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Appeal No: ACP 324153-26Please treat correspondence received on 21/4/26 as follows:

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Cathy Carleton

From: Conor Frehill | HW Planning <cfrehill@hwplanning.ie>
Sent: Tuesday 21 April 2026 15:24
To: Appeals2; Bord
Cc: Deirdre Tobin | HW Planning
Subject: An Coimisiún Pleanála Reference ACP -324153 -26 - The Farm LRD, Bessborough, Cork - Response to Third Party Appeals
Attachments: 250420_LTR_EVE_The Farm LRD Bessboro_Third Party Appeal Response_CF.pdf

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An Coimisiún Pleanála - Case reference: LH28.324153
Planning Authority Case Reference: 2544442

Bessborough, Ballinure, Blackrock, Cork

Cork City Council

Dear Sir / Madam,

We act on behalf of the Applicant, Estuary View Enterprises 2020 Limited, in the above referenced case. The Applicant wishes to respond to the 2 no. Third Party appeals on the subject file. A copy of this response is enclosed.

We would be grateful if you could acknowledge receipt of this submission by way of formal reply.

If there are any questions on the attached, please do not hesitate to contact us.

Kind regards

Conor Frehill
Director

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The Secretary
An Coimisiún Pleanála
64 Marlborough Street
Dublin 1
D01 V902

20th April 2026

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Accreditations

ISO 9001:2015
ISO 14001:2015
ISO 45001:2018

Re: An Coimisiún Pleanála Reference ACP-324153-26 / Cork City Council Reference No: 25/44442. 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: 70 no. 1-bedroom, 12 no. 2-bedroom (3 person), 57 no. 2-bedroom (4 person) and 1 no. 3-bedroom. Block A and Block B will be retained for resident amenities. 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).

Dear Sir/Madam,

We act on behalf of Estuary View Enterprises 2020 Limited, the applicant for the above-referenced application (which is known as the Farm LRD, Bessborough), with a registered address of Glandore, 3rd Floor, City Quarter, Lapp's Quay Cork. Our client wishes to respond to the Third-Party appeals lodged against Cork City Council's decision, dated 24th February 2026, to grant planning permission. This response to the grounds of appeal submission addresses the concerns raised in the Third-Party appeals by:

- **Appeal 1** – The Bessboro Mother and Baby Support Group (c/o Carmel Cantwell) prepared by FP Logue Solicitors.
- **Appeal 2** – Cllr. Peter Horgan prepared by Coakley O'Neill Town Planning Ltd.

There are a number of cross-cutting items common to these appeals which are dealt with in detail in this response. The contents of this submission should be read in conjunction with the First Party appeal made to the Commission, which sought the omission of Condition No. 3 and No. 4 of Cork City Council's Notification to Grant.

01. Background

The applicant welcomes Cork City Council's decision to grant permission for the subject development, which is the culmination of an extensive design and planning process extending back to 2021. The applicant fully acknowledges the sensitivities relating to the wider Bessborough Estate lands arising from its previous use as a Mother and Baby Home. They recognise, respect and sympathise with the challenges of family, friends and others seeking closure on unanswered questions related to legacy matters associated with the history of the Bessborough Mother and Baby Home. The history of the wider estate has been a foremost consideration of the Applicant in devising plans on what are appropriately zoned development lands. Over the last five years, the Applicant has engaged with the Cork Survivors & Supporters Alliance (CSSA) on the formation of a masterplan for their lands, inclusive of appropriate memorialisation, including provision of a remembrance park. The CSSA is led by survivors whose babies died or were stillborn in Bessborough. Their supporters include other survivors who were also in Bessborough or other institutions including industrial schools and laundries. Other supporters come from professions and communities that have assisted the alliance in advisory or professional capacities. This engagement began with the initial development of a conceptual Masterplan in 2021, culminating in the more detailed Masterplan for the applicant's 40 acre landholding¹ which includes provision for a public parkland (neighbourhood park) and 'Farm Girl' memorial within the subject application of the Phase 1 farm LRD lands, and a National Memorial & Records Centre and New Remembrance Park in the Phase 3 Northfield lands, to be ceded to the City Council or other stakeholders.

The CSSA recognise that significant public good can come out of the potential development of these lands and that this can be achieved in a manner which sensitively remembers the past. In this context they are supportive of the proposed development. On the 16th of April, An Coimisiún Pleanála confirmed that the CCSA had made an observation on the subject appeal file, which has been reviewed and referenced for context in areas as part of this response.

The Applicant is committed to working with the CSSA and all other stakeholders to deliver the prepared Masterplan for their lands in a manner which respects and reflects wider site history.

¹See Appendix A f & Masterplan extracts..

02. Third Party Appeals Context

There were two objections made to the proposed development, and subsequently, two Third Party appeals on Cork City Council's decision to grant permission for the proposed development. At the heart of these appeals are general statements that the proposal is contrary to the proper planning and sustainable development of the area; that there is unknown potential for unrecorded burials in the wider Bessborough Estate; and that permission should be refused on that basis having regard to planning precedent related to one specific part of the Bessborough Estate². We respectfully submit that much of the case put forward is unsubstantiated in nature and is based on selective focus on some local planning history which is not directly applicable to the subject lands. These appeals are silent on a number of critical points of fact that relate to the subject case:

- The site is appropriately zoned for development in land use terms under the ZO 17 – Landscape Preservation Zone / site-specific SE4 objective and ZO 01 – 'Sustainable Residential Neighbourhoods' zoning. The principle of the proposed development on the subject lands is accepted by Cork City Council and An Coimisiún Pleanála.
- Cork City Council has consistently supported development on the subject lands. In addition to the recent notification to grant planning permission in the subject LRD case, this support was evident in the Cork City Council Chief Executive's Report in relation to the refused Strategic Housing Development (SHD) application on-site (ABP-313206-22) in which they recommended that permission should be granted subject to conditions.
- The Planning Authority has also consistently supported development in the wider Bessborough Estate which previously encompassed over 200 acres of land. As illustrated in the overleaf maps, the majority of the lands in the estate have been developed for office, retail, industrial and residential uses. There have been more than 60 planning applications in this time, with no fewer than 21 applications within the redrawn Bessborough Estate (Post Council CPO) alone since the year 2000. No unrecorded burials have been identified as part of substantial development within the estate.
- Based on a review of ABP-308790-20 , the principal focus for potential unknown burials has been on lands to the north and west of the Folly in Bessborough Estate. The fundamental difference between these and all other lands in the former estate is the existence of an OS revision trace map produced in 1949/1950. This trace map was presented by the CSSA at the oral hearing on ABP-308790-20 and accompanied their objection to the application. The CSSA consider that this trace map indicates the potential presence of a burial ground at that specific location. This was the principal focus of the oral hearing and subsequent decision to refuse permission at that location by An Bord Pleanála.
- Independent archaeological assessments of Bessborough Estate were commissioned by the Sisters of the Sacred Hearts of Jesus and Mary, which were both made publicly available. These reports suggest that children were buried in the estate for a short period

² Area to the north and west of the Folly. Two applications have been refused in this area, references ABP-308790 and ABP-318520 refer.



Historic Bessborough Demesne

Central
Statistics
Office (CSO)

Blackrock
Business Park

Bessboro Road
Residential
Development

Mahon
Industrial
Estate

Ballinure Way Cork
City Council Modular
Home Development

Lough Mahon
Technology
Park

City Gate

City Gate

Mahon
Retail
Park

Mahon
District
Centre

Folly

Bessborough Estate Post 1970

Jacob's
Island

Google Earth

Figure 01
Historic Bessborough Demesne

-  Bessborough Estate Boundary - Post QPO in 1970
-  Historic Bessborough Demesne (c. 205 Acres)
-  Subject Lands



Figure 02
Recent Planning History

- Subject Lands
- S34 Planning Application Boundary - Post 2000
- Strategic Housing Development (SHD) Application
- Bessborough Estate Boundary - Post CPO in 1970

HMP

when the City burial system was overwhelmed, with the focus for burials being in the existing graveyard and the above referenced enclosure attached to the Folly.

- The potential for unrecorded burial sites on the subject LRD lands has been subject to detailed assessment by John Cronin & Associates, the findings of which have been informed by a review of cartographic mapping, LiDAR imagery, field surveys and archaeological investigations. Based on the completed assessment, there is no evidence to suggest that the proposed development site contains any burials associated with the former Mother and Baby Home.
- While the issue of the burials at Bessborough remains unresolved, there is a consensus between the primary stakeholders that any unrecorded burials were likely to have taken place within the existing graveyard 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.
- Cork City Council did respond to the Board's decision on ABP-308790-20(ABP-309560-21 and during the plan making process for the Cork City Development Plan 2022 decided to dezone the site to the north of the Folly which was the focus of the Board's Oral Hearing into these matters and Cork Survivors & Support Alliance's (CSSA) concerns ..
- Notwithstanding the above findings and having regard to the findings of the Mother and Baby Homes Commission of Investigation and the concerns of survivors and their families, a precautionary approach is proposed in respect of the development of the subject lands. It is recommended that a programme of archaeological investigation/monitoring of all ground works be undertaken by a suitably-qualified forensic archaeologist. The parameters for this work have been defined by means of a prescriptive method statement which has been prepared by Aidan Harte, Forensic Archaeologist³¹, who is familiar with the Bessborough Estate and the Mother and Baby Home Commission of Investigation.
- As evident in An Coimisiún Pleanála's recent decision and direction regarding the previous SHD application on-site (ABP-313206-22), they did not have any concerns regarding the potential for a children's burial ground within the subject site. The previous application was refused solely on the grounds of housing mix, which has been addressed fully in the subject LRD application.

