy at the offices of the Planning Authority, City Hall, Cork, during its public opening hours. The LRD application may also be inspected online at the following website set up by the applicant: www.thefarmlrd.ie.

At: Bessborough, Ballinure, Blackrock, Cork

A Chara,

I wish to acknowledge receipt of your submission, received on 3 February 2026, regarding the above planning application.

This submission in accordance with the provisions of the Planning & Development Regulations 2001 (as amended) forms part of the file, which is available for inspections by the public at the Planning Department, City Hall, Cork. Opening hours are Monday-Friday from 10.00a.m. – 4.00p.m.

You will be notified when a decision is made on the application.

This letter should be retained. If you wish to appeal such decision, a copy of this acknowledgement letter must accompany your appeal to An Coimisiún Pleanála.

A copy of the Council's decision will issue to you in due course.

Is mise, le meas,

Aisling Ring

Assistant Staff Officer
Planning and Integrated Development

Acknowledgement of Receipt of Submission or Observation on a Planning Application

THIS IS AN IMPORTANT DOCUMENT

Keep this document safely. You will be required to produce this acknowledgement to

An Coimisiún Pleanála If you wish to appeal the decision of the Planning Authority, it is the only form of evidence which will be accepted by An Coimisiún Pleanála that a submission or observation has been made to the Planning Authority on the planning application.

Planning Authority Name: **Cork City Council**

Planning Application Ref. No.: **25/44442**

A submission/observation, in writing, has been received from:

Cllr Peter Horgan

63 Lissadell

Maryborough Hill

Douglas

Cork

T12 N73F

on **3 February 2026** in relation to the above planning application.

The appropriate fee of €20 has been paid. (Fee not applicable to prescribed bodies).

The submission/observation is in accordance with the appropriate provisions of the Planning and Development Regulations, 2001 (as amended) and will be taken into account by the Planning Authority in its determination of the planning application.

APPENDIX 3: SUBMISSION TO CORK CITY COUNCIL

Module	M Planning	
Reference	2544442 Proposal Permission for a Large-Scale Residential Development (10)	
When	Benderburgh, Bannure, Bannock, Cork	
Company Information		
Name	Thi Party	Person
Company	Cork City Council	Person
Address	63, 65 ISSAQUEL, MANTOROUGH HILL, 63 ISSAQUEL, MANTOROUGH HILL, South East Ward, Cork, T12W73	
E-Mail	peter.jay@citycork.ie	
Telephone	031033009	FAX
Mobile	Free amount	2020
Receipt No.	41738	
Reply Details	Response 2026-02-03	
Reply Type	Original	
Original	Agreed the proposal due to technical feasibility on the site	

Date received

Rejected comment	
Summary comment	

Made	Made the comment public	
Accepted	Response / URL	Attachment Type
	Peter Jay	Attachment
	Attachment Type	Type
	Attachment	Type

Description	No description
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CORK CITY COUNCIL
PLANNING & DEVELOPMENT
03 FEB 2026
DEVELOPMENT MANAGEMENT

Cllr. Peter Horgan

Cork City South East



+353 83 103 3009



peter_horgan@corkcity.ie

@horganp

/peterhorganlabour

peterhorgancork

Re: Objection to The Farm LRD – Bessborough, Blackrock, Cork – file 25/44442

I write as a locally elected Councillor for the South East Ward of Cork City Council to formally object to the above *Large-scale Residential Development (LRD)* application at the former Bessborough Mother and Baby Home lands, which proposes the demolition of existing agricultural buildings and the construction of 140 residential apartment units and associated facilities.

The lands here have been subject to many applications over the years. I wish to simply state that building on these lands should not be allowed. As Cork City South East Labour councillor, I must reflect the views on my constituents on the sensitive nature these lands have in the locality and further afield.

I firstly bring to attention of planners my motion that was passed unanimously by Cork City Council

That this Council will seek to begin a process with the relevant Government Departments to CPO the entire land at Bessborough in order to make it a new public park and memorial to the history of the site.

That will of Council is important when planners make their decision. It is my view that in order to properly honour the memory of those who suffered and died at Bessborough, we simply cannot permit new building to take place on the site.

The former Bessborough institution operated from 1922 to 1998. Its history includes the admission of thousands of women and children, with over 900 babies and 31 women recorded as having died there, and the burial locations of the vast majority remain unknown.

Given this context, any large-scale residential development on these lands is not a routine planning matter — it touches directly on deep community sensitivities and unresolved historical legacy issues.

Previous applications for substantial residential developments on adjacent Bessborough lands have been refused — including one on the basis that it was not demonstrated that the site does *not* contain a childrer's burial ground, and others for reasons including excessive scale, poor design, and failure to respect the character of the historic landscape.

In this light, granting permission for The Farm scheme without first addressing these core heritage and human remains concerns is premature and disrespectful to survivors and bereaved families.

Cllr. Peter Horgan

Cork City South East



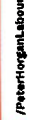
+353 83 103 3009



peter_horgan@corkcity.ie



@phorganp



/PeterHorganLabour



peterhorgancork

Cork City Council and An Bord Pleanála have repeatedly refused planning applications on the Bessborough lands for reasons that remain materially relevant:

2019–2021 SHD applications were refused by An Bord Pleanála — citing concerns that the site may have been used as a children's burial ground and the absence of satisfactory evidence it was not.

A recent refusal of an LRD application for 92 dwelling units was upheld on appeal on the grounds that the proposal would be *visually obtrusive, piecemeal, and premature prior to establishing the burial ground issue*.

In July 2025, An Coimisiún Pleanála refused the The Farm LRD (Case TA28.313206), reinforcing that the development did not satisfy planning requirements under the Cork City Development Plan 2022–2028.

To grant a new permission for The Farm is inconsistent with established planning precedent and ignores the weight of past decisions.

There are sections of the construction costings that are woefully out of date.

Page 5 of the Part V proposal states

[1] This is based on cost range of RIAI Average Irish Construction Costs 2019. Cost range for estate house (average 100sq m) is €1,250 to €1,600 per sq m; Cost range for apartments is €1,800 to €2,500 per sq m. [2] Based on an assumption of 45% of house construction unit costs. Informed by report prepared on behalf of the Irish Home Builders Association, July 2014, prepared by Walsh Associates, including External Works, Site Development Works and Indirect Site Costs (scaffolding; site security etc. & building contingency of c.3.8% for unforeseen items)

Data from the Property Damage Loss Adjusters state that Rising prices for construction materials, labour shortages, and limited sector capacity have driven up costs by 50% since 2017. So the cost of delivery of these sites have not been updated to reflect actual price of delivery, which is a key point in approving any new building works.

The Deliverability issue must be at the heart of any development and I do not agree that such deliverability exists here, even when you take out the historical sensitivities of the site.

As I have previously stated in council and public forums, the appropriate future for these lands should be publicly owned and dedicated to memorial and parkland use, not uncritically developed for private residential profit.

Cllr. Peter Horgan

Cork City South East



+353 83 103 3009



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[@horgamp](https://twitter.com/horgamp)



[/PeterHorganLabour](https://www.facebook.com/PeterHorganLabour/)



[peterhorgancork](https://www.instagram.com/peterhorgancork/)

I ask that the Council follow the precedent set down by previous refusals and not deviate from the track on that.

Kindest Regards,

Cllr Peter Horgan

63 Lissadell

Manborough Hill Cork