Based on the above, it is evident that the proposed development is supported in policy terms. Matters related to potential unknown burials have been considered in full, and recent directly relevant precedent as it relates to the subject site and proposed development, confirms planning permission can be granted for the proposed development.

The Third Party appeals raise some questions in relation to the appropriateness of the planning condition applied by Cork City Council (Condition No. 10) in respect of archaeological monitoring. The Applicant has sought a legal opinion in respect of the substantive queries raised, which is enclosed with this response (See Appendix B). It confirms that that the Commission is not

³¹Mr. Harte has undertaken specialist work for the State in the forensic excavation of remains, including at the former Mother and Baby Home in Tuam, Co. Galway.

precluded from granting permission, and imposing a condition similar to Condition 10 of Cork City Council's decision to grant permission.

Finally, it is worth highlighting again that An Coimisiún Pleanála have very recently adjudicated on the principal legacy issue raised by Third Parties. The legal opinion also confirms that in the recent decision of 23 July 2025 (ABP-313206-22) the Commission provided a clear rationale for not following the earlier ABP decision related to ABP-308790-20:

"namely the significant distance from the areas relevant to ABP-308790 and ABP-318520, the substantial established building form between these locations and the current site".

The Commission clearly distinguished between the subject site and the lands closer to the Folly and previously associated refusal grounds. The legal opinion concludes that while the Commission ultimately refused the previous SHD on-site on the grounds of unit mix, and subject to forensic monitoring, residential development can be permitted on the subject site.

03. Assessment

3.1 Grounds of Appeal

The following table provides a summary of the principal grounds of appeal raised by Third Parties.

Appeal 1 - Carmel Cantwell		
Section	Appeal Grounds	Appeal Argument
4,5	Risk of Disturbance of Human Remains	Appeal 1 considers there is a credible possibility of unknown burial remains within the wider estate, which any ground works associated with the proposed development would risk disturbing.
6- 19	Planning History	Appeal 1 states that previous planning decisions in estate confirm the possibility of unrecorded burials and the proposed development should be refused based on references ABP-308790 and ABP-318520.
20 - 29	EIAR	Appeal 1 considers Chapter 10 – Cultural Heritage of the EIAR includes mitigation that does not provide for certainty pre-decision or during construction phase. It considers it needs clarity on mitigation by avoidance. It asserts that the EIAR does not meet the minimum requirements on information to be included in an EIAR.
30 - 32	Human Rights	Appeal 1 claims the Planning Authority's decision is incompatible with and constitutes an unwarranted interference with fundamental human rights.
33 - 41	Legal and Procedural Issues	Appeal 1 claims that Conditions 9 and 10 impose legal and procedural consequences in terms of compliance with the Coroners Act 1962 and the Institutional Burials Act 2022. If further claims that these impact the likelihood of implementing any scheme.
42 - 49	Apartment Guidelines	Appeal 1 considers it premature to consider the application on the basis of the <i>Design Standards for Apartments, Guidelines for</i>

		<i>Planning Authorities 2025, including SPPR 1 on apartment mix, which are currently the subject of ongoing judicial review.</i>
Appeal 2 - Cllr. Peter Horgan		
1	Planning History	Appeal 2 considers the application fails to address the previous refusal reasons relating to ABP-308790-20 within the Bessborough Estate.
2	Legal and Procedural Issues	Appeal 2 considers that Condition 10 is not in accordance with the Development Management. Guidelines for Planning Authorities.
3	Comprehensiveness of EIAR	Appeal 2 considers the EIAR has failed to adequately consider alternative proposals
4	Piecemeal Development	Appeal 2 considers the development represents ad hoc, piecemeal development of an historic landscape.

Table 01 – Summary of Appeal Grounds

From Table 01 it can be seen that there are a number of cross-cutting items common to the two submitted appeals. All of the items raised are addressed in detail below.

3.2 Potential for Disturbance of Human Remains

The Applicant fully acknowledges the social history on the subject site and associated legacy matters, but they disagree with the appellant's assertion that "any groundworks that take place here risk disturbing human remains". The Applicant has undertaken all steps available to them at this time to investigate the potential for unknown burials on the subject site. A review of the appeals confirms a lack of understanding of the archaeological survey history on the site, the requests of the CSSA and advice of Cork City Council in respect of same. The appeals query why geophysical survey has not been undertaken. A licence is not available for such work ahead of any grant of permission, with the preference of the Council for the stipulated forensic-based assessment. The prescribed forensic method was also requested by the CSSA at the oral hearing under reference ABP-308790, a position which is being respected by the Applicant.

As summarised in the submitted planning application, there is no evidence to suggest that there are any unrecorded burials on the subject lands and a consensus now exists amongst key stakeholders that any such burials took place some distance from the subject site within or adjacent to the Folly.

This view is supported by independent archaeological assessment. On February 26th, 2022 the Sisters of the Sacred Hearts of Jesus and Mary issued a statement and a two part assessment of the burial ground at Bessborough, Cork. This included an archaeological assessment prepared by Eachtra Heritage and a report on 'The Burial History of Bessborough Mother and Baby Home' prepared by Dr. Aoife Breathnach. Both reports were made publicly available through the Sisters of the Sacred Hearts of Jesus and Mary website at <http://www.sacredheartsjm.org/independent-historical-and-archaeological-report-burials-bessborough-2022>.

The archaeological assessment prepared by Eachtra Heritage reaches the following conclusions

1. *This is the first archaeological assessment of the burial ground at Bessborough not related to a planning application or hearing.*
2. *The Mother and Baby Homes Commission of Investigation did an archaeological review of Bessborough burial practices but no report was published so we cannot assess their work. We can say that the Commission discount the cartographic evidence that the children's burial ground was mapped and labelled in 1949–50.*
3. *The proposal that the children's burial ground was in the field north of the avenue was of value. We have assessed this hypothesis but believe all of the evidence points to the children's burial ground being in the enclosure attached to the folly.*
4. *We conclude that the enclosure attached to the folly is the feature around which the map label 'Children's Burial Ground' pivots. We note the map label is in two different locations on two different editions of the 1949–50 Revision map.*
5. *Annotations on the 1950 OS trace map are difficult to read but one potential reading includes the letters Ch which could refer to children. However, we do not have high confidence in our reading.*
6. *We favour the hypothesis that there was only ever one burial ground in Bessborough and that it contains both children and nuns.*
7. *We combine Dr Aoife Bhreatnach's work with that of the Commission of Investigation to suggest that children were buried here for a short period when the city-wide 'unclaimed dead' 'burial system was overwhelmed. The duration of the period of overwhelm is not known.*
8. *Analysis of nun's grave markers in Bessborough burial ground shows a tight sequence of burials which avoid two areas in the burial ground. We believe these two areas have potential to be where the children were buried. Alternatively the children and the nuns may be buried in the same areas of the burial ground.*

The assessment contains two recommendations, the first is that non-invasive geophysical survey be undertaken of two areas located immediately to the north and to the south west of the Folly (lands not in the ownership of the Applicant). The second recommendation is that a UAV/Drone mounted LiDAR survey of the broader Bessborough estate is carried out.

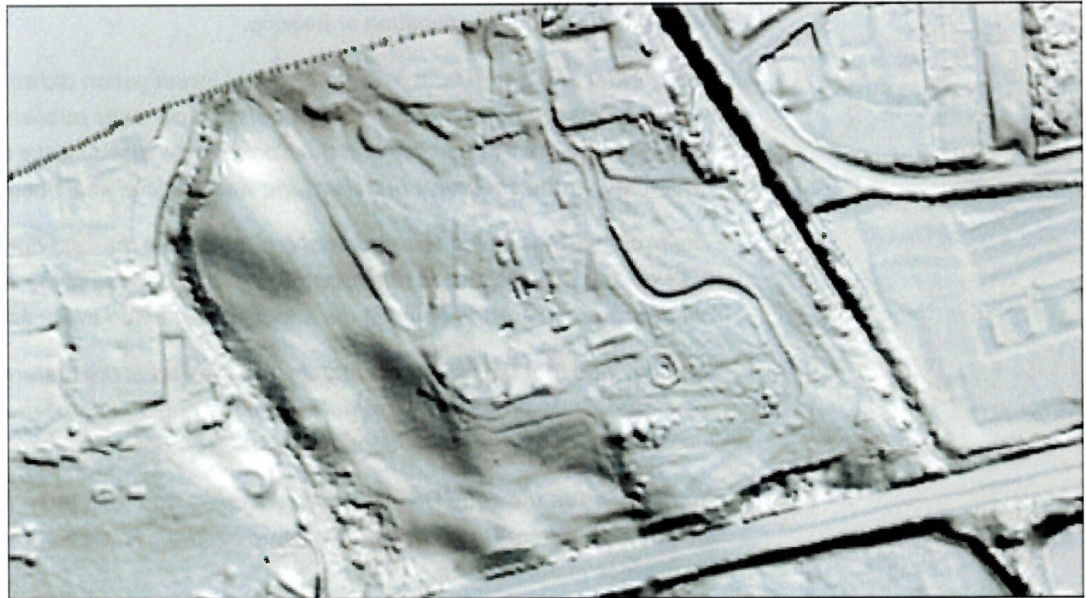


Figure 1. LiDAR imagery of the subject area (source from Geological Survey of Ireland)

Chapter 10 – Cultural Heritage of the EIAR that accompanied the subject LRD application included LiDAR imagery of the site in Figure 10.8 (shown here as Figure 1). Based on an assessment of the hillshade models created from these datasets Chapter 10 states that no traces of potential unrecorded archaeological sites within undeveloped areas of the property were observed.

As noted in the submitted application, archeological site investigations have taken place elsewhere on the estate lands and indicated no evidence of burials.

Notwithstanding the above, the Method Statement Forensic Control prepared by Aidan Harte of Munster Archeology⁴ makes provision for geophysical survey for areas identified through desktop review and detailed topographical survey as having potential for burials and states:

'5.3 Geophysical Survey – and other remote sensing techniques - should be considered for areas identified through desktop review as having potential for burials. This must happen prior to any further ground disturbance. Different techniques may be suitable at parts of the site with different ground conditions. Such techniques, such as Ground Penetrating Radar (GPR), LiDAR etc. may also be applied to specific liminal areas that may not have been impacted by previous ground works, such as adjacent to boundaries. All surveys must be conducted at an appropriately high resolution to produce meaningful results.'

Given the lack of evidence of burials on-site from developer-led or independent archaeological assessments, coupled with the consensus that any potential burials are focused around the Folly, and the proposed Forensic Control approach, including provision for geophysical survey, it can be

⁴ included as Appendix 10.4 of the EIAR and Appendix to submitted Planning Statement.

concluded that groundworks can take place on the subject site without any risk of disturbance of remains.

3.3 Planning History

Both appeals (items 6 – 19 of Appeal 1 and Item 1 of Appeal 2) refer to previous planning determinations within the Bessborough Estate whereby development was considered premature prior to the establishment of whether a burial site exists. The case for same is disingenuously presented as evidence of the potential presence of burials on the wider estate, inclusive of the subject lands. The Commission will note that a review of the particulars of these cases confirms the decisions to refuse were site-specific (focused on the area of the Folly) and based on the evidence as it relates to those specific applications. This is clearly captured in the decision orders made by An Bord Pleanála under references ABP-308790-20 and ABP-315820-23, as replicated below for ease of reference:

ABP-308790-20

"...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".

ABP-315820-23

"Having regard to the Board's decision to refuse permission for a previous application (ABP-308790-20), the Board is satisfied that 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...".

There is no ambiguity that the decisions reached under ABP-308790-20 and ABP-315820-23 are site-specific in nature and relate to precise information as it pertains to those applications. Again, the fundamental difference between those sites and other lands in Bessborough Estate, both developed and undeveloped, is the presence of the OS revision trace map produced in 1949/1950, which the Board interpreted as tangible evidence relating to the potential presence of a burial site at that location. This was in turn the basis for Cork City Council's decision to dezone the lands to the north of The Folly in the Cork City Development Plan 2022-2028.

In the absence of any evidence of potential burials on the subject site, the interpretative assessment applied under references ABP-308790-20 and ABP-315820-23 cannot reasonably be applied to the application before the Commission. Again, this important distinction between these

sites and the subject LRD site has already and very recently been made by the Commission under the refused SHD application on the subject site.

The principal focus of the Third Party appeals argument is on the applications on the lands immediately adjacent to the Folly. In doing so, they are notably silent on that fact that the majority of the 200 acres of land, which formed part of the Estate prior to the CPO in the 1970s has been developed for office, retail, industrial and residential uses. As indicated in the submitted application, and as illustrated again in the enclosed Site Planning History, there have been more than 60 planning applications in this time, with no fewer than 21 applications within the redrawn Bessborough Estate (Post CPO) alone since the year 2000. No evidence of unrecorded burials has been discovered as part of the significant development of the wider estate.

Appeal 1 - Item 8 references the CSSA and the OS trace map evidence regarding the burial site adjacent to the Folly during the oral hearing for on ABP-308790-20. This is presented as evidence of the potential for haphazard burials across the wider estate lands. As documented above, the CSSA are of the firm opinion that any unrecorded burials were likely to have taken place within or adjacent to the Folly only. As noted in their observation on the subject appeal, and based on the testimony of their members who lived in the Bessboro Mothers and Babies Home, they do not believe multiple or haphazard burials exist across Bessborough Estate.

"...their assertion that one documented children's burial ground supports their position for further haphazard burial places in the wider estate is unconvincing. As one CSSA mother said, 'there wasn't a blade of grass out of place' in that institution. The suggestion of multiple scattered burial locations contradicts the lived experience of survivors".

Based on the presentation in Appeal 1, attempts are being made to use evidence presented by the CSSA, which confirms their view that there was a single location for burials in Bessborough Estate, for the contrary, namely that it suggests wider haphazard burials across the estate. We respectfully submit that this is contradictory in nature.

While Appeal 1 purports to list planning applications where 'Risk of Potential Burials' were considered 'a Determinative Factor', it incorrectly references the Applicant's refusal of the Meadows (ABP 313216-22) which was not refused on any such ground. Further, and most concerning from the Applicant's perspective, is the misrepresentation of the facts provided in Appeal 1 (Items 12 and 13) and Appeal 2 (Item 3.1.1) in relation to the determination of the previous SHD application by the Commission on the subject site (ABP 313206-22).

Both appeals submit that on the basis of the Inspector's assessment of the SHD, that the proposed development should be refused on grounds of perceived uncertainty related to potential unknown burials. However, the appellants remains silent on the clear rationale that the Commission provided for discounting this and not accepting the Inspector's recommendation in relation to the subject site. Principally that it is remote from and not of a similar nature to the 'particularly sensitive areas marked as Children's Burial Ground immediately around the Folly' as identified at the oral hearing (ABP-308790-20). The fundamental difference is, and remains in the Commissions eyes, the existence of evidence as it relates to that application.

Appendix 9 of Appeal 1 includes a map showing the proximity of the subject site to the previous application sites adjacent to the Folly. No commentary is provided in Appeal 1 in relation to this map. From the presented planning history map, it is clearly illustrated that the subject site is located away from the Folly area, with significant intervening built form. Several other developments have been permitted and constructed in similar or greater proximity to the Folly than Blocks D and E, for example. This is clearly evident in Figure 02.

In relation to the previous SHD application on the subject site the Commission has unambiguously concluded as follows:

'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. Therefore, the Commission decided not to include this as a reason for refusal as recommended by the Inspector'.

Appeal 1 – Items 13 interprets this determination by the Commission that they have 'accepted the possibility of unrecorded burials but decided to address this by way of condition'. Again, the statements of the Commission as outlined clearly above cannot be directly interpreted as that. Such a view discounts the actual site-specific evidence in the subject case, as reflected in the work of John Cronin & Associates, Eachtra Heritage, Dr. Aoife Breathnach, as well as the testimony of the CSSA. The recommendation to attach a forensic-based archaeological condition under the SHD and now the LRD application is made by the Applicant to appropriately manage residual risk on this matter, and in respect of site history and ongoing engagement with the CSSA.

By way of observation, we note the loose language in the appeals whereby the term 'site' is used interchangeably with reference to the subject lands and then wider Bessborough Estate. This appears to be an intentional attempt to tie previous application commentary to the proposed development lands. Again, references to the 'site's previous use as a Mother and Baby Home' are equally applicable to other sites in the estate which have been successfully developed.

The appellant's readily acknowledge that a large part of the subject site is brownfield in nature. They paraphrase the Commission of Investigation report suggesting that burials on any part of the site cannot be ruled out and the only way to establish the position definitively would be excavate the entire site, inclusive of existing built properties. Given that large tracts of the estate have been developed over decades and are occupied for a mix of uses, this is not practical or achievable. In real terms, the appellants statements here do not alter the position of the Applicant who are fully committed to undertaking the conditioned scope of forensic archaeological investigations as part of the development of the proposed site.

We wish to highlight that a number of key stakeholders are firmly opposed to site-wide excavation of Bessborough Estate for the purposes of identifying any potential burial site. One party who have made their position very clear on this is the CSSA, who confirm again in their observation to the Commission that this is not required or supported by their members:

'The CSSAs mothers had to consider the disturbed condition of the site as they weighed the calls for excavation alongside their own health and time left in this world. Any surviving remains are likely fragmented and dispersed but the mothers came to terms with this knowing their babies' essence is on site... These women are first degree relatives of those who are buried in Bessborough. The demand for return of remains, and/or forensic confirmation of the existence of remains, to these women without their input or consent repeats the original trauma of the order's control over the burials. It is their right as parents and survivors to determine the best course of action in this matter'.

The proposed method for forensic investigation and monitoring respects all positions. It has been prepared by Aidan Harte, Forensic Archaeologist, who is familiar with the Bessborough Estate and the Mother and Baby Home Commission of Investigation. It is recommended that the specified forensic archaeological monitoring controls be secured by way of the recommended planning condition, a copy of which is enclosed again for reference in Appendix C of this response. This is informed by the clearly prescribed method by Aidan Harte. There exists a clear protocol for forensic monitoring and reporting to the highest standard, which will be independent and beyond reproach.

3.4 Implementation

It is submitted in the appeals that the Commission should be bound in their assessment of the subject case by their previous judgements made in respect of ABP-308790 and ABP-318520. As already addressed in this response, there are fundamental site context and assessment differences between the subject site and those located adjacent to the Folly in the estate. As part of their assessment of the previous SHD, the Commission have already made a clear and correct distinction between these sites. It is further submitted in the appeals that An Coimisiún Pleanála are precluded from attaching conditions of the nature applied by Cork City Council in the subject case (Condition No. 10). It is implied that such conditions are not in accordance with the Development Management Guidelines for Planning Authorities, and that there are implications in terms of compliance with the Coroners Act 1962 and the Institutional Burials Act 2022, should burial remains be found during project implementation.

The Applicant had associated matters reviewed by means of a formal legal opinion by David Browne SC, which is appended to this response. This opinion confirms that there is no element of 'res judicata' in the subject case which would see the Commission bound by the previous decisions under ABP-308790-20 and ABP-315820-23). Secondly, it has been confirmed that there is no preclusion on the part of the Commission from including a condition the same or similar to Condition No. 10 of the Council's decision to grant of permission.

'In summary, I am of the view that the Commission is not precluded from granting permission, subject to a condition like Condition 10 in the Council's Decision, if it is of the view that it is consistent with proper planning and sustainable development.

In my view, there is no legal preclusion on the Commission reaching that view and it is clearly one that is open to it in the exercise of its evaluative judgment.

The fact that the Commission has previously refused permission for developments because of legacy issues arising from the Mother and Baby Homes Commission of Investigation does not preclude the Commission from granting permission for the proposed development, provided that it sets out its rationale for doing so.

The recent decision of 23 July 2025 (ABP-313206-22) suggests that the Commission has already identified reasons for distinguishing from its earlier decisions, albeit that it refused permission for different reasons in that case, and that the Commission was of the view that, subject to forensic monitoring, residential development could be permitted.'

Having regard to the prepared legal opinion, it is evident that the Commission have full discretion to apply a suitably worded condition to secure the recommended forensic investigation and monitoring method.

The general appeal comments on potential implications related to the Coroners Act 1962 and the Institutional Burials Act 2022 were addressed in the submitted planning application⁶. While not common the discovery of human remains during the development of lands it has and does occur. There is a legal framework for dealing with such occurrences. In the unlikely scenario where human remains are discovered as a result of development, any such discoveries must be reported to An Garda Síochána, and referred to the Coroner in accordance with the Coroner's Act 1962. There is an existing and clear legal basis for this, a procedure that has been applied in a number of development projects.

As highlighted above, the Institutional Burial Act 2022 was approved by Government on February 22nd, 2022 and commenced as The Institutional Burial Act 2022 on 1st July 2022. There are no changed circumstances in respect of this Act since the determination of the SHD application. The Act 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 Office of Director of Authorised Intervention will be established where the Government are satisfied that based on available evidence inappropriate burial have taken place on lands associated with an institution. The evidence includes any expert technical reports or other reliable information in respect of the burials and any reliable and corroborated statement made by a person with knowledge of the burials concerned. The functions of the Office of Director of

⁶ See Section 5.4 of the submitted Planning Statement.

Authorised Intervention include the excavation and recovery of human remains buried in a manifestly inappropriate manner.

Within all this, the Act underlines the importance of a forensic based approach to intervention.

“The excavation, recovery and analysis of remains requires specialised, distinct skillsets. It is critical that that this work is undertaken at a forensic-standard by appropriately qualified individuals so that any evidence recovered is sufficient to satisfy legal requirements in relation to the identification of remains”.

The proposed approach is consistent with this. Any investigations will require evidence in the form of expert technical reports, similar to the reports it is proposed to prepare prior to any ground disturbance.

The submitted Planning Statement also addresses compliance with the Development Management Guidelines for Planning Authorities. None of the commentary raised in Appeal 2 alters this context.

Separately we note Appeal 2 (Item 3.1.1) claims that the decision is also contrary to Circular NRUP 05/2022, which requires Planning Authorities to ensure locations where there is evidence of unrecorded burial sites, are preserved and protected. No clear justification is set out for this claim. A review of the circular in question confirms that local planning authorities have “*scope to formulate objectives in development plan review or variation processes for the purpose of preserving and protecting unrecorded burial sites...where planning authority (on the basis of information before it) considers that there is a reasonable possibility that unrecorded burials associated with the former institutional use of the site*”. There is no evidence of unrecorded burials on the subject site, and accordingly, Cork City Council have not exercised any right in the subject case to review their development plan. The approach of the City Council is different to that area to the north of The Folly and which in accordance with Circular NRUP 05/2022 they decided to dezone during in the 2022 Cork City Development Plan.

We note that the circular highlights that “local authorities, acting in their capacity as planning authorities in respect of individual planning applications..” have discretion to apply conditions to potential development as considered appropriate. Notwithstanding the absence of any clear evidence of unrecorded burials on the subject site, the Council have applied Condition No. 10 to give effect to forensic investigation and monitoring approach proposed by the Applicant. There is no case of non-compliance with Circular NRUP 05/2022.

3.5 Other Legacy Matters

We note that the Appellants seek to indirectly undermine the independently commissioned and prepared evidence of Eachtra Heritage and Dr Aoife Bhreatnach on behalf of the Sisters of the Sacred Hearts of Jesus and Mary. As outlined, this work supports the hypothesis that there was only 1 no. burial ground at Bessborough Estate and this is located near the Folly. Appeal 2 suggests that no reliance can be had to this work as it is “*no longer available publicly on the website of the Sisters of the Sacred Hearts of Jesus and Mary*”. A quick review of the website in question confirms that this statement is incorrect and that the reporting is readily available on the

website in question - <http://www.sacredheartsim.org/independent-historical-and-archaeological-report-burials-bessborough-2022>. The findings of these reports are widely referenced and accepted as important evidence in the context of legacy matters associated with Bessborough Estate.

There are some worrying statements in the appeals about a perceived lack of memorialisation on the Applicant's lands. Regrettably, this confirms to the Applicant that the submitted application has not been reviewed in full. As set out at the start of this appeal response, the devised Masterplan for the site includes focused memorialisation including a Remembrance Park, a National Memorial and Records Centre and 'Farm Girl' memorial in the 'The Farm' development. The sensitive approach has been developed in consultation with the CSSA reflecting the wishes and feedback of their members.

3.6 Environmental Impact Assessment Report (EIAR)

Chapter 10 – Cultural Heritage

Appeal 1 (Items 20 – 29) claim that Chapter 10 of the EIAR is deficient, as it fails to demonstrate that effects are understood and mitigated prior to a grant of permission. It states that the forensic method statement by Aidan Harte is monitoring-based and does not provide for certainty pre-decision or thereafter during construction phase. It is submitted that the proposed monitoring during construction does not guarantee that all unrecorded burials would be identified, as the approach is not considered by the appellant to be systematic enough.

The Applicant disagrees strongly with this assertion, which has been reviewed the project archaeologists John Cronin and Associates. They confirm again that there is no evidence or indication of burials associated with the former Mother and Baby Institution within the proposed development site. In addition, the appellants have not presented any evidence for undocumented burials within the development areas. Notwithstanding this, the EIAR Cultural Heritage chapter has applied an abundance of caution and has therefore included consideration of the possibility of burials or human remains being discovered within the development site.

In relation to Appeal 1 – Item 20 the Project Archaeologist considers that it is not usual for adverse effects to be 'mitigated prior to the grant of planning permission' as Appeal 1 appears to consider to be required. Similarly, the EIAR does not have to 'resolve the uncertainty in relation to burials', however the EIAR does outline mitigation measures to allow for the identification of such burials if they are present within the proposed development area. The approach is methodologically sound.

The Project Archaeologist notes that the Planning Authority did not request archaeological testing to inform the LRD application. The previous applications referenced by the appellants (ABP-308790-20 and ABP-318520-23) were within greater proximity to the known burial ground that served the convent. The EIAR does not seek to deliver a comprehensive, pre-permission site characterisation of potential burial areas across the estate as that was outside the scope of the EIAR. The Project Archaeologist confirms that archaeological monitoring is a proven method for the identification of human remains (and other archaeological remains) during the course of

development works⁵. They contest the appellant's assertion that the Article 5 minimum requirements on information to be included in an EIAR are not complied with. We note that under the SHD application, the Commission reviewed accepted the findings of the prepared EIAR.

Appeal 1 contends that there is no real clarity on suspension of works (if burials are found) and a requirement for re-design of the project if needed. The submitted method statement for the works, as prepared by Aidan Harte, clearly prescribes that should remains be identified in situ or ex situ, then areas of search or excavation will be stopped and the Coroner notified. Direction will be sought from the Coroner on next steps consistent with any identification of human remains on any development site. The planning legislation allows for the making of planning applications for design revisions and / or the extension of duration of any permission, where required, through formal statutory process.

Chapter 3 – Alternatives

Appeal 2 (Item 3.1.3) suggests the EIA approach to assessing alternatives is not appropriate, stating that no alternative locations were considered for the proposed development, whilst noting that the majority of the site is zoned ZO 17 Landscape preservation zone.

The legislation governing the assessment of alternatives as part of the EIA process is set out in the (EIA) Directive 2014/52/EU (as amended). Article 5 (1) (d) of the Directive states that an EIAR must contain inter alia:

“a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment”.

The Guidelines for Planning Authorities and the Commission on carrying out Environmental Impact Assessment (DoHPLG, 2018) states that for reasonable alternatives *“the Directive requires that information provided by the developer in an EIAR shall include a description of the reasonable alternatives studied by the developer. These are reasonable alternatives which are relevant to the project and its specific characteristics”.*

and

“The type of alternatives will depend on the nature of the project proposed and the characteristics of the receiving environment. For example. Some projects may be site specific so the consideration of alternative sites may not be relevant. It is generally sufficient for the developer to provide a broad description of each main alternative studied and the key environmental issues associated with each”.

⁵ The prescribed method from Aidan Harte includes Stage 1 geophysical survey and other remote sensing techniques in advance of any ground disturbance.

The EPA guidelines also note that *"higher level alternatives may already have been addressed during the strategic environmental assessment (SEA) of relevant strategies or plans. Assessment at that level is likely to have taken account of environmental considerations..."*

The subject lands is appropriately zoned for development in an operative development plan, which has been subject to SEA. It is not clear from the appeal comments if the appellant understands or accepts that the proposed development is permitted in land use terms⁷ and that the site-specific zoning objective identifies in a prescriptive manner that development is allowed in the area to the north of Bessborough House. This has been the subject of detailed discussions with the local planning authority.

In relation to the first point raised, regarding an alternative location, as noted in Chapter 3 of the EIAR, Section 3.4.1 of the 2022 EPA Guidelines, recognise that:

'in some instances some of the alternatives described below will not be applicable' – e.g. there may be no relevant 'alternative location'.

The EIAR outlines that this was the case in the subject case, where the Farm and the adjoining Meadows site are the only zoned lands in the applicant's landholding.

In relation to the second point raised, Appeal 2 considers that alternative uses, other than residential, should have been considered in the ZO 17 Landscape Preservation Zoning, where it states "there is an explicit Development Plan presumption against development". The full text from ZO 17.2 of the CDP is included below and does not preclude all development as the appeal states, but notes that some sites have limited development potential with development open for consideration where it achieves the site-specific objectives set out in Chapter 6.

'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.'

In the case of the Bessborough Estate Chapter 6 sets out a site-specific objective 'to allow development within the immediate environs to the north of Bessboro House consistent with the landscape and protected structure significance of the site' (ref Figure 5).

SE 4	Bessboro House	J, G, C, B, I	• 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.
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Extract from Table 6.9 of the CDP

⁷ The principle of development has been confirmed by Cork City Council on numerous occasions through the SHD and LRD processes.

The proposed development delivers upon all 3 no. site specific objectives, as set out in detail in the submitted Planning Statement.

The Landscape Plan prepared by Ilsa Rutgers Landscape Architecture is based on extensive research into the historic landscape and the plan proposes to sensitively re-instate this as a public parkland.

The proposed development is a commercial project, set within institutional lands where there are landscape sensitivities. The consideration of alternatives has considered the nature of the proposed project and character of the receiving environment. This includes the reuse of historic buildings and the placement of new structures, the location and design of which has evolved through discussions with the Council. The consideration of alternatives has also evolved through discussions with the CCSA and the development of options for appropriate memorialisation across the lands. The presented alternatives are reasonable, comply with guideline tests and have been accepted by the local planning authority.

3.7 Apartment Guidelines

Appeal 1 – Items 42 – 49 stated that there should be no reliance on the *Design Standards for Apartments, Guidelines for Planning Authorities 2025*, including SPPR 1 on apartment mix, to overcome the previous refusal reason on site. Reference is made to the fact that these guidelines are currently the subject of legal challenge.

The Design Standards for Apartments, Guidelines for Planning Authorities for Planning Authorities set national planning policy and guidance in relation to the planning and development of apartment schemes to take account of current Government policy and economic, social and environmental considerations. They were issued pursuant to Section 28 of the Planning and Development Act 2000, as amended and remain a material planning consideration in the assessment of planning applications. The Government are defending the legal proceedings and are also preparing a new "National Planning Statement" under the Planning and Development Act 2024 which will also reflect the national housing mix policy. The application included a statement on housing mix, which set out the rationale for the proposed housing mix, which Cork County Council have accepted is in compliance with guidelines.

3.8 Perceived Piecemeal Development

Appeal 2 – Items 3.1.4 considers the development as proposed represents piecemeal and ad hoc development. Page 44 of Appeal 2 incorrectly states that no Masterplan has been submitted with the planning application. Again, and regrettably, it is evident to the Applicant that the appellant has not reviewed the submitted application in full, which is of concern. We refer the Commission to Pages 37-71 of the Architect's Design Statement prepared by Shipsey Barry Architects where the Masterplan is set out in detail.

We fully concur with Appeal 2 – Page 43 which states that:

'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'.

We refer the Commission to the Landscape Masterplan and the Landscape Design Strategy prepared by Ilsa Rutgers Landscaping. The latter clearly sets out the research undertaken into the historical landscape context and includes an Historic Landscape Assessment prepared by Forestbird Landscape Architects for the wider Bessborough Estate. The Forestbird Landscape Architects Report contains an inventory of current landscape elements, classifies areas of differing landscape importance, and based on this classification sets out appropriate mitigation measures. The Landscape Design Strategy was closely informed by this and includes a specific section on the landscape response to the site specific zoning objectives.

The appellant takes issue with the application for Phase 1 The Farm being brought forward in advance of the adjacent Phase 2 The Meadows and cites this as further indication of piecemeal development. This view is not substantiated in any way. A rationale for the making of the two applications is set out in the submitted application, which appears to have been missed by the appellant. However, we ask the Commission to note that while the applicant previously submitted the two SHD applications for these sites together (ABP-313206-22 and ABP-313216-22), the design changes requested by the Council at The Meadows LRD S247 Meeting militated against the LRD applications being submitted concurrently. Work is currently progressing on the design of The Meadows application.

Appeal 2 considers that that the Conditions 3 and 4 of Council's grant (to omit Block 3 and the fifth flood of Block E) make the scheme more disjointed and ad hoc. The Commission will be aware that the applicant has submitted a First-Party appeal to omit these conditions. However, we consider the appellant is overstating the case when they consider that these amendments '*radically alters the nature of the development to which the application relates*' and are therefore unacceptable.

3.9 Human Rights

Appeal 1 (Items 30 – 32) claims the Planning Authority's decision is incompatible with and constitutes interference with fundamental human rights. The appended letter (Appendix 10) to the appeal speaks generally about perceived wider state obligations regarding deaths and disappearances in Mother and Baby Homes, including Bessborough. It includes general criticism of the Mother and Baby Homes Commission of Investigation, which is the focus of the submission as opposed to any detailed assessment of how human rights are infringed by the proposed development. Innate in any Inference that human rights are infringed is an implied view that there are unknown burials on the subject site. Again, there is no evidence which points to the presence of remains on the subject lands. The appellants have not put forward any evidence to support their general claim on same.

No human rights are infringed in the subject case. Statutory planning procedures have been followed in full accordance with planning legislation. This has included prescribed public consultation periods, press, site and website notifications, and the ability of persons to make submissions / observations on the file, and appeal the decision of the local authority has not been

circumvented in any way. The decision of the Council to grant planning permission provides clear reasoned judgements related to the decision making. In accordance with legislative requirements, the decision has been made having regard to the proper planning and sustainable development of an area, the provisions of the development plan, Guidelines issued by the Minister, other relevant Ministerial or Government policies, and any submissions or observations made in accordance with the Planning Regulations.

The appellant highlights the need for respect for human dignity and a right of remedy for 'violations' of human rights. In the subject case, we note the observation by the CSSA on the file regarding different views of stakeholders about what actions can and should be taken on the site in respect of any unknown human remains, as well as the important wishes of survivors. On that basis, the appeal made would not appear to speak for other or all key stakeholders in the process.

04. Conclusion

The applicant fully acknowledges the sensitivities relating to the wider Bessborough Estate lands arising from its previous use as a Mother and Baby Home. They recognise, respect and sympathise with the challenges of family, friends and others seeking closure on unanswered questions related to associated legacy matters. The views of everyone who contribute to the discussion on this is valid and should be heard. From a review of the appeals and submission from the Cork Survivors & Supporters Alliance (CSSA), it is evident that there are differing views on aspects related to the potential resolution of legacy issues.

The history of the wider estate has been a foremost consideration of the Applicant in devising plans on what are appropriately zoned development lands. They have developed a detailed Masterplan for their lands in consultation with the CSSA over a period of more than 5 years. Alongside the provision of new homes and community at one of the most sustainable locations in Cork City, the proposals provide for significant memorialisation of legacy matters to include a Remembrance Park, a National Memorial and Record Centre, alongside other focused points of memorial requested by the CSSA. In all of the work undertaken, the Applicant has worked diligently to sensitively respect and reflect the social site history of the wider estate. The CSSA recognise that significant public good can come out of the potential development of these lands and that this is being delivered in accordance with their input and wishes.

In assessing the SHD application on the subject lands (Under ABP-313206-22), An Coimisiún Pleanála has recently adjudicated on the principal matter associated with the subject appeals. Referencing 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. The distinction made by the Commission is unambiguous that there are no legacy matters that would preclude a grant of permission on the subject site. This echoes the objective decision making of Cork City Council, who have consistently supported development on the subject lands.

The facts of the subject case remain that the lands are appropriately zoned for the proposed development and that there is no evidence to suggest that there is any unrecorded burials at the subject location. Notwithstanding this, a precautionary approach is proposed in respect of the development of the subject lands via a programme of archaeological investigation/monitoring of all ground works be undertaken by a suitably-qualified forensic archaeologist. The parameters for this work have been defined by means of a prescriptive method statement which has been prepared by Aidan Harte, Forensic Archaeologist, who acts for the State on other sites of sensitivity, and is familiar with the Bessborough Estate and the Mother and Baby Home Commission of Investigation. There exists a clear protocol for forensic monitoring and reporting to the highest standard, which will be independent and beyond reproach. As demonstrated in this response, including supporting legal opinion, the Commission can secure the implementation of this protocol by means of applied planning condition.

In assessing ABP-313206-22, An Coimisiún Pleanála have already adjudicated on the proposed development. The single grounds for refusal on that SHD application in 2025 related to housing mix which is addressed in the application, as acknowledged by Cork City Council. There are no other impediments to approving the subject scheme. The design of the proposed development has been informed by an understanding of the site context and the requirement to comply with planning and environmental legislation and has had full regard to evolving planning policy and the assessments of Cork City Council and An Coimisiún Pleanála. The proposed development offers a unique opportunity to transform this under-utilised site and associated lands into a vibrant new neighbourhood, which will contribute to the supply of much needed housing in Mahon, what is probably going to be the most highly sustainable location in Cork City having regard to investment committed to sustainable travel. There are no historic landscape impediments to the development proposed, but dereliction of landscape has been occurring across the lands for decades. A programme of landscape mitigation measures to reinvigorate the historic landscape and evolve it into a public amenity, complete with interpretation and commemorative space is proposed. The prepared Masterplan, of which The Farm is a key component part, is sensitive in approach.

Having regard to the above, it is respectfully submitted that the two Third Party appeals do not raise any legal or planning grounds that would justify a refusal of planning permission. We request that the Commission uphold the decision of Cork City Council to grant permission for the proposed development, subject to the omissions requested under the First Party appeal.

If you have any queries on the contents of this appeal, please do not hesitate to contact us.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Conor Frehill', written over a horizontal line.

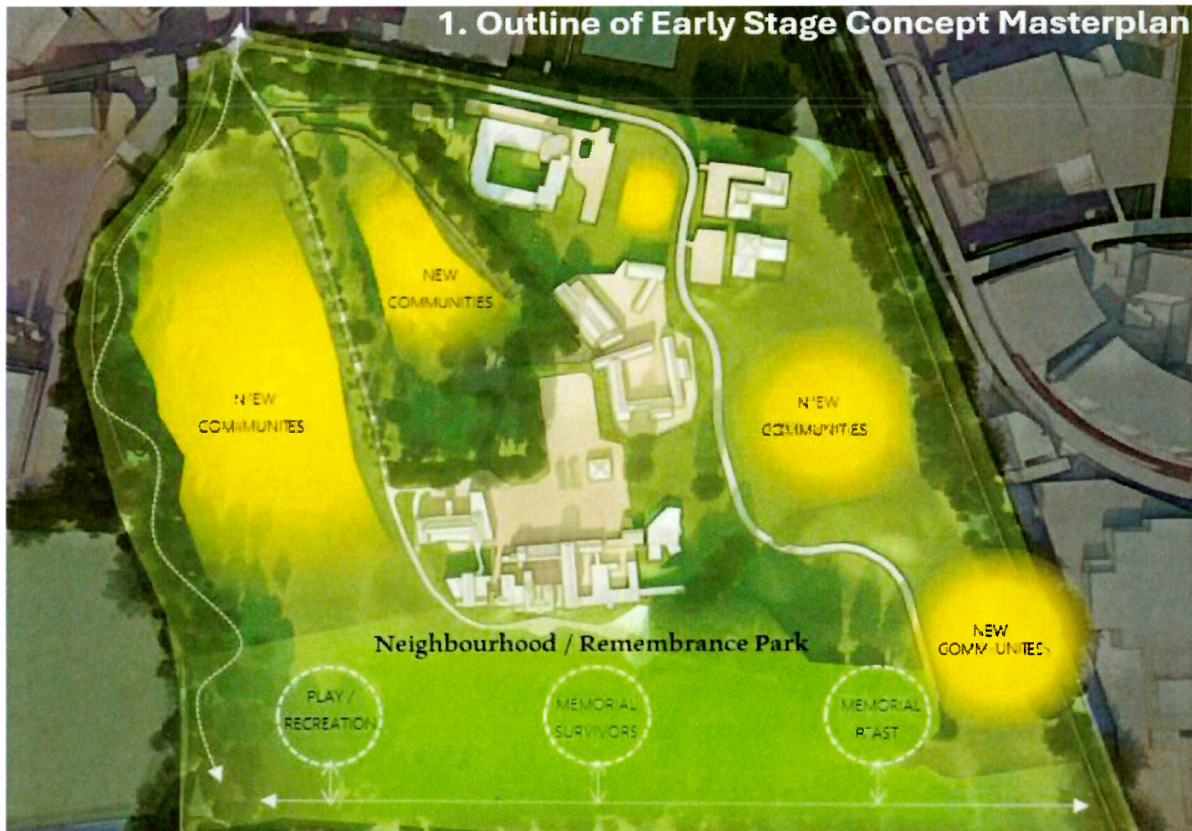
Conor Frehill
HW Planning

Enclosures

- Appendix A – Masterplan Extracts
- Appendix B - Legal Opinion prepared by David Browne SC
- Appendix C – Recommended Planning Condition (as submitted to Cork City Council)

APPENDIX A:

Masterplan Extracts





Appendix B:

Legal Opinion prepared by David Browne SC

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Re: Proposed LRD at Bessborough, Ballinure, Cork

Introduction

1. I have been asked to provide an opinion on the legality of Condition 10 (or a condition of equivalent or similar wording) of the Notification of Decision to Grant (the “**Decision**”) of Cork City Council (the “**Council**”) of 24 February 2026 (Planning Reference 25/44442), which issued subject to 70 Conditions.
2. I am instructed that the context for the query is that Querist has sought permission for a Large-Scale Residential Development (“**LRD**”) at a site referred to as “The Farm” and located at Bessborough, Ballinure, Cork which, if permitted, will consist of a residential development of 140 apartment units and the demolition of 10 existing farmyard structures.
3. The application was received by the Council on 22 December 2025 and, as noted above, the Council’s Decision issued on 24 February 2026.
4. This was appealed by a local councillor, Peter Horgan and by the Bessboro Mother and Baby Home Support Group represented by FP Logue solicitors who lodged an appeal with An Coimisiún Pleanála (the “**Commission**”) on 20 March 2026.

5. The FP Logue appeal refers to the background context of the site and the Mother and Baby Home Commission of Investigation and states that there were multiple accounts of direct testimony to the Commission of Investigation about on-site infant burials, which was recognised in the Commission's Fifth Interim Report. The FP Logue appeal also refers to the planning history of the site and states that the Commission has twice refused major schemes within the Bessborough curtilage, citing the unresolved risk of on-site burials.
6. The appeal referred to a decision of what was then An Bord Pleanála (the "Board") of 25 May 2021 (ABP-308790-20)¹ where the Board Order stated that, having regard to the conclusions of the Fifth Interim Report (2019) and Final Report (2020) of the Commission of Investigation into Mother and Baby Homes and to the mapping information submitted to the Board during the course of the application and at the oral hearing, the Board considered that there were reasonable concerns in relation to the potential for unrecorded burials within the application site associated with the former use of the lands as a Mother and Baby Home over the period 1922-1998. The Board Order also stated that it would be premature to grant permission for the proposed development prior to establishing if there are unrecorded burials within the site, the extent of any such burials and the implications for the future development of the lands.
7. The FP Logue appeal also referred to a separate decision of the Board of 13 September 2024 (ABP-315820-23) which refused permission for the construction of 92 apartments for two reasons. The first reason for refusal was that:
8. *"Having regard to the Board's decision to refuse permission for a previous SHD 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*

¹ That application (referred to as the "Gateway View SHD") was for 179 apartments and was submitted by MBW Two Limited on 30 November 2020 as an SHD application.

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”.

9. While the wording was slightly different it is clear that the basic reasoning was that the Board’s concerns and reasons for refusal in its decision of 25 May 2021 had not been addressed.
10. This wording is also similar to the recommended reason for refusal in the Inspector’s Report but does contain the wording underlined which the Inspector’s Report does not. The FP Logue appeal has also emphasised this wording and makes the argument that in light of what it refers to as “accepted likelihood” of unrecorded burials on site and the fact that works cannot proceed where these are found, given the statutory obligations in the Coroner’s Act 1962 and the Institutional Burials Act 2022, there is a low likelihood of the permission being implemented within the appropriate period (i.e. 5 years) and cites s.34(3)(c) of the Planning and Development Act 2000 (the “**2000 Act**”) in that regard.
11. Therefore, I will set out in this opinion whether the Commission can lawfully attach a condition like Condition 10 in the Council’s Decision in any decision to grant permission. I have not set out any views on whether the Commission *should* grant permission and nor have I addressed the other issues raised in the FP Logue appeal.
12. In my view, there are two issues to be addressed, and I will address these in turn. The first, which I will refer to as the “prematurity issue” or “legacy issue”, is whether the Commission is precluded from granting permission on the proposed development or can grant it subject to a condition like Condition 10 in the Council’s Decision. The second is whether there is an element of *res judicata* and whether the Commission is bound by the previous decisions of the Board referred to above.

Prematurity Issue

13. In respect of the first issue, I do not think that there is any legal preclusion on the Commission attaching such a condition although it may only do so if it considers on balance that the permission, as conditioned, would be consistent with the proper planning and sustainable development of the area.
14. I also do not read the FP Logue appeal as stating in terms that the Commission *cannot* grant permission but rather that it might mean that the development is not viable as there may be a “low likelihood” of the permission being implemented, given the wording of s.34(3) of the 2000 Act which I will address later in the opinion.
15. The starting point is that, as the proposed development is LRD, the application is made subject to s.34 of the 2000 Act subject to any modifications by the Planning and Development (Amendment) (Large-Scale Residential Development) Act 2021 (the “**2021 Act**”).
16. There is a general power in s.34(1) to grant permission, subject to or without conditions or to refuse it, and it is a very broad power. The only statutory constraint is in s.34(2)(a) of the 2000 Act which states that when making its decision in relation to an application under this section, the planning authority *shall be* restricted to considering the proper planning and sustainable development of the area, having regard to inter alia the matters referred to in s.34(4).
17. The Commission may decide planning appeals as if the planning application had been made to it in the first instance, as per s.37(1)(b) of the 2000 Act and, as noted in *Shadowmill Ltd. v An Bord Pleanála*², s.34(1)-(4) of the 2000 Act applies, subject to any necessary modifications, as it applies to the determination of a planning application by a planning authority.

² [2023] IEHC 157, para.190.

18. Section 34(4) states conditions under subsection (1) may, without prejudice to the generality of that subsection, include “all or any of the following” and identifies a list of specific condition types. This includes s.34(4)(h) which allows a planning authority (and the Commission on appeal) to include conditions for determining the sequence and timing in which and the time at which works shall be carried out.
19. There is no legal obligation in s.34 of the 2000 Act which *requires* an application to be refused on the grounds of prematurity whereas the decision-maker can grant permission subject to conditions regulating *how* the development should be carried out, i.e. whether it should be carried out in specific phases and the timing of such phases. Furthermore, the Planning and Development (Large-Scale Residential Development) Regulations 2021 (S.I. No.716 of 2021) (the “**LRD Regulations**”) expressly provide that LRD applications can include phasing proposals.
20. Ultimately, in adjudicating on an application for planning permission, the decision-maker is required not only to consider whether to grant or refuse planning permission, but must also consider the question of what conditions, if any, should be attached to the grant of planning permission.
21. As the High Court stated in *Kenny Homes & Co. Ltd. v Galway City and County Manager*³, in the context of s.26 of the Local Government (Planning and Development) Act 1963, one of the matters which has to be decided, in the event of a planning authority deciding to give a permission, is whether it should be subject to or without conditions. As Blayney J. said, the choice is not simply between granting permission and refusing it. It is between granting permission "subject to or without conditions "or refusing it. So, where a planning authority decides to grant a permission, it must then go on to consider whether it will attach conditions or not. That is an essential part of its function under the section.

³ *Kenny Homes and Co Ltd v Galway City and County Manager* [1995] 1 I.R. 178 at 187.

22. In my view, the same principle applies to s.34 of the 2000 Act given the similarity of wording with s.26 of the 1963 Act. It follows that the Commission should consider whether certain conditions can be attached or not and that, subject to such conditions, whether permission should be granted or not.
23. The other key consideration is that, when imposing a planning condition, the planning authority must ensure that the condition is reasonably related to the permitted development and is not being imposed for an *ultra vires* or ulterior motive.
24. In *Pyx Granite Co Ltd v Minister for Housing and Local Government*,⁴ Lord Denning stated that although planning authorities are given wide powers to impose such conditions as they think fit, nevertheless valid conditions must fairly and reasonably relate to the permitted development.⁵
25. In *Newbury District Council v Secretary of State for the Environment*,⁶ Viscount Dilhorne treated the scope of the concept of “material considerations” in s.29(1) of the Town and Country Planning Act 1971 as the same as the ambit of the power of a local planning authority to impose such conditions “as they think fit” on the grant of planning permission. It was held that the conditions imposed must be for a planning purpose and not for any ulterior one, and they must fairly and reasonably relate to the development permitted. In addition, they must not be so unreasonable that no reasonable planning authority could have imposed them.⁷
26. The decision in *Pyx Granite* was followed in *Hanrahan Farms Ltd v Environmental Protection Agency and Others*.⁸ The applicant was granted planning permission for a 1,000 sow breeding pig unit and made an application to the first respondent for an integrated pollution control (IPC) licence in relation to the operation of its piggery.

⁴ [1958] 1 Q.B. 554.

⁵ See also *Fawcett Properties Ltd v Buckingham County Council* [1961] A.C. 636 and *Mixnam's Properties Ltd v Chertsey UDC* [1965] A.C. 735.

⁶ [1981] A.C. 578 at 599.

⁷ See also *Quinlan v An Bord Pleanála* [2009] IEHC 228 at p.25.

⁸ [2012] 3 I.R. 417.

27. It was held that a condition imposed on a licence granted by the EPA under the Environmental Protection Agency Act 1992 must be for a legitimate environmental purpose and must fairly and reasonably be related to the licensed activity.⁹ On the facts, it was held by Smyth J. that the imposition of the conditions was authorised and was imposed for the purposes set out in the 1992 Act. When the condition was read in context, it was clear that it was intended to control emissions and that the means by which this was to be done was by reduction in the level of intensity at which the activity could be carried on.¹⁰

28. In *Killiney and Ballybrack Development Association Limited v The Minister for Local Government*¹¹, Henchy J. referred to s.26(2) of the 1963 Act and stated:

"It will be seen, therefore, that the power to impose a condition in development permission must be exercised within the limitations imposed by s. 26. In deciding whether the grantor of the permission has kept within those limitations, it is necessary to look not only at the terms of the condition but also at the reason which the section requires to be given in support of it. If the reason given cannot fairly and reasonably be held to be capable of justifying the condition, then the condition cannot be said to be a valid exercise of the statutory power. For instance, if the reason given is the attainment of an objective, and compliance with the condition could not possibly attain that objective, the condition will be held bad because it was given for an unreasonable reason."

29. Furthermore, in *Weston v An Bord Pleanála*¹², McMenamin J. stated that, provided that the condition lies outside the scope of any specified condition, it may, subject to the objectives of the Act and rational justification, be imposed. Unless the power exercised comes within the scope of any one of the 17 specified circumstances (when it will require to be strictly construed), the power otherwise, and the jurisdiction vested, is a "general" one, provided it is lawfully and rationally imposed in the interests of proper planning and sustainable

⁹ [2012] 3 I.R. 417 at 429.

¹⁰ [2012] 3 I.R. 417 at 431.

¹¹ [1978] I.I.R.M. 78.

¹² [2008] IEHC 71.

development. Thus, such a condition to be justified in law must rationally accord with the stated objectives of proper planning and sustainable development.

30. In the *Weston* case, McMenamin J. also referred to the judgment in *Ashbourne Holdings v An Bord Pleanála and Cork County Council*¹³ to the effect that a condition could be imposed under s.34(1) even if not within the scope of the specific conditions identified by s.34(4).
31. This was cited with approval in the *Shadowmill* case where Holland J. stated (§304) that *Ashbourne Holding* and *Weston* establish that, as a general proposition, a planning condition, other than one of a kind listed in s.34(4) of the 2000 Act is valid if it rationally accords with stated objectives of proper planning and sustainable development and fairly and reasonably relates to the permitted development.
32. Therefore, in my view, a condition which is legitimately and objectively connected to ensuring that a grant of permission is consistent with the proper planning and sustainable development of the area is *prima facie* lawful and it would require express language in s.34 of the 2000 Act to exclude a particular condition.
33. In order to assess whether a particular condition is lawful, it is necessary to address the following criteria. First, a condition should be relevant to planning, and, in particular, to the permitted development. Secondly, a condition must be precise. For example, in *Dun Laoghaire Corporation v Frescati Estates Ltd*¹⁴ it was held that, in the absence of an express condition, the developer could not be required to maintain or preserve an existing structure on the basis of a reference in the application to retaining the structure. Thirdly, a condition must not be unreasonable.

¹³ [2003] 2 I.R. 114.

¹⁴ [1982] I.L.R.M. 469.

34. In my view, the starting premise here is that a condition, like Condition 10 in the Council's Decision, is *prima facie* lawful as it is not excluded from the statutory language in s.34 of the 2000 Act.
35. Secondly, it does not appear to me to be inconsistent with a legal understanding of the term "proper planning and sustainable development", but it is a matter for the Commission as to whether it *might* grant permission subject to such a condition in the exercise of its expert judgment.
36. Thirdly, the Commission could impose a condition which regulates the phasing and timing of the development, as per s.34(4)(h) which I have referred to above.
37. Section 34(4)(h) allows a planning authority to specify the phasing for a permitted development, for example if it was envisaged that a development would take place in a number of phases or where a permission may require some other type of infrastructure before it could be commenced or be completed.
38. Thus, as confirmed in *Parolen v Drogheda Corporation*¹⁵ a condition regarding the relationship between different phases of a development is *intra vires* although, as recently stated in *AAI Baneshane Ltd. v An Coimisiún Pleanála*¹⁶, the decision-maker has such a power but not an *obligation* and is not obliged to save an application by conditioning it differently from how the application was made.
39. Fourthly, as a matter of law, a development cannot be carried out if it requires other statutory consents. The FP Logue appeal refers to the Institutional Burials Act 2022 and the necessity to carry out an inquiry or forensic analysis. In that regard, it relies on s.34(3) to say that there will be a material risk that the development will be delayed.

¹⁵ *Parolen v Drogheda Corporation* [2003] IEHC 8.

¹⁶ *AAI Baneshane Ltd. v An Coimisiún Pleanála* [2025] IEHC 641; [2025] IEHC 642.

40. However, in principle this is similar (in legal terms) to a development which is subject to a condition that requires preservation of archaeological remains or national monuments which might be discovered during the course of construction and which will necessitate an appropriate licence or consent from the NMS under the National Monuments Acts and now the Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023. Another example is whether a development requires a derogation licence from the NPWS under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No.477 of 2011).
41. I must stress here that, given the sensitivity of the site of the proposed development, I am not trying to draw any equivalence with these consents and the Institutional Burials Act 2022 but rather to illustrate that developments are routinely granted permission where they are subject to other legal constraints before they can commence or continue (if such constraints arise in the course of development).
42. Furthermore, where there is a statutory obligation to obtain such consents, this operates as a matter of law in any event, given the terms of s.34(13) of the 2000 Act.
43. This expressly provide that a person shall not be entitled solely by reason of a permission to carry out development. For example, it may be necessary to obtain further licences or permits (such as a water pollution licence perhaps). It may also be the case that the developer must obtain private law consents, for example the developer may not have the necessary legal title over all of the relevant lands.
44. Similarly, the fact that planning permission has been granted does not interfere with a claim of tortious liability under the law of nuisance, as the High Court has recently confirmed in *Webster v Meenacloghspar (Wind) Limited & Ors.*¹⁷

¹⁷ [2024] IEHC 136.

45. The fact that such consents must be obtained might make a condition requiring such a consent to be obtained otiose. For example, as Simons J. said in *Redmond v An Bord Pleanála*¹⁸, in the specific context of a derogation licence where he noted (§154) that had the Board included a condition stating that a “derogation licence” must be applied for where required, the condition would merely be replicating a legal obligation that subsists in any event.
46. Again, I must emphasise that I am not suggesting that a condition such as Condition 10 in the Council’s Decision should not be included in the Commission Decision, if it is minded to grant permission for the development, but rather that the necessity to obtain other consents (including statutory consents) is not unusual and indeed is required under law.
47. Insofar as the FP Logue appeal refers to s.34(3)(c) of the 2000 Act, it is important to note that this refers to the proposed development being implemented within the appropriate period sought, being the appropriate period within the meaning provided for by s.40(3). This is defined as any period specified pursuant to s.41, or, in any other case, the period of five years beginning on the date of the grant of permission.
48. Section 41 of the 2000 Act allows the Commission to vary the appropriate period and extend it to ten years in the case of residential development requiring permission, having regard to the nature and extent of the development and any other material consideration, so this would allow the Commission to extend the period for implementing the development if it considered it necessary to do so to allow for archaeological monitoring, excavation and preservation.

¹⁸ [2020] IEHC 151.

Res Judicata

49. Turning to the second issue, in general previous decisions may, in principle, be relevant to a subsequent application but is not a binding precedent. For example, a subsequent decision may be deemed to be unreasonable or irrational unless there is a clear rationale demonstrating how the decision-maker came to a different conclusion.
50. For example, in *Mone v An Bord Pleanála*,¹⁹ it was held by McKechnie J. that the Commission is entitled to change its mind on a matter, but in order to so do there must be some accompanying change in circumstances of a material nature which could precipitate such a decision. However, that statement was made at a level of generality and the judgment does not deal with when and in what circumstances previous decisions remain binding on the Board, whether within the frame of *res judicata* or otherwise.
51. In *Grealish v An Bord Pleanála (No. 1)*,²⁰ the applicant had sought to argue that the failure of An Bord Pleanála to grant a further planning permission in respect of an advertisement sign was inconsistent as the Board had granted, on two consecutive occasions, temporary planning permissions for development consisting of a tri-vision rotating advertising sign.
52. It was subsequently held that the decision-maker was entitled to reach a different decision on a later application in respect of a development for which a previous permission had expired. However, the reasons and considerations on which that change of stance had been adopted had to be made clear. If there was no material supporting the change in stance, the decision was vitiated by irrationality.
53. Thus, is it is open to the Commission to change its mind and decide to grant permission, notwithstanding its previous decisions, provided that there is new material or information which allows it to do so, or it otherwise can explain its rationale by way of cogent reasoning.

¹⁹ [2010] IEHC 395 at para.85.

²⁰ [2005] IEHC 24, [2006] 1 I.L.R.M. 140.

54. In that regard, I am instructed that the Commission decided on 23 July 2025 to refuse permission for a proposed 140 no. unit SHD application known as The Farm (ABP-313206-22) for one reason, and based on the fact that the unit mix proposed does not meet the target levels set out under Table 11.8 the Cork City Development Plan 2022-2028. I am also instructed that Querist had a concurrent SHD application on an adjacent site for 280 residential units known as The Meadows refused on this date for the same housing mix reason but also due to concerns regarding the scale and mass of this proposed development.

55. However, neither of these reasons included a refusal relating to the legacy issues or what I referred to earlier as the “prematurity issue”. Indeed, the Commission specifically omitted a refusal reason proposed by the Inspector and the Direction Note highlights that

“The Commission noted the second recommended reason for refusal (potential burial ground). In this regard, it considered its decision to refuse permission for a previous Strategic Housing Development application (ABP-308790-20) and a housing proposal (ABP-318520-23) on sites within the historic curtilage of Bessborough House on the basis of the findings of the Fifth Interim Report (2019) and the Final Report (2020) of the Commission of Investigation into Mother and Baby Homes, together with the information submitted in the course of the previous application and oral hearing (ABP-308790-20) including, amongst other things, regarding the particularly sensitive areas marked as Children's Burial Ground immediately around the Folly in front of Bessborough House. In relation to 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. Therefore, the Commission decided not to include this as a reason for refusal as recommended by the Inspector.

56. Therefore, it appears that the rationale for not following the earlier decisions referred to in Paragraphs 6 to 8 has been explained, namely the significant distance from the areas relevant to ABP-308790 and ABP-318520, and the substantial established building form between these locations and the current site. The Commission also noted the views of the Council which did not raise this particular matter as a reason for refusal and considered that this proposed site could be developed, subject to careful forensic monitoring of ground works.
57. This suggests that, at least in respect of that application, the Commission was of the view that development *could* proceed subject to forensic monitoring which indicates that a condition requiring monitoring along the lines of Condition 10 of the Council's Decision is a legitimate decision in planning terms and consistent with proper planning and sustainable development.
58. This decision is referred to in the FP Logue appeal which comments that the application was refused by the Commission on the grounds of unit mix but does not refer at all to the rationale in the Commission's Direction which I have referred to above.
59. In any event, it is instructive to note that in that decision the Commission was of the view that it was precluded from granting permission in material contravention of the development plan because no material contravention statement was provided, as required by s.8 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

Conclusion

60. In summary, I am of the view that the Commission is not precluded from granting permission, subject to a condition like Condition 10 in the Council's Decision, if it is of the view that it is consistent with proper planning and sustainable development.
61. In my view, there is no legal preclusion on the Commission reaching that view and it is clearly one that is open to it in the exercise of its evaluative judgment.
62. The fact that the Commission has previously refused permission for developments because of legacy issues arising from the Mother and Baby Homes Commission of Investigation does not preclude the Commission from granting permission for the proposed development, provided that it sets out its rationale for doing so.
63. The recent decision of 23 July 2025 (ABP-313206-22) suggests that the Commission has already identified reasons for distinguishing from its earlier decisions, albeit that it refused permission for different reasons in that case, and that the Commission was of the view that, subject to forensic monitoring, residential development could be permitted.

David Browne SC

9 April 2026



Appendix C:

Recommended Planning Condition (as submitted to Cork City Council)

It is recommended that the specified forensic archaeological monitoring controls be secured by way of the following planning condition:

The proposed development shall be subject to forensic archaeological monitoring and all ground disturbance shall be monitored at all times by at least one Forensic Archaeologist and one Osteo- archaeologist/Forensic Anthropologist with previous experience of forensic controls. A lead Forensic Archaeologist shall be appointed and the method of systematic forensic monitoring shall be informed by the methods successfully implemented by the Commission for the Location of Victims Remains (ICLVR).

All personnel conducting the forensic archaeological monitoring will at all times conduct themselves with an awareness of contamination issues (e.g. agreed routes of access and protective clothing) All tools and equipment shall be decontaminated prior to arrival on site, and subsequently at regularly intervals to avoid cross-contamination throughout a given monitoring programme. Any evidential items shall be recorded and collected in adherence with forensic protocol.

Contemporaneous logs of personnel, decisions and actions, and evidence collected must be maintained. Similarly, the record of stratigraphy and features of interest are made on a contemporaneous and continuous basis.

Prior to the commencement of development a dedicated liaison shall be appointed to liaise with the Bessborough Mother and Baby Home survivor group/s to provide details and updates regarding the forensic monitoring and subsequent reporting.

In advance of any ground disturbance a comprehensive desktop review must be completed by the Lead Forensic Archaeologist. This shall include all documentary and cartographic material, and review of any relevant witness statements.

i. This desktop review shall select specified areas where there is a high potential for unrecorded burials.

ii. Any such areas shall be subject to a Geophysical Survey and UAV/Drone mounted LiDAR survey to be conducted at an appropriately high resolution.

iii. Following the completion of the desktop review and Geophysical Survey and UAV/Drone mounted LiDAR surveys if required, identified areas of interest should be divided into operational zones and monitored using a priority-based approach.

Prior to the commencement of any development the site shall be secured with secure fencing to prevent access by unauthorised personnel.

Soil shall be removed systematically using an appropriate mechanical excavator while monitored by at least one Forensic Archaeologist and one Osteo- archaeologist/Forensic Anthropologist.

Where items of evidential value are noted, a completed record must be made prior to it being logged and removed. The Minister for Children, Equality, Disability, Integration and Youth shall be informed.

The soil removed by excavation (termed 'spoil') shall be placed on a designated surface and spread out for further examination. Using detection devices, this spoil shall again be searched, and a representative sample sieved for bone fragments and other evidence indicative of burial activity. Where fragmented or small material is recovered by these techniques the excavation must cease, and only once it can be confidently deemed void of human remains, should the forensic monitoring continue.

Should human remains be identified in situ, all works shall cease and the Cork City Coroner and An Garda Síochána shall be notified. The Minister for Children, Equality, Disability, Integration and Youth shall also be informed. A protective buffer shall be implemented surrounding the potential burial. Machinery or vehicles shall not traverse the area.

Should fragmentary or disarticulated human remains be identified ex situ, then that area of monitoring shall cease, the area secured, and the Coroner and An Garda Síochána informed immediately. The Minister for Children, Equality, Disability, Integration and Youth shall also be informed.

On completion of each phase of forensic monitoring, the lead Forensic Archaeologist shall communicate their finding in writing to The Minister for Children, Equality, Disability, Integration and Youth.

A full report and archive of all searches carried out and the results of same shall be lodged with The Minister for Children, Equality, Disability, Integration and Youth and publicly-accessible archives (such as Cork City and County Archives). A copy of the full report shall also be provided to Cork City Council.